

OREGON BULLETIN

Supplements the 2014 *Oregon Administrative Rules Compilation*

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KATE BROWN
Secretary of State
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INFORMATION ABOUT ADMINISTRATIVE RULES

General Information

The Administrative Rules Unit, Archives Division, Secretary of State publishes the Oregon *Administrative Rules Compilation* and the online *Oregon Bulletin*. The *Oregon Administrative Rules Compilation* is an annual print publication containing complete text of Oregon Administrative Rules (OARs) filed through November 15 of the previous year. The *Oregon Bulletin* is a monthly online supplement that contains rule text adopted or amended after publication of the print Compilation, as well as Notices of Proposed Rulemaking and Rulemaking Hearing. The Bulletin also includes certain non-OAR items when they are submitted, 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.

OAR Citations

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). For example, Oregon Administrative Rules, chapter 166, division 500, rule 0020 is cited as OAR 166-500-0020.

Understanding an Administrative Rule’s “History”

State agencies operate in an environment of ever-changing laws, public concerns and legislative mandates which necessitate ongoing rulemaking. To track changes to individual rules and organize the original rule documents for permanent retention, the Administrative Rules Unit maintains history lines for each rule, located at the end of the rule text. OAR histories contain the rule’s statutory authority, statutes implemented and dates of each authorized modification to the rule text. Changes are listed chronologically in abbreviated form, with the most recent change listed last. In the history line “OSA 4-1993, f. & cert. ef. 11-10-93,” for example, “OSA” is short for Oregon State Archives; “4-1993” indicates this was 4th administrative rule filing by the Archives in 1993; “f. & cert. ef. 11-10-93” means the rule was filed and certified effective on November 10, 1993.

Locating Current Versions of Administrative Rules

The online version of the OAR Compilation is updated on the first of each month to include all rule actions filed with the Administrative Rules Unit by the 15th of the previous month. The annual printed OAR Compilation volumes contain text for all rules filed through

November 15 of the previous year. Administrative Rules created or changed after publication in the print Compilation will appear in a subsequent edition of the online Bulletin. These are listed by rule number in the Bulletin’s OAR Revision Cumulative Index, which is updated monthly. The listings specify each rule’s effective date, rule-making action, and the issue of the Bulletin that contains the full text of the adopted or amended rule.

Locating Administrative Rule Publications

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 printed OAR Compilation may be ordered from the Administrative Rules Unit, Archives Division, 800 Summer Street NE, Salem, Oregon 97301, (503) 373-0701.

Filing Administrative Rules and Notices

All hearing and rulemaking notices, and permanent and temporary rules, are filed through the Administrative Rules Unit’s online filing system. To expedite the rulemaking process, agencies are encouraged to file a Notice of Proposed Rulemaking Hearing specifying hearing date, time and location, and to submit their filings early in the submission period. All notices and rules must be filed by the 15th of the month to be included in the next month’s Bulletin and OAR Compilation postings. Filings must contain the date stamp from the deadline day or earlier to be published the following month.

Administrative Rules Coordinators and Delegation of Signing Authority

Each agency that engages in rulemaking must appoint a rules coordinator and file an Appointment of Agency Rules Coordinator form with the Administrative Rules Unit. Agencies that delegate rule-making authority to an officer or employee within the agency must also file a Delegation of Rulemaking Authority form. It is the agency’s responsibility to monitor the rulemaking authority of selected employees and keep the forms updated. The Administrative Rules Unit does not verify agency signatures as part of the rulemaking process.

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.

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

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EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 14 - 01

DETERMINATION OF A STATE OF DROUGHT EMERGENCY IN HARNEY, KLAMATH, LAKE, AND MALHEUR COUNTIES DUE TO DROUGHT AND LOW WATER CONDITIONS

Pursuant to ORS 401.165 and ORS 536.740, I find the continuing dry conditions, low snowpack, and lack of precipitation have caused natural and economic disaster conditions in the southeastern portion of the state. Projected forecasts are not expected to alleviate the severe drought conditions and the drought is having significant economic impacts on the affected counties' agricultural, livestock, and natural resources.

The dry conditions present hardships for these communities: Crops and agricultural and recreation investments are at risk; animals and plants that rely on Oregon's surface water supplies are threatened; and the risk of wildfires across the state is greatly increased. Current conditions are being monitored and analyzed by state agencies including the Department of Agriculture, the Department of Water Resources, and Oregon Office of Emergency Management.

A timely response to the severe drought conditions is vital to the safety of persons and property and economic security of the citizens and businesses of the affected Counties, I am therefore declaring a state of drought emergency in Harney, Klamath, Lake, and Malheur Counties and directing the following activities;

IT IS HEREBY ORDERED AND DIRECTED:

I. The Oregon Department of Agriculture is directed to coordinate and provide assistance in seeking federal resources available to mitigate conditions and affect agricultural recovery in the affected counties.

II. The Department of Water Resources is directed to coordinate and provide assistance and regulation for the affected counties as it determines is necessary in accordance with ORS 536.700 to 536.780.

III. The Office of Emergency Management is directed to coordinate and assist as needed with assessment and mitigation activities to address current and projected conditions in the affected counties.

IV. All other departments are directed to coordinate with the above agencies and to provide appropriate state resources as determined essential to assist affected political subdivisions in the affected counties.

V. This Executive Order expires on December 31, 2014.

Done at Salem, Oregon this 13th day of February.

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

ATTEST

/s/ Kate Brown
Kate Brown
SECRETARY OF STATE

OTHER NOTICES

REQUEST FOR COMMENTS

PROPOSED CERTIFICATION OF COMPLETION FOR ORDER ON CONSENT - PROSPECTIVE PURCHASER AGREEMENT, INNOVATIVE WOODLAND SQUARE LLC ALBANY, LINN COUNTY, OREGON

COMMENTS DUE: 5 p.m., March 31, 2014

PROJECT LOCATION: 1415 Salem Ave. SE, Albany, Ore.

PROPOSAL: DEQ proposes to issue to Innovative Woodland Square LLC a certification of completion of a consent order for environmental investigation and cleanup activities conducted at the former Old Matthews Service Station located at 1415 Salem Ave. SE, Albany, Ore.

HIGHLIGHTS: DEQ issued a consent order to Innovative Woodland Square on Feb. 4, 2013. The order required Innovative Woodland Square to reduce petroleum contamination found in the soil surrounding the former gas station to below required screening levels. The cleanup, completed in September 2013, satisfies the requirements of the consent order. DEQ is proposing that a certification of completion be issued for the site and that no further action is required.

The former gas station was located on the southwest corner of the property and operated from 1949 to 1970. Innovative Woodland Square's consultant, AMEC Environmental, addressed the contamination by the former gas station. AMEC excavated and removed two abandoned underground storage tanks, a hydraulic lift and petroleum contaminated soil. Samples taken from the excavation pit demonstrated that AMEC's cleanup reduced contaminant concentrations near or below DEQ's screening levels.

DEQ uses screening levels based on how the property will be redeveloped and used. Innovative Woodland Square LLC acquired the property from Mr. Larry Mathews in 2013 and intends to build apartments for the City of Albany.

HOW TO COMMENT: Comments on the proposed certification of completion must be received by **5 p.m. on March 31, 2014**, to be considered in DEQ's decision. Send written comments by e-mail to sawka.nancy@deq.state.or.us, or fax at 503-373-7944. Send by mail Attention: Nancy Sawka, DEQ Project Manager, 750 Front St. NE, Suite 120, Salem, OR 97301-1039.

The project file may be reviewed by appointment at DEQ's Salem office or via email. Contact Nancy Sawka at 503-378-5075 for an appointment. Contact sawka.nancy@deq.state.or.us to get site information and documents via email.

THE NEXT STEP: All comments received will be addressed at the completion of the comment period. Once comments are adequately addressed, the DEQ may approve, modify or deny the certification of completion. Upon written request by 10 or more persons or by a group having 10 or more members, DEQ will conduct a public hearing.

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. Call toll free in Oregon at (800) 452-4011 or e-mail deqinfo@deq.state.or.us.

REQUEST FOR COMMENTS

PROPOSED CERTIFICATION OF COMPLETION FOR REDEVELOPMENT AT 4TH MAIN PROJECT IN HILLSBORO

COMMENTS DUE: 5 p.m., March 31, 2014

PROJECT LOCATION: 350 East Main Street, Hillsboro

PROPOSAL: Pursuant to Oregon Revised Statutes 465.320, 465.235(10) and 465.327, the Department of Environmental Quality proposes to issue a Certificate of Completion for the redevelopment work completed at the property in accordance with a Prospective Purchaser Agreement entered on July 6, 2012 (DEQ Consent Order No. LQVC-NWR-12-04).

HIGHLIGHTS: Tokola Properties entered into a Prospective Purchaser Agreement Consent Order with DEQ for redevelopment of a brownfield property in Hillsboro. The Consent Order specified

that Tokola Properties intended to purchase the property (following cleanup of contamination by the City of Hillsboro and Metro) and proceed with planned mixed-use redevelopment of the Property. The development includes apartment units with ground floor retail plus both sub-grade and surface parking. The redevelopment constitutes a substantial public benefit by putting underutilized property into productive use, creating new employment opportunities, and supporting and enlivening the city's vintage Main street district.

In January 2014 Tokola Properties requested a Certification of Completion from DEQ on the basis that the redevelopment of the property has been substantially completed. DEQ has reviewed documentation of completion as submitted by Tokola Properties and determined that the property has been redeveloped for mixed residential and commercial use as required by the Consent Order and that the Certification of Completion for this Consent Order is to be issued.

The Consent Order and Certification of Completion provide Tokola Properties with a release from liability for claims by the State of Oregon under ORS 465.200 to 465.545 and 465.900, 466.640, and 468B.310 regarding existing hazardous substance releases at or from the property. The Consent Order and Certification of Completion also provide Tokola Properties with third-party liability protection.

HOW TO COMMENT: Please send written comments to Project Manager Bob Williams, at 2020 SW 4th Ave., Ste 400, Portland, Oregon 97201 or to williams.robert.k@deq.state.or.us.

Find information about requesting a review of DEQ project files at: <http://www.deq.state.or.us/records/recordsRequestFAQ.htm>

Find the File Review Application form at: <http://www.deq.state.or.us/records/RecordsRequestForm.pdf>

To access summary information and documents about this site go to: <http://www.deq.state.or.us/Webdocs/Forms/Output/FPCController.ashx?SourceId=5694&SourceIdType=11>

If you do not have web access and want to review the project file contact the DEQ project manager.

Summary information and documents about this site is available in DEQ's Environmental Cleanup Site Information database on the Internet; go to <http://www.deq.state.or.us/lq/ECSI/ecsiquery.asp>, then enter 5694 in the Site ID box and click "submit" at the bottom of the page. Next, click the link labeled 5694 in the Site ID/Info column.

If DEQ receives a written request from ten or more people or from a group with a membership of 10 or more, DEQ will hold a public meeting to receive verbal comments.

THE NEXT STEP: DEQ will consider all public comments received by the date and time stated above, before making a final decision regarding the Certificate of Completion. In the absence of comments, DEQ will issue the Certificate of Completion for the 4th Main redevelopment.

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 503-229-6488 or toll free in Oregon at 800-452-4011; fax to 503-229-6945; or email to deqinfo@deq.state.or.us. People with hearing impairment may call 711.

REQUEST FOR COMMENTS

PROPOSED APPROVAL OF CLEANUP AT FORMER HOYT STREET RAIL YARD-THE FIELDS

COMMENTS DUE: 5 p.m., Tuesday, April 1, 2014

PROJECT LOCATION: 1099 NW Overton Street, Portland OR

PROPOSAL: The Department of Environmental Quality invites public comment on the remedial action completed at The Fields site and DEQ's proposal to issue a Conditional No Further Action determination and Certificate of Completion for the site.

The site has recently been redeveloped as The Fields Park and is located at the northwest intersection of NW 10th Ave. and NW Overton Street in Portland's Pearl District.

HIGHLIGHTS: The site was formerly included in the Hoyt Street Rail Yard site (ECSI # 1080), but was administratively separated from the site in 2011 and assigned ECSI # 5443. Prior to redevelop-

OTHER NOTICES

opment as a public park, the site and surrounding area were used from 1911 to 1998 as a fueling and maintenance facility for Burlington Northern Railway Company. Environmental investigations performed between 1977 and 2011 identified petroleum, polycyclic aromatic hydrocarbons, and metals contamination in soil and groundwater. Remedial action for contaminated soil at The Fields site was performed between 2012 and 2013 under the terms of the Consent Decree and Record of Decision for the Hoyt Street Rail Yard site. A Certificate of Completion and Conditional No Further Action determination are proposed.

Remedial actions completed at The Fields include: excavation and disposal of approximately 6,000-tons of petroleum impacted soil, and capping of the site with a combination of hardscape and clean fill. An Easement and Equitable Servitude has been filed with the site deed restricting groundwater use, the construction of habitable structures on the property, and disturbance of the soil/hardscape site cap.

DEQ has concluded that no further action is required at the site under Oregon Environmental Cleanup Law, ORS 465.200 et seq. unless additional information becomes available in the future which warrants further investigation. DEQ proposes to issue a Certificate of Completion as provided in ORS 465.320 and 465.325(10)(b) confirming satisfactory completion.

HOW TO COMMENT: Send comments by 5 p.m., April 1, 2014, to DEQ Project Manager Rebecca Wells-Albers at 2020 SW 4th Ave., Suite 400, Portland, OR 97201-4987, wells-albers.rebecca@deq.state.or.us or 503-229-5585.

To access site summary information and other documents in the DEQ Environmental Cleanup Site Information (ECSI) database, go to: <http://www.deq.state.or.us/Webdocs/Forms/Output/FPController.ashx?SourceIdType=11&SourceId=5443&Screen=Load>

To review the project file, go to the DEQ website at: <http://www.deq.state.or.us/records/recordsRequestFAQ.htm> and complete the Records Request form. If you receive a reply email, you know that DEQ received the request. You can expect a reply from DEQ within three business days to set up a time for your file review.

If you do not have web access and want to review the project file contact the DEQ Project Manager listed above.

THE NEXT STEP: DEQ will consider all public comments and the DEQ Cleanup Program Administrator will make a final decision after consideration of any 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.

REQUEST FOR COMMENTS PROPOSED CLOSURE — FORMER PACIFIC HOE SAW AND KNIFE

COMMENTS DUE: 5 p.m., March 31, 2014

PROJECT LOCATION: Former Pacific Hoe Saw and Knife at 2700 SE Tacoma Street, Portland, Oregon.

PROPOSAL: DEQ proposes a no further action determination for the North Parcel portion of the site as contaminants remaining do not present an unacceptable risk to human health or the environment.

HIGHLIGHTS: Saw and knife manufacturing has occurred from the 1950s to present day on the North Parcel of the site. Extensive environmental investigation and removal of a metals and PCB-contaminated berm adjacent to Johnson Creek were completed under DEQ review. Groundwater, stormwater, and residual soil contamination do not pose a significant risk. The South Parcel of the site is currently under investigation and not addressed in the proposed no further action determination.

HOW TO COMMENT: Send comments to DEQ Project Manager Daniel Hafley at Oregon Dept. of Environmental Quality,

2020 SW 4th Ave. Suite 400, Portland, Oregon 97201 or hafley.dan@deq.state.or.us. For more information contact Hafley at 503-229-5417.

Find information about requesting a review of DEQ project files at: <http://www.deq.state.or.us/records/recordsRequestFAQ.htm>

Find the File Review Application form at: <http://www.deq.state.or.us/records/RecordsRequestForm.pdf>

To access summary information and documents about this site go to: <http://www.deq.state.or.us/Webdocs/Forms/Output/FPController.ashx?SourceId=3884&SourceIdType=11>

THE NEXT STEP: DEQ will consider all public comments to making a final decision on the proposed North Parcel no further action determination.

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 OSMOSE SITE

COMMENTS DUE: 5 p.m., Monday, March 31, 2014

PROJECT LOCATION: DEQ Eugene Office, 165 E. 7th Ave., Eugene, OR 97401

PROPOSAL: DEQ is proposing that No Further Action be required at the Osmose Site (former). This notification is required by ORS 465.320.

HIGHLIGHTS: The Osmose site was used as a formulation facility where chemicals were blended to produce chromated copper arsenate (CCA), a wood preservative. The Tangent facility which began operation in March 1985 and closed in November of 2004. Spills and leaks from facility processes have resulted in areas of soil and groundwater contamination. The recommended remedial action addresses the presence of elevated levels of arsenic and chromium at the site.

The remedial actions included removal of soil with contamination exceeding appropriate RBCs accessible areas and a groundwater pump-and-treat system while the site was being investigated and remediated.

Based on available data, the site is considered safe for all use. DEQ has concluded that there is no threat to human health and the environment.

HOW TO COMMENT: Send comments to DEQ Project Manager Seth Sadofsky at 165 E. 7th Avenue, Suite 100, Eugene, Oregon 97401 or sadofsky.seth@deq.state.or.us. For more information contact the project manager at 541-687-7329.

Find information about requesting a review of DEQ project files at: <http://www.deq.state.or.us/records/recordsRequestFAQ.htm>

Find the File Review Application form at: <http://www.deq.state.or.us/records/RecordsRequestForm.pdf>

To access site summary information and other documents in the DEQ Environmental Cleanup Site Information database, go to <http://www.deq.state.or.us/lq/ECSI/ecci.htm>, then enter 1369 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 1369 in the Site ID/Info column.

If you do not have web access and want to review the project file contact the DEQ project manager.

THE NEXT STEP: After the closure of the public comment period, DEQ will make a No Further Action Determination for the Site.

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.

NOTICES OF PROPOSED RULEMAKING

Notices of Proposed Rulemaking and Proposed Rulemaking Hearings

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

Public comment may be submitted in writing directly to an agency or presented orally 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.*

Appraiser Certification and Licensure Board Chapter 161

Rule Caption: Revisions to rules to implement Senate Bill 617 and removing prior disclosure requirement

Date:	Time:	Location:
4-21-14	9 a.m.	3000 Market St. NE, Suite 541 Salem, OR 97301

Hearing Officer: Daneene Fry

Stat. Auth.: ORS 675.035(7) & 674.310

Stats. Implemented: ORS 674

Proposed Amendments: 161-006-0155, 161-006-0160, 161-570-0025, 161-570-0030, 161-025-0060

Last Date for Comment: 4-21-14, Close of Hearing

Summary: Amends Oregon Administrative Rule 161, Division 006, Rule 0155, regarding Allegation Reports; Rule 0160, regarding Complaints, Investigations and Audits; Division 025, Rule 0060 regarding Appraisal Standards and USPAP; Division 570, Rule 0025, regarding Allegation Reports; and Rule 0030, regarding Complaints, Investigations and Audits.

Rules Coordinator: Gae Lynne Cooper

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

Telephone: (503) 485-2555

Board of Chiropractic Examiners Chapter 811

Rule Caption: Chiropractic Professional Corporation and Business Entity Majority

Date:	Time:	Location:
3-17-14	9 a.m.	Morrow Crane Bldg., 2nd Flr. Large Conference Rm. 3218 Pringle Rd. SE Salem, OR

Hearing Officer: Daniel Cote, Board President

Stat. Auth.: ORS 684

Other Auth.: ORS 58

Stats. Implemented: ORS 684.155(1)(b), 684.150, 684.100 1(1)(f)(A) & 58.367

Proposed Amendments: 811-010-0120

Last Date for Comment: 3-17-14, Close of Hearing

Summary: The purposes of the proposed amendments is to ensure that chiropractic business entities are majority owned and controlled by licensed Oregon chiropractic physicians or by licensed Oregon health care professionals and that they provide appropriate health care to patients. Recent events have demonstrated some franchise operations are attempting to circumvent the language of this law with layered franchise/employee/management arrangements which deprive the chiropractic physician owner/s of effective ownership and control. These proposed amendments would make it improper for the chiropractic physician owner to delegate away effective ownership and control.

Rules Coordinator: Kelly J. Beringer

Address: Board of Chiropractic Examiners, 3218 Pringle Rd. SE, Suite 150, Salem, OR 97302

Telephone: (503) 373-1573

Rule Caption: Clarify minimum requirements for clinical record keeping and related documentation

Date:	Time:	Location:
3-17-14	9 a.m.	Morrow Crane Bldg., 2nd Flr. Large Conference Rm. 3218 Pringle Rd. SE Salem, OR

Hearing Officer: Daniel Cote, Board President

Stat. Auth.: ORS 684

Stats. Implemented: ORS 684.155(1)(b), 684.150 & 684.100 1(1)(f)(A)

Proposed Amendments: 811-015-0005

Last Date for Comment: 3-17-14, Close of Hearing

Summary: Changes in reimbursement codes (ICD 10) and increasing expectations for effective clinical practice have increased the need to clarify the expected minimum standards and requirements for patient clinical record keeping and related documentation. These clarified requirements are needed to properly guide and instruct the professionals and give the OBCE a more definitive standard by which to evaluate the presenting clinical, practice issues and complaints.

Rules Coordinator: Kelly J. Beringer

Address: Board of Chiropractic Examiners, 3218 Pringle Rd. SE, Suite 150, Salem, OR 97302

Telephone: (503) 373-1573

Rule Caption: Clarify chiropractic assistant training requirements and scope of practice

Date:	Time:	Location:
3-17-14	9 a.m.	Morrow Crane Bldg., 2nd Flr. Large Conference Rm. 3218 Pringle Rd. SE Salem, OR

Hearing Officer: Daniel Cote, Board President

Stat. Auth.: ORS 684

Stats. Implemented: ORS 684.054, 684.155 & 684.155(1)(b) & (c)

Proposed Amendments: 811-010-0110

Last Date for Comment: 3-17-14, Close of Hearing

Summary: Board proposed to amend the rule for the purpose of addressing concerns with the CA program, including 1) CAs taking vitals (versus recording them), and 2) CAs who lack sufficient training performing massage; and 3) related scope of practice issues. There is also discussion of a "super CA" certification that could perform some additional functions. There is no specific draft proposal at this date.

Rules Coordinator: Kelly J. Beringer

Address: Board of Chiropractic Examiners, 3218 Pringle Rd. SE, Suite 150, Salem, OR 97302

Telephone: (503) 373-1573

NOTICES OF PROPOSED RULEMAKING

Board of Examiners for Engineering and Land Surveying Chapter 820

Rule Caption: Amend rules related to examination qualifications, modifying documents. Adopt rules for procurement and contracting.

Stat. Auth.: ORS 672.095, 672.105, 672.118 & 672.255

Other Auth.: ORS 182.460 & 670.310

Stats. Implemented: ORS 672.002–672.325

Proposed Adoptions: 820-001-0030, 820-001-0035, 820-001-0040

Proposed Amendments: 820-001-0025, 820-010-0225(T), 820-010-0226(T), 820-010-0227(T), 820-010-0228(T), 820-010-0420(T), 820-010-0622

Last Date for Comment: 3-31-14, Close of Business

Summary: OAR 820-001-0030, 820-001-0035, 820-001-0040 — Adopts language to comply with ORS 182.460(4) and to provide the methods that the Agency will contract and procure services; provides a timeline to notify each proposer of the Agency's intent to award a contract; provides a method to protest the notice of intent to award a contract.

OAR 820-001-0025 — Amends language to allow the Board to delegate the approval of a contract to a committee of the Board. Provides that no contractor may be selected or contract executed without Board or committee approval.

OAR 820-010-0225(T), 820-010-0226(T), 820-010-0227(T), 820-010-0228(T), 820-010-0420(T) — Permanently amend language for rules related to qualifications for the FE and FLS examinations due to the current national process of computer-based testing.

OAR 820-010-0622 — Amends language to clarify the process when a professional engineer modifies the design documents of a Registered Architect, or if a Registered Architect modifies the designs or documents prepared and sealed by a Professional Engineer.

Rules Coordinator: Mari Lopez

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

Telephone: (503) 362-2666

Board of Parole and Post-Prison Supervision Chapter 255

Rule Caption: Update the rule governing the release to post-prison supervision or parole and exit interviews.

Stat. Auth.: ORS 144.125, 144.223, 144.280, 144.635 & 144.637

Stats. Implemented: ORS 144.125, 144.280(1)(b) (2009)

Proposed Amendments: 255-060-0012

Last Date for Comment: 3-22-14, 5 p.m.

Summary: To update the rule to be in conformity with statutory changes.

Rules Coordinator: Shawna Harnden

Address: Board of Parole and Post-Prison Supervision, 2575 Center St. NE, Salem, OR 97301

Telephone: (503) 945-0913

Rule Caption: Bring the rules up to date with current Board practice

Stat. Auth.: ORS 144.107, 144.108, 144.109, 144.120(4), 144.125, 144.232, 144.345, 144.346, 144.395 & 161.735

Stats. Implemented: ORS 144.085, 144.120(4), 144.245, 144.395, 144.780 & 144.783–144.787

Proposed Amendments: 255-075-0079

Last Date for Comment: 3-31-14, 5 p.m.

Summary: Bring the rules up to date with current Board practice, which is a result of the Court of Appeals decision in Hostetter (Hostetter v. Board of Parole and Post-Prison Supervision, 353 Or 747, 304 P3d 38 (2013) denying review of Hostetter v. Board of

Parole and Post-Prison Supervision, 255 Or App 328, 296 P3d 664 (2013))

Rules Coordinator: Shawna Harnden

Address: Board of Parole and Post-Prison Supervision, 2575 Center St. NE, Salem, OR 97301

Telephone: (503) 945-0914

Board of Psychologist Examiners Chapter 858

Rule Caption: Modifies the continuing education requirements for licensees.

Date: 5-12-14

Time: 10 a.m.

Location:

3218 Pringle Rd. SE, Suite 130
Salem, OR 97302

Hearing Officer: LaRee Felton

Stat. Auth.: ORS 675.010–675.150

Stats. Implemented: ORS 675.070 & 675.110

Proposed Amendments: 858-040-0015, 858-040-0025, 858-040-0026, 858-040-0035, 858-040-0036, 858-040-0055, 858-040-0065

Proposed Ren. & Amends: 858-040-0020 to 858-040-0070

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

Summary: The proposed amendments make changes to the continuing education (CE) requirements for licensed psychologists and psychologist associates. It reduces the total number CE credits a licensee must earn during their two year renewal period from 50 to 40, and reduces the categorical limitations proportionately. It expands the four-hour professional ethics requirement to include Oregon State laws and regulations related to the practice of psychology, and allows up to 4 credits for reading articles from peer-reviewed journals as a program which qualifies for CE credit. Makes clarifications to the audit process and what constitutes acceptable evidence of completion. Establishes procedures and a sanction schedule for late, non-responsive and deficient CE reports. This proposed amendment would become effective January 1, 2015.

Rules Coordinator: LaRee Felton

Address: Board of Psychologist Examiners, 3218 Pringle Rd. SE, Suite 130, Salem, OR 97302

Telephone: (503) 373-1196

Rule Caption: Code of Professional Conduct.

Stat. Auth.: ORS 675.010–675.150

Stats. Implemented: ORS 675.110

Proposed Amendments: 858-010-0075

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

Summary: The proposed amendment clarifies that the code of professional conduct, as adopted by the Board, applies to all licensees. Also deletes outdated language.

Rules Coordinator: LaRee Felton

Address: Board of Psychologist Examiners, 3218 Pringle Rd. SE, Suite 130, Salem, OR 97302

Telephone: (503) 373-1196

Bureau of Labor and Industries Chapter 839

Rule Caption: Conforms fee amount for a farm or forest labor contractor license to revised statutory maximum

Stat. Auth.: ORS 651.060(4), 658.407 & 658.413

Stats. Implemented: ORS 658.413 & HB 2113, 77th Leg., Reg. Session (OR 2013)

Proposed Amendments: 839-015-0155

Last Date for Comment: 3-21-14, 5 p.m.

Summary: The proposed rule would make permanent a temporary rule adopted January 21, 2014, conforming the fee amounts for the farm or forest labor contractor licenses set out in the current rule to the maximum fees established by HB 2113 (2013), which took effect on January 1, 2014.

Rules Coordinator: Marcia Ohlemiller

NOTICES OF PROPOSED RULEMAKING

Address: Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232
Telephone: (971) 673-0784

.....
Department of Administrative Services
Chapter 125

Rule Caption: Implements standards for electronic deposit and electronic paystubs for Oregon state employees

Date:	Time:	Location:
4-1-14	1 p.m.	DAS, Conference Rm. B 155 Cottage St. NE Salem, OR 97301,

Hearing Officer: Bret West

Stat. Auth.: ORS 184.340

Other Auth.: HB 2207 B (OL 2013, Ch 369)

Stats. Implemented: ORS 292.026

Proposed Adoptions: 125-015-0200

Proposed Repeals: 125-015-0200(T)

Last Date for Comment: 4-1-14, 5 p.m.

Summary: HB 2207 (2013 regular session) requires officers and employees paid under the state payroll system to received payment of salary and wages through direct electronic deposit. The bill also requires itemized statements of deductions to be provided electronically. The bill provides some exceptions to these requirements, which must be set forth in rule. The rule provides the procedures for those exceptions. It also addresses the requirement for agencies to provide access to electronic statements for employees who do not have regular access to computers in their workplace.

Rules Coordinator: Janet Chambers

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

Telephone: (503) 378-5522

.....
Department of Agriculture
Chapter 603

Rule Caption: Increases fees for wholesale seed dealers license from \$400 annually to \$500.

Date:	Time:	Location:
3-18-14	10 a.m.	Oregon Dept. of Agriculture Bldg. 635 Capitol St. NE

Salem, OR

Hearing Officer: Tim Butler

Stat. Auth.: ORS 561.190 & 633.700

Stats. Implemented: ORS 633.700

Proposed Amendments: 603-056-0095

Last Date for Comment: 3-31-14, 5 p.m.

Summary: The proposed amendments would increase the annual license fees for Wholesale Seed Dealers. The revenue generated by the existing fee no longer provides sufficient funds to cover the costs of enforcement and administration of the seed regulatory program. The ODA proposes to raise the annual license fee from \$400 to \$500.

Rules Coordinator: Sue Gooch

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

Telephone: (503) 986-4583

.....
Department of Agriculture,
Oregon Mint Commission
Chapter 642

Rule Caption: Decreases the assessment rate for all mint oil produced in Oregon.

Date:	Time:	Location:
4-10-14	10 a.m.	Hood River Hotel Hood River, OR

Hearing Officer: Lisa Ostlund

Stat. Auth.: ORS 576.304 & 576.325-576.365

Other Auth.: Minutes from 1-8-14 Commission meeting.

Stats. Implemented: ORS 576.325-576.365

Proposed Amendments: 642-010-0010

Last Date for Comment: 4-9-14, Close of Business

Summary: Decreases the assessment for all mint oil produced in Oregon from 10 cents (\$.10) per pound to 9 cents (\$.09) per pound beginning July 1, 2014.

Rules Coordinator: Lisa Ostlund

Address: Department of Agriculture, Oregon Mint Commission, PO Box 3366, Salem, OR 97302-0366

Telephone: (503) 364-2944

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

Rule Caption: Amends certification rules to implement HB 2698 (2013)

Date:	Time:	Location:
3-18-14	9:30 a.m.	1535 Edgewater St. NW Salem, OR 97304

Hearing Officer: Richard J. Baumann

Stat. Auth.: ORS 446.250, 446.255, 455.030, 455.055, 455.062, 455.110, 455.715, 455.720, 455.723, 455.730, 455.732, 455.735 & 455.740

Stats. Implemented: ORS 446.250, 446.255, 455.030, 455.055, 455.062, 455.110, 455.715, 455.720, 455.723, 455.730, 455.732, 455.735 & 455.740

Proposed Adoptions: Rules in 918-098

Proposed Amendments: Rules in 918-098

Proposed Repeals: Rules in 918-098

Last Date for Comment: 3-21-14, 5 p.m.

Summary: These proposed rules amend the division's certification rules to begin implementing House Bill 2698 (2013). These rules create greater flexibility in the certification programs by modifying some of the scopes of certification and create regional approaches to provide greater flexibility for jurisdictions which will reduce the cost of administering and enforcing the state building code. These rules also modify the requirements to become a building official and change the continuing education requirements for building officials, inspectors and plans examiners.

Rules Coordinator: Holly A. Tucker

Address: Department of Consumer and Business Services, Building Codes Division, PO Box 14470, Salem, OR 97309-0404

Telephone: (503) 378-5331

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Rule Caption: Lay representation in division contested case hearings

Stat. Auth.: ORS 183.452

Stats. Implemented: ORS 183.452

Proposed Amendments: 918-001-0025

Last Date for Comment: 3-21-14, 5 p.m.

Summary: This proposed rule will expand the division's ability to use lay representation contested case hearings based on violation types.

Rules Coordinator: Holly A. Tucker

Address: Department of Consumer and Business Services, Building Codes Division, PO Box 14470, Salem, OR 97309-0404

Telephone: (503) 378-5331

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

Rule Caption: Establishes the process for accepting consumer finance licensing applications, renewals, and administrative actions via NMLS.

Date:	Time:	Location:
3-21-14	10:30 a.m.	Labor and Industries Bldg. 350 Winter St. NE, Conference Rm. 260 Salem, OR 97302

NOTICES OF PROPOSED RULEMAKING

Hearing Officer: Richard Blackwell
Stat. Auth.: ORS 725.185, 725.320 & 725.505
Stats. Implemented: ORS 725.110, 725.120, 725.140, 725.185, 725.340 & 725.360
Proposed Amendments: 441-730-0010, 441-730-0025, 441-730-0030

Proposed Repeals: 441-730-0010 (T), 441-730-0025(T), 441-730-0030(T)

Last Date for Comment: 3-31-14, 5 p.m.

Summary: This permanent rule establishes the process by which licensees and prospective applicants must submit applications, renewals, and other administrative actions through the Nationwide Mortgage Licensing System and Registry (NMLS). Prior to 2014, consumer finance lending licensees and prospective applicants submitted licensing materials via paper documentation or by the state's own online system. This permanent rule modifies the licensing and application procedures and makes mandatory the transition of all licensing activity for consumer finance lenders to NMLS. A permanent rule is necessary to avoid missing key mandatory deadlines with NMLS that would allow for implementation and result in greater costs to the state and industry.

Rules Coordinator: Shelley Greiner

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

Telephone: (503) 947-7484

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Rule Caption: Clarifies that when a debt management service is provided, escrow fees count against fee limits.

Date:	Time:	Location:
3-21-14	9:30 a.m.	Labor and Industries Bldg. Conference Rm. 260 350 Winter St. NE Salem, OR 97302

Hearing Officer: Richard Blackwell

Stat. Auth.: ORS 697.840

Other Auth.: 2013 OL Ch. 444, Sec. 2 (enrolled HB 3489)

Stats. Implemented: ORS 697.612 & 697.692

Proposed Adoptions: 441-910-0096

Last Date for Comment: 3-31-14, 5 p.m.

Summary: In the 2013 Legislative Session, HB 3489 clarified the scope of the exemption for licensed escrow agents under the debt management service provider statutes at ORS Chapter 697. HB 3489 made clear that the exemption for escrow agents did not cover all escrow activities, but operated in a limited context to prevent an escrow agent from having to gain a debt management service provider registration for certain types of closing escrow, collection escrow, and acts of a trustee of a trust deed. Per HB 3489, the escrow exemption does not apply if an escrow agent assists an unregistered debt management service provider that is not exempt from registration under one of the ORS Chapter 697 exemptions in performing a debt management service; or provides escrow services to a consumer in accordance with a debt management services plan executed by an unregistered debt management services provider that is not exempt from registration under the debt management service statutes at ORS Chapter 697. This permanent rulemaking clarifies that the total of fees for services provided by escrow agents and debt management service providers may not exceed the fee limitations set forth in the debt management statutes.

Rules Coordinator: Shelley Greiner

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

Telephone: (503) 947-7484

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Rule Caption: Clarifies first time loans of \$500 or less are subject to a grace period.

Date:	Time:	Location:
3-21-14	8:30 a.m.	Labor and Industries Bldg., Conference Rm. 260 350 Winter St. NE Salem, OR 97302

Hearing Officer: Richard Blackwell

Stat. Auth.: ORS 726.260

Stats. Implemented: ORS 726.400

Proposed Adoptions: 441-740-0018

Last Date for Comment: 3-28-14, 5 p.m.

Summary: This rule clarifies that pawnbrokers shall offer a grace period on all first time pledge loans, specifically those in the amount of \$500 or less. At present, pawnbrokers provide a grace period by statute for first time pledge loans in excess of \$500. Industry has a long-standing practice of offering a 30-day grace period on all pledge loans, regardless of the amount. An ambiguity exists as to whether the 30-day grace period exists on first time pledge loans in the amount of \$500 or below. As consumers may be harmed by the ambiguity, and industry does not have clear guidance as to how to apply grace periods, the division has opted to adopt this rule.

Rules Coordinator: Shelley Greiner

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

Telephone: (503) 947-7484

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Department of Energy Chapter 330

Rule Caption: Amends BETC final certification rules for sale of utility and includes energy performance reporting requirements

Date:	Time:	Location:
3-26-14	10 a.m.	Oregon Dept. of Energy 625 Marion St. NE Salem, OR 97301

Hearing Officer: Elizabeth Ross

Stat. Auth.: ORS 469.040, 469B.161

Stats. Implemented: ORS 469B.130-469B.171 & 315.354-315.357

Proposed Amendments: 330-090-0133

Last Date for Comment: 3-26-14, 5 p.m.

Summary: The Oregon Department of Energy proposes draft rules for the Business Energy Tax Credit program that amend the final certification rule section. Although the 2011 Oregon Legislature replaced the Business Energy Tax Credit program with the new Energy Incentives Program, the department still must carry out its obligations to BETC participants before that program officially ends July 1, 2014. The proposed rule formalizes the process used for issuing a new certificate with the sale or disposition of a facility after final certification as provided in ORS 315.354(5). The rule also proposes adding an energy performance reporting requirement. The proposed rule would require certain types of BETC projects to report energy performance annually for up to five years after receiving final certification. The energy performance reporting requirement may apply to projects receiving BETC final certification after January 1, 2014. The department requests public comment on these draft rules.

A call-in number is available for the public hearing, please see website for details: <http://www.oregon.gov/energy/pages/rulemaking-selp.aspx>

Rules Coordinator: Kathy Stuttaford

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

Telephone: (503) 373-2127

NOTICES OF PROPOSED RULEMAKING

Department of Fish and Wildlife Chapter 635

Rule Caption: Amend Lamprey Harvest Rules

Date: 4-25-14
Time: 8 a.m.
Location: The Mill Casino
3201 Tremont Ave.
North Bend, OR 97459

Hearing Officer: Oregon Fish & Wildlife Commission

Stat. Auth.: ORS 496.138, 496.146, 497.121 & 506.119

Stats. Implemented: ORS 496.004, 496.009, 496.162 & 506.129

Proposed Adoptions: Rules in 635-017, 635-044

Proposed Amendments: Rules in 635-017, 635-044

Proposed Repeals: Rules in 635-017, 635-044

Last Date for Comment: 4-25-14, 8 a.m.

Summary: Amend rules related to personal use and tribal harvest of Pacific lamprey. Amendments to OAR 635-017-0090 will make the area open to fishing consistent with fish passage rules and statutes regarding closures around fishways. Amendments to 635-044-0130 will clarify regulations with regard to tribal fisheries. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

Rules Coordinator: Therese Kucera

Address: Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302

Telephone: (503) 947-6033

Rule Caption: Amend Rules for Sport and Commercial Halibut Seasons.

Date: 4-25-14
Time: 8 a.m.
Location: The Mill Casino
3201 Tremont Ave.
North Bend, OR 97459

Hearing Officer: Oregon Fish & 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 & 508.535

Proposed Adoptions: Rules in 635-004, 635-006, 635-039

Proposed Amendments: Rules in 635-004, 635-006, 635-039

Proposed Repeals: Rules in 635-004, 635-006, 635-039

Last Date for Comment: 4-25-14, 8 a.m.

Summary: Amendments to Oregon's regulations for sport halibut and commercial halibut will bring the State concurrent with federally adopted regulations. Modifications establish 2014 seasons and/or quotas for these halibut. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

Rules Coordinator: Therese Kucera

Address: Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302

Telephone: (503) 947-6033

Department of Human Services, Aging and People with Disabilities and Developmental Disabilities Chapter 411

Rule Caption: Long Term Care Assessment

Date: 3-17-14
Time: 1:30 p.m.
Location: Human Services Bldg., Rm. 160
500 Summer St. NE
Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 409.050, 410.070 & 411.060

Other Auth.: HB 2216 (2013), 2013 OL Ch. 608

Stats. Implemented: ORS 409.750, 2013 OL Ch. 736

Proposed Amendments: 411-069-0000, 411-069-0010, 411-069-0020, 411-069-0030, 411-069-0040, 411-069-0050, 411-069-0060, 411-069-0070, 411-069-0080, 411-069-0090, 411-069-0100, 411-

069-0110, 411-069-0120, 411-069-0130, 411-069-0140, 411-069-0150, 411-069-0160, 411-069-0170

Proposed Repeals: 411-069-0000(T), 411-069-0010(T), 411-069-0020(T), 411-069-0030(T), 411-069-0040(T), 411-069-0050(T), 411-069-0060(T), 411-069-0070(T), 411-069-0080(T), 411-069-0090(T), 411-069-0100(T), 411-069-0110(T), 411-069-0120(T), 411-069-0130(T), 411-069-0140(T), 411-069-0150(T), 411-069-0160(T), 411-069-0170(T)

Last Date for Comment: 3-21-14, 5 p.m.

Summary: The Department of Human Services (Department) is proposing to amend the long term care assessment rules in OAR chapter 411, division 069 to make permanent temporary rule language that became effective on October 7, 2013.

The proposed rules implement House Bill 2216 (2013) which directs the Department to reauthorize the long term care assessment and eliminate all long term care assessment exemptions except for nursing facilities operated by the Oregon Department of Veterans' Affairs.

Rules Coordinator: Christina Hartman

Address: Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, 500 Summer St. NE, E-10, Salem, OR 97301-1074

Telephone: (503) 945-6398

Rule Caption: Proctor Care Residential Services for Children with Intellectual or Developmental Disabilities

Date: 3-18-14
Time: 1 p.m.
Location: Human Services Bldg., Rm. 160
500 Summer St. NE
Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 409.050, 427.007 & 430.662

Stats. Implemented: ORS 430.021, 430.610, 430.620 & 430.662-695

Proposed Repeals: 411-335-0010, 411-335-0020, 411-335-0030, 411-335-0040, 411-335-0060, 411-335-0120, 411-335-0130, 411-335-0150, 411-335-0160, 411-335-0170, 411-335-0180, 411-335-0190, 411-335-0200, 411-335-0210, 411-335-0220, 411-335-0230, 411-335-0240, 411-335-0250, 411-335-0260, 411-335-0270, 411-335-0280, 411-335-0290, 411-335-0310, 411-335-0320, 411-335-0330, 411-335-0340, 411-335-0350, 411-335-0360

Last Date for Comment: 3-21-14, 5 p.m.

Summary: The Department of Human Services (Department) is proposing to repeal the rules in OAR chapter 411, division 335 for proctor care residential services for children with intellectual or developmental disabilities to make permanent the suspension that ended proctor care residential services on January 1, 2014.

Proctor care residential services were not included as a waiver or Community First Choice State plan option because of concerns regarding third party payments to proctor care providers as well as the potential for violations for the payment of bundled rates under the Social Security Act.

Rules Coordinator: Christina Hartman

Address: Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, 500 Summer St. NE, E-10, Salem, OR 97301-1074

Telephone: (503) 945-6398

Rule Caption: Service Wait Lists for Adults with Intellectual or Developmental Disabilities

Date: 3-18-14
Time: 1 p.m.
Location: Human Services Bldg., Rm. 160
500 Summer St. NE
Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 409.050 & 430.662

Stats. Implemented: ORS 427.007, 430.021 & 430.662

NOTICES OF PROPOSED RULEMAKING

Proposed Repeals: 309-041-1190, 309-041-1200, 309-041-1210, 309-041-1220, 309-041-1230, 309-041-1240, 309-041-1250

Last Date for Comment: 3-21-14, 5 p.m.

Summary: The Department of Human Services (Department) is proposing to repeal the service wait list rules for adults with intellectual or developmental disabilities in OAR chapter 309, division 041 because the rules are no longer applicable.

Due to the Staley Settlement Agreement, service wait lists for adults with intellectual or developmental disabilities have not been necessary or maintained by Community Developmental Disability Programs (CDDPs) since 2011. Further, with the implementation of the 1915(k) state plan, adults with intellectual or developmental disabilities are not required to wait for services to begin or be added to a waitlist for services. Adults with intellectual or developmental disabilities receive services as requested and program capacity allows.

Rules Coordinator: Christina Hartman

Address: Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, 500 Summer St. NE, E-10, Salem, OR 97301-1074

Telephone: (503) 945-6398

Rule Caption: Licensure of Adult Foster Homes for Adults who are Older or Adults with Physical Disabilities

Date:	Time:	Location:
3-18-14	3 p.m.	Human Services Bldg. 500 Summer St. NE, Rm. 160 Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 410.070, 443.775

Stats. Implemented: ORS 443.705-991

Proposed Amendments: 411-050-0602, 411-050-0610, 411-050-0625, 411-050-0630, 411-050-0640, 411-050-0642, 411-050-0645, 411-050-0650, 411-050-0660, 411-050-0685

Last Date for Comment: 3-21-14, 5 p.m.

Summary: The Department of Human Services (Department) is proposing to amend the following rules in OAR chapter 411, division 050 for the licensure of adult foster homes for adults who are older or adults with physical disabilities:

 OAR 411-050-0602

- Creates a new tool for adult foster home licensees called "floating resident manager."

 OAR 411-050-0610

- Deletes a number of requirements that allowed the Department to routinely request financial information.

- Limits the financial information required at the time of the initial application.

- Provides a new method (Verification of Financial Resources form) for the Department to obtain additional financial information at the time of the initial license application.

 OAR 411-050-0625

- Requires the Department to request additional financial information, but only the minimum necessary, to verify compliance with these rules and describes circumstances that may warrant the need for additional financial information.

- Enables a floating resident manager to work in more than one non-exempt jurisdiction without having to complete more than one local licensing authority's adult foster home orientation.

 OAR 411-050-0630

- Requires a floating resident manager to meet the classification requirements of the home as a licensee or resident manager.

 OAR 411-050-0640

- Limits the financial information required at the time of license renewal.

 OAR 411-050-0642

- Clarifies that a variance may not be granted for the minimum age or training requirements of a floating resident manager.

 OAR 411-050-0645

- Enables a licensee to employ a floating resident manager to work in an adult foster home on a temporary basis when the regular caregiver is no longer employed. Also enables the licensee to change the status of an approved floating resident manager to a regular, live-in resident manager when there is a change in primary caregiver.

- Adds the requirement for weekly menus to be posted per ORS 443.738(5) and documentation of any meal substitutions.

- Requires retention of the menus for the most recent 12 months of the adult foster home's operation, rather than three years as before.

 ORS 411-050-0650

- Clarifies a floating resident manager may not sleep in a living area or share a resident's bedroom.

 ORS 411-050-0660

- Enables licensees to employ floating resident managers in homes that are licensed to provide ventilator-assisted care.

 ORS 411-050-0685

- Incorporates floating resident manager by referring to qualified caregiver rather than listing all specific caregivers.

The proposed rules also make permanent temporary rule language that became effective October 16, 2013 and reflect general house-keeping such as correcting spelling errors and mistyped references and removing repetitious text.

Rules Coordinator: Christina Hartman

Address: Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, 500 Summer St. NE, E-10, Salem, OR 97301-1074

Telephone: (503) 945-6398

Rule Caption: Nursing Facility Closure

Date:	Time:	Location:
3-17-14	3:30 p.m.	Human Services Bldg. 500 Summer St. NE, Rm. 160 Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 410.070, 414.065, 441.055, 441.615, 441.637, 441.710, 441.715 & 441.990

Other Auth.: 42 CFR 483.75(r)(s), 42 CFR 483.12(a)(8), 42 CFR 488.446

Stats. Implemented: ORS 410.070, 414.065, 441.055, 441.600, 441.615, 441.637, 441.715 & 441.990

Proposed Amendments: 411-085-0025, 411-085-0210, 411-088-0020, 411-088-0070, 411-088-0080, 411-089-0030

Proposed Repeals: 411-085-0025(T), 411-085-0210(T), 411-088-0070(T)

Last Date for Comment: 3-21-14, 5 p.m.

Summary: The Department of Human Services (Department) is proposing to amend the nursing facility rules set forth in OAR chapter 411, divisions 085, 088, and 089 to make permanent temporary rule language that became effective on October 7, 2013 and to align with final rules issued by the Centers for Medicare and Medicaid Services (CMS) that implements Section 6113 of the Patient Protection and Affordable Care Act (PPACA).

The proposed rules ensure that, in the case of a facility closure, individuals serving as administrators provide written notification of the impending closure to the residents and other required individuals at least 60 days prior to impending closure and create a plan for the relocation of the residents. Administrators who fail to comply with the new closure requirements may be subject to civil monetary penalties and exclusion from Federal health care program participation. Hearing rights apply.

Rules Coordinator: Christina Hartman

Address: Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, 500 Summer St. NE, E-10, Salem, OR 97301-1074

Telephone: (503) 945-6398

NOTICES OF PROPOSED RULEMAKING

Department of Human Services, Child Welfare Programs Chapter 413

Rule Caption: Repealing OARs regarding Interstate Services for Delinquent Juveniles (I-B.3.4.1)

Date: 3-21-14 **Time:** 8:30 a.m. **Location:** 500 Summer St. NE, Rm. 255 Salem, OR

Hearing Officer: Annette Tesch

Stat. Auth.: ORS 418.005

Other Auth.: 2005 OL Ch. 655

Stats. Implemented: ORS 417.010–417.080

Proposed Repeals: 413-040-0370, 413-040-0380, 413-040-0390

Last Date for Comment: 3-21-14, 5 p.m.

Summary: The Department of Human Services, Child Welfare Programs, proposes to repeal OAR 413-040-0370, 413-040-0380, and 413-040-0390 regarding Interstate Services for Delinquent Juveniles. The purpose of these rules was to describe the Interstate Compact on Juveniles. Responsibility for the Compact was transferred to the Oregon Youth Authority July 1, 2005. The Department's rules have been superseded by Oregon Youth Authority rules, and these rules are now obsolete.

Written comments may be submitted until March 21, 2014 at 5:00 p.m. Written comments may be submitted via e-mail to Annette.Tesch@state.or.us, faxed to 503-373-7032, or mailed to Annette Tesch, Rules Coordinator, DHS - Child Welfare Programs, 500 Summer Street NE, E-48, Salem, Oregon, 97301. The Department provides the same consideration to written comment as it does to any oral or written testimony provided at the public hearing.

Rules Coordinator: Annette Tesch

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

Telephone: (503) 945-6067

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Rule Caption: Repealing Child Welfare receipting rules (III-B.1)

Date: 3-21-14 **Time:** 8:30 a.m. **Location:** 500 Summer St. NE, Rm. 255 Salem, OR

Hearing Officer: Annette Tesch

Stat. Auth.: ORS 293.265

Stats. Implemented: ORS 293.265

Proposed Repeals: 413-310-0000, 413-310-0010, 413-310-0020, 413-310-0030, 413-310-0040, 413-310-0050, 413-310-0060, 413-310-0070, 413-310-0080, 413-310-0090, 413-310-0095

Last Date for Comment: 3-21-14, 8:30 a.m.

Summary: Child Welfare rules OAR 413-310-0000 through 413-310-0095, General Receipting, describe the procedures that were to be followed when the former State Office for Services to Children and Families (SOSCF) processed money that was owed to SOSCF or its clients. Since the time these rules were adopted, the Department has been reorganized. The receipting function now resides in the Department's centralized Office of Financial Services, and is governed by Department policy. In addition, these rules contain primarily internal business processes that do not need to be in administrative rule. These rules are obsolete and are proposed to be repealed.

Written comments may be submitted until March 21, 2014 at 5:00 p.m. Written comments may be submitted via e-mail to Annette.Tesch@state.or.us, faxed to 503-373-7032, or mailed to Annette Tesch, Rules Coordinator, DHS - Child Welfare Programs, 500 Summer Street NE, E-48, Salem, Oregon, 97301. The Department provides the same consideration to written comment as it does to any oral or written testimony provided at the public hearing.

Rules Coordinator: Annette Tesch

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

Telephone: (503) 945-6067

Rule Caption: Repealing OARs related to miscellaneous payments (III-B.2.1)

Date: 3-21-14 **Time:** 8:30 a.m. **Location:** 500 Summer St. NE, Rm. 255 Salem, OR

Hearing Officer: Annette Tesch

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Proposed Repeals: 413-310-0100, 413-310-0110, 413-310-0120, 413-310-0130

Last Date for Comment: 3-21-14, 5 p.m.

Summary: The Office of Child Welfare Programs proposes to repeal the rules for "Miscellaneous Payments". These rules were adopted in 1995 to provide for reimbursement of expenses for foster parents to participate in training. Since that time, the process for reimbursement of training-related expenses has changed. It is addressed in each branch office's biennial training plan as a use of discretionary funds. These rules are no longer current and need to be repealed.

Written comments may be submitted until March 21, 2014 at 5:00 p.m. Written comments may be submitted via e-mail to Annette.Tesch@state.or.us, faxed to 503-373-7032, or mailed to Annette Tesch, Rules Coordinator, DHS - Child Welfare Programs, 500 Summer Street NE, E-48, Salem, Oregon, 97301. The Department provides the same consideration to written comment as it does to any oral or written testimony provided at the public hearing.

Rules Coordinator: Annette Tesch

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

Telephone: (503) 945-6067

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Rule Caption: Repealing OARs related to Child Welfare contracts (III-D.1.1–III-D.3.7)

Date: 3-21-14 **Time:** 8:30 a.m. **Location:** 500 Summer St. NE, Rm. 255 Salem, OR

Hearing Officer: Annette Tesch

Stat. Auth.: ORS 279A, 279B, 279C & 181.537

Stats. Implemented: ORS 279A, 279B, 279C

Proposed Repeals: 413-330-0000, 413-330-0010, 413-330-0020, 413-330-0030, 413-330-0040, 413-330-0050, 413-330-0060, 413-330-0080, 413-330-0085, 413-330-0087, 413-330-0090, 413-330-0095, 413-330-0097, 413-330-0098, 413-330-0100, 413-330-0200, 413-330-0210, 413-330-0220, 413-330-0230, 413-330-0240, 413-330-0250, 413-330-0260, 413-330-0270, 413-330-0280, 413-330-0290, 413-330-0300, 413-330-0310, 413-330-0320, 413-330-0330, 413-330-0340, 413-330-0350, 413-330-0360, 413-330-0500, 413-330-0510, 413-330-0520, 413-330-0530, 413-330-0540, 413-330-0600, 413-330-0610, 413-330-0700, 413-330-0800, 413-330-0810, 413-330-0820, 413-330-0830

Last Date for Comment: 3-21-14, 5 p.m.

Summary: The Department of Human Services, Child Welfare Programs proposes to repeal rules in OAR chapter 413 that apply to the contracting process. These rules were adopted when Child Welfare's predecessor division, the former State Office for Services to Children and Families, had its own contracting and procurement unit. Under the Department's current organizational structure, contracting and procurement functions are centralized in the Office of Contracts and Procurement, and are subject to the Public Contracting Code, Department of Administrative Services rules, and Department of Justice Model Public Contract rules. The following rules no longer apply to Child Welfare contracts, and are proposed to be repealed:

- OAR 413-330-0000 through 0080 regarding Criteria for Personal and Professional Services Contracting.

- OAR 413-330-0100 regarding Contracts Exempt from Department of Administrative Service Requirements.

- OAR 413-330-0200 through 0360 regarding Screening and Selection of Contractors.

NOTICES OF PROPOSED RULEMAKING

- OAR 413-330-0500 through 0540 regarding Emergency Contracts.
- OAR 413-330-0600 and 413-330-0610 regarding Contract Amendments.
- OAR 413-330-0700 regarding Contract Termination.
- OAR 413-330-0800 through 0830 regarding Sub-Contracting.

In addition, OAR 413-330-0085 through 0098 regarding Criminal History Checks for System of Care Contractors are proposed to be repealed because these criminal history checks are subject to Department-wide rules in OAR chapter 407. The rules in chapter 413 no longer apply to these background checks.

Written comments may be submitted until March 21, 2014 at 5:00 p.m. Written comments may be submitted via e-mail to Annette.Tesch@state.or.us, faxed to 503-373-7032, or mailed to Annette Tesch, Rules Coordinator, DHS - Child Welfare Programs, 500 Summer Street NE, E-48, Salem, Oregon, 97301. The Department provides the same consideration to written comment as it does to any oral or written testimony provided at the public hearing.

Rules Coordinator: Annette Tesch
Address: Department of Human Services, Child Welfare Programs, 500 Summer St. NE, E-48, Salem, OR 97301-1066
Telephone: (503) 945-6067

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Department of Justice
Chapter 137

Rule Caption: Amends Attorney General's Model Rules for Office of Administrative Hearings to Remove or Extend Sunsets

Date:	Time:	Location:
3-31-14	2 p.m.	Robertson Bldg. 1215 State St., 3rd Flr. Mahonia Conference Rm. Salem, OR 97301

Hearing Officer: Amy Alpaugh
Stat. Auth.: ORS 183.341
Stats. Implemented: ORS 138.341, 183.413, 183.415 & 183.630
Proposed Amendments: 137-003-0505, 137-003-0640
Proposed Repeals: 137-003-0505(T), 137-003-0640(T)
Last Date for Comment: 3-31-14, 5 p.m.

Summary: Amends OAR 137-003-0505(3) to delete the following language: "[t]he notice of sanction requirement imposed in subsection (1)(i) of this rule is effective until January 31, 2014." Continues the notice of proposed sanction requirement.

Amends OAR 137-003-0640(8) which provides that "[b]eginning February 1, 2014, agencies, rather than the Chief Administrative Law Judge, will be responsible for providing the immediate review set out in this rule" to extend Chief Administrative Law Judge review until February 1, 2016.

Repeals temporary rules OAR 137-003-0505 and 137-003-0640.
Rules Coordinator: Carol Riches
Address: Department of Justice, 1162 Court St. NE, Salem, OR 97301
Telephone: (503) 947-4700

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Rule Caption: To be in compliance with and maintain standards of practice within the SANE scope.

Date:	Time:	Location:
3-24-14	2 p.m.	4035 12th St. Cutoff SE Salem, OR 97302

Hearing Officer: Rebecca Shaw
Stat. Auth.: ORS 2003 OL Ch 789 (SB 752)
Stats. Implemented: ORS 2003 OL Ch 789 (SB 752)
Proposed Amendments: 137-084-0500
Last Date for Comment: 3-24-14, 5 p.m.

Summary: As a certifying body for the Oregon Sexual Assault Nurse Examiner program, maintained by the Oregon Sexual Assault Task Force, it is an expectation that persons who are granted SANE certification are maintaining standards of practice. Per the current OAR which guides the Commission, members are granted

the service of reviewing and setting standards to achieve initial SANE certification, but there is no stipulation which grants the Commission the ability to continue to review established SANE charts for continued compliance of the set standards of practice. The Commission is requesting a change in the existing OAR to include a process of chart review of the certified SANES, and following the guidance of the Oregon State Board of Nursing provide written feedback and recommendations. Also, the Commission is requesting an additional appointed member and modification of another established member slot.

Rules Coordinator: Carol Riches
Address: Department of Justice, 1162 Court St. NE, Salem, OR 97301
Telephone: (503) 947-4700

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Department of Public Safety Standards and Training
Chapter 259

Rule Caption: Corrects error of inadvertently omitting OAR 259-008-0070 from previous filing; updates denial revocation process.
Stat. Auth.: ORS 181.640, 181.661, 181.662, 181.664 & 183.341
Stats. Implemented: ORS 181.640, 181.661, 181.662 & 181.664
Proposed Amendments: 259-008-0070

Last Date for Comment: 3-24-14, Close of Business
Summary: After reviewing the instructor certification process in its entirety, DPSST proposed several rule changes clarifying the instructor certification process. Those proposed changes were filed as proposed with the Secretary of State's Office on November 26, 2013 and opened for public comment from January 1 to January 21, 2014. During this time, no public comments were received and the proposed rules were prepared for permanent filing. During this preparation, it was noticed that OAR 259-008-0070 was inadvertently omitted from the list of rules being amended on the Notice of Proposed Rulemaking filed with the Secretary of State's Office on November 26th, 2013. To correct that omission, DPSST is filing another Notice of Proposed Rulemaking, listing OAR 259-008-0070 as an amended rule.

Changes to OAR 259-008-0070 include clarifying Department responsibilities during the denial/revocation process and minor housekeeping.

Rules Coordinator: Sharon Huck
Address: Department of Public Safety Standards and Training, 4190 Aumsville Hwy SE, Salem, OR 97317
Telephone: (503) 378-2432

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Rule Caption: Update definitions to meet NFPA 1035 Standards and verification language for task books.
Stat. Auth.: ORS 181.640
Stats. Implemented: ORS 181.640
Proposed Amendments: 259-009-0005, 259-009-0062

Last Date for Comment: 3-24-14, Close of Business
Summary: This proposed rule change will update definitions, mirroring the 2010 NFPA 1035 Standard for Fire and Life Safety Educator, Public Information Officer, and Juvenile Firesetter Intervention Specialist. The proposed rule change also adds language verifying the completion of task books.

Rules Coordinator: Sharon Huck
Address: Department of Public Safety Standards and Training, 4190 Aumsville Hwy SE, Salem, OR 97317
Telephone: (503) 378-2432

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Department of Transportation
Chapter 731

Rule Caption: Reduction of vehicle-carrying capacity on highways termed freight routes
Stat. Auth.: ORS 184.616, 184.619 & 366.205
Stats. Implemented: ORS 366.215
Proposed Amendments: 731-012-0030

NOTICES OF PROPOSED RULEMAKING

Last Date for Comment: 3-21-14, Close of Business
Summary: During rulemaking to establish a program involving reduction of vehicle-carrying capacity, a list of reduction review routes was adopted in 731-012-0030. A small section of highway was inadvertently left out of that list and this rulemaking corrects the error.

Rules Coordinator: Lauri Kunze
Address: Department of Transportation, 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: 3-21-14, Close of Business
Summary: These rule changes contain the annual adoption of federal motor carrier safety and hazardous materials transportation regulations and 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. Minor language was added to OAR 740-100-0010 to comply with federal regulations pertaining to the thirty-four restart rules. Failure to adopt these rules could result in a major negative economic impact to state agencies by jeopardizing Oregon's continued receipt of \$2.6 million in MCSAP funds per year if it fails to amend and maintain compatible rules.

Rules Coordinator: Lauri Kunze
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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**Landscape Contractors Board
Chapter 808**

Rule Caption: Clarifies "employee" and requires admission or denial of each fact with a hearing request.

Date:	Time:	Location:
3-25-14	9 a.m.	LCB 2111 Front St. NE, Suite 2-10 Salem, OR 97301

Hearing Officer: Shelley Sneed, Administrator
Stat. Auth.: ORS 670.310 & 671.670
Stats. Implemented: ORS 305, 314, 316, 317, 318, 656, 657, 671.525, 671.520, 671.565, 671.660 & 447.060

Proposed Adoptions: 808-009-0315
Proposed Amendments: 808-002-0360
Last Date for Comment: 3-25-14, Close of Hearing
Summary: Clarifies "employee" and requires admission or denial of each fact with a hearing request.

Rules Coordinator: Kim Gladwill-Rowley
Address: Landscape Contractors Board, 2111 Front Street NE, Suite 2-101, Salem, OR 97301
Telephone: (503) 967-6291, ext. 223

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**Oregon Business Development Department
Chapter 123**

Rule Caption: The amendments in these rules relate to the Oregon Low Income Community Jobs Initiative.

Stat. Auth.: ORS 285C.650-295C.656 & 315.526-315.536
Stats. Implemented: ORS 285C.650-295C.656 & 315.526-315.536
Proposed Amendments: 123-630-0000, 123-630-0010, 123-630-0020, 123-630-0030, 123-630-0040, 123-630-0050, 123-630-0060, 123-630-0070, 123-630-0080, 123-630-0090, 123-630-0100
Proposed Repeals: 123-630-0000(T), 123-630-0010(T), 123-630-0020(T), 123-630-0030(T), 123-630-0040(T), 123-630-0050(T), 123-630-0070(T), 123-630-0080(T), 123-630-0090(T), 123-630-0100(T)

Last Date for Comment: 3-21-14, Close of Business
Summary: In 2013 the legislature passed HB 2763 which made a number of modifications to the Oregon Low Income Community Jobs Initiative. Changes were made to the definition of Qualified Equity Investment. Other changes were made to the rules for application, reporting requirements and certification.

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

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Rule Caption: This new division of rules relates to innovation infrastructure.

Stat. Auth.: 2013 OL Ch. 762
Stats. Implemented: 2013 OL Ch. 762
Proposed Adoptions: 123-015-0100, 123-015-0200, 123-015-0300, 123-015-0400, 123-015-0500

Last Date for Comment: 3-21-14, Close of Business
Summary: The 2013 legislature passed SB 241 which provides for assisting technology-based start-up business whose purpose is to commercialize university based or assisted research with the University of Oregon, Oregon State University and the Oregon Solutions Network to increase the number of these businesses within Linn, Lane and Lincoln counties. These rules provide for the administration of this program.

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 Department of Education
Chapter 581**

Rule Caption: Changes rule reference in Long Care and Treatment Education Program rule

Stat. Auth.: ORS 326.051 & 343.961
Stats. Implemented: ORS 343.243 & 343.961
Proposed Amendments: 581-015-2571
Last Date for Comment: 3-28-14, 5 p.m.

Summary: Changes references to Addictions and Mental Health Division standards rule.

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

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

Rule Caption: Reorganize Rule Text for Clarity and Amend Rules to Ensure Consistency with Federal Rules

Date:	Time:	Location:
3-18-14	10:30 a.m.	500 Summer St. NE, Rm. 137B Salem, OR 97301

Hearing Officer: Sandy Cafourek
Stat. Auth.: ORS 413.042 & 414.065
Stats. Implemented: ORS 414.065
Proposed Amendments: 410-129-0020, 410-129-0065, 410-129-0070

NOTICES OF PROPOSED RULEMAKING

Last Date for Comment: 3-20-14, 5 p.m.

Summary: The Speech-Language Pathology, Audiology and Hearing Aid Services Program administrative rules govern Division of Medical Assistance Programs' (Division) payments for services provided to Oregon Health Plan clients. The Division amends rules for clarity and to align rules with the Center for Medicare and Medicaid Services' (CMS) Early Periodic Screening, Diagnosis, and Treatment (EPSDT) program rules.

Rules Coordinator: Sandy Cafourek

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

Telephone: (503) 945-6430

Rule Caption: Hospital Assessment Sunset Date Change

Stat. Auth.: ORS 413.042, 410.070 & 411.060

Stats. Implemented: ORS 409.750, 2003 OL Ch. 736, Sec. 2 as amended by 2007 OL Ch. 780, Sec. 1, 2009 OL Ch. 828, Sec. 51, 2009 OL Ch. 867, Sec. 17 & 2013 HB 2216

Proposed Amendments: 410-050-0870

Proposed Repeals: 410-050-0870(T)

Last Date for Comment: 3-21-14, 5 p.m.

Summary: The Oregon Health Authority (Authority), Division of Medical Assistance Programs is amending OAR 410-050-0870 to reflect the new sunset date of the hospital assessment as approved by the Oregon State Legislature, effective August 1, 2013. The original sunset date expired October 1, 2013, and if the date is not changed to reflect the new date of October 1, 2015, the Authority will be unable to collect the hospital assessment, which funds the Oregon Health Plan. Permanent filing of this rule will repeal the temporary rule currently in place through March 29, 2014.

Proposed rules are available on the following website: <http://www.oregon.gov/DHS/admin/Pages/dwssrules/index.aspx>.

For hardcopy requests, call: (503) 947-5250.

Rules Coordinator: Sandy Cafourek

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

Telephone: (503) 945-6430

Rule Caption: Annual Relative Value Unit (RVU) Weight Update Effective January 1, 2014

Stat. Auth.: ORS 413.042

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

Proposed Amendments: 410-120-1340

Last Date for Comment: 3-20-14, 5 p.m.

Summary: DMAP will permanently amend this rule to implement the annual update to the Centers for Medicare and Medicaid (CMS) Relative Value Unit (RVU) weights for physician services.

Rules Coordinator: Sandy Cafourek

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

Telephone: (503) 945-6430

Rule Caption: Elimination of Oregon Health Plan Standard Benefit Plan Effective January 1, 2014

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.025, 414.065, 414.329, 414.706, 414.707, 414.708, 414.710 & 688.135

Proposed Amendments: 410-120-0030, 410-120-1210, 410-120-1230, 410-125-0020, 410-125-0080, 410-125-0085, 410-130-0240, 410-131-0120, 410-138-0000, 410-138-0007, 410-138-0009, 410-141-0860, 410-142-0040

Proposed Repeals: 410-122-0055, 410-123-1670, 410-125-0047, 410-127-0055, 410-129-0195, 410-130-0163, 410-132-0055, 410-146-0022, 410-146-0380, 410-147-0125, 410-148-0090

Last Date for Comment: 3-20-14, 5 p.m.

Summary: The Affordable Care Act (ACA) set forth a series of changes for Medicaid and CHIP eligibility including the expansion to the new adult category. This adult group includes the adults that were known as the OHP standard population. Effective January 1, 2014, the current OHP Standard benefit package will be eliminated, and those clients receiving this benefit package will receive the OHP Plus benefit. Additionally, the ACA added new exemptions to copayments; all changes are pending approval by the Centers for Medicare and Medicaid services (CMS). Other non-substantive changes include moving the CAWEM Plus benefit description from OAR 410-120-0030 to 410-120-1210, correcting or clarifying grammatical or wording revisions, acronyms and OAR references.

Rules Coordinator: Sandy Cafourek

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

Telephone: (503) 945-6430

Rule Caption: Align with Department of Human Services OAR Chapter 461 Rules

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042 & 414.065

Proposed Amendments: 410-120-0006

Last Date for Comment: 3-25-14, 5 p.m.

Summary: In coordination with the Department of Human Services' (Department) revision of rules established in OAR chapter 461 for all overpayment, personal injury liens and estate administration the Division is amending OAR 410-120-0006 to assure that the Division's rule aligns with and reflects information found in the Department's amended rules. In OAR 410-120-0006, the Division adopts and incorporates Department rules and must update OAR 410-120-0006 accordingly. The Division is amending this rule which incorporates rules established in OAR Chapter 461, for all overpayment, personal injury liens and estate administration for Authority programs covered under OAR 410-200. References to OAR Chapter 461 in contracts of the Authority are deemed to be references to the requirements of this rule.

Rules Coordinator: Sandy Cafourek

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

Telephone: (503) 945-6430

Rule Caption: Repeal of Health Insurers' Tax Rules

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042

Proposed Repeals: 410-050-0100 – 410-050-0250

Last Date for Comment: 3-21-14, 5 p.m.

Summary: The Oregon Health Authority (Authority), Division of Medical Assistance Programs is repealing the Health Insurers' Tax rules (OAR 410-050-0100 through 410-050-0250) because their sunset date was October 1, 2013 and they are no longer in effect.

Proposed rules are available on the following website: <http://www.oregon.gov/DHS/admin/Pages/dwssrules/index.aspx>.

For hardcopy requests, call: (503) 947-5250.

Rules Coordinator: Sandy Cafourek

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

Telephone: (503) 945-6430

Oregon Health Insurance Exchange Chapter 945

Rule Caption: 2015 Administrative Charge on Insurers

Date:	Time:	Location:
3-24-14	10 a.m.	16760 SW Upper Boones Ferry Rd., Suite 200 Durham, OR 97224

Hearing Officer: Gregory Jolivet

Stat. Auth.: ORS 741.002

Stats. Implemented: ORS 741.105

NOTICES OF PROPOSED RULEMAKING

Proposed Amendments: 945-030-0030

Last Date for Comment: 3-31-14, 5 p.m.

Summary: Establishes the 2015 administrative charge to be paid by insurers offering medical and dental plans through the Exchange.

Rules Coordinator: Gregory Jolivet

Address: Oregon Health Insurance Exchange, 16760 SW Upper Boones Ferry Rd., Suite 200, Durham, OR 97224

Telephone: (503) 373-9406

Oregon Liquor Control Commission
Chapter 845

Rule Caption: Amends rule to create additional license refusal reason for relevant federal law convictions.

Date: 3-27-14 **Time:** 10 a.m. **Location:** 9079 SE McLoughlin Blvd. Portland, OR 97222

Hearing Officer: Annabelle Henry

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

Stats. Implemented: ORS 471.313

Proposed Amendments: 845-005-0325

Last Date for Comment: 4-10-14, 5 p.m.

Summary: The reasons for which the Commission may refuse to license an applicant are set forth in ORS 471.313. OAR 845-005-0325 implements this statute.

Section (5) of the current rule states that the Commission will refuse to license an applicant who has been convicted of violating any Oregon law, or a law of any other state, if that law is substantially related to the applicant's fitness and ability to lawfully carry out activities under the license unless an applicant provides sufficient good cause to overcome the criterion.

Effective January 1, 2014, Senate Bill 37 amended ORS 471.313 to also include relevant federal law convictions, in effect creating an additional refusal basis. The proposed amendments reflect this expansion and are necessary to align OAR 845-005-0325 with the current statutory language.

Rules Coordinator: Annabelle Henry

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

Telephone: (503) 872-5004

Rule Caption: Increases permissible cost to supplier of display bin or rack that supplier provides to retailer.

Date: 3-25-14 **Time:** 10 a.m. **Location:** 9079 SE McLoughlin Blvd. Portland, OR 97222

Hearing Officer: Annabelle Henry

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

Stats. Implemented: ORS 471.398(3)

Proposed Amendments: 845-013-0030

Last Date for Comment: 4-8-14, 5 p.m.

Summary: On December 2, 2013, the Oregon Beer & Wine Distributors Association submitted a petition to amend OAR 845-013-0030. This rule allows a supplier to provide fixtures, furniture or furnishings to a retailer without violating the Commission's tied-house prohibitions if the supplier satisfies certain conditions.

For example, section (2) of this rule prohibits a supplier from providing a retailer with a display bin or rack that costs more than \$100.00. Petitioner requested that the Commission initiate rulemaking to amend section (2) of this rule and that during rulemaking the Commission increase the maximum permissible cost of a display bin or rack provided by the supplier from \$100.00 to \$200.00.

On January 24, 2014, the Commission granted petition's request and initiated rulemaking to amend this rule. During rulemaking, staff will also evaluate whether other regulatory language (e.g., a "reasonableness" standard associated with the permissible cost of the display bin or rack) would be more efficient than the current dollar value limit.

Rules Coordinator: Annabelle Henry

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

Telephone: (503) 872-5004

Oregon State Lottery
Chapter 177

Rule Caption: Increases 8-spot Keno Jackpot Bonus prize amount; Eliminates Keno 6-spot and 7-spot Jackpot Bonus prizes

Date: 3-17-14 **Time:** 9 a.m. **Location:** Oregon State Lottery 500 Airport Rd. SE Salem, OR 97301

Hearing Officer: Larry Trott, Esq.

Stat. Auth.: ORS Chapter 461, 461.210, 461.220, 461.230 & 461.250

Other Auth.: Oregon Constitution, Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.210, 461.220, 461.230 & 461.250

Proposed Amendments: 177-099-0100

Last Date for Comment: 3-17-14, 9:30 a.m.

Summary: The Oregon Lottery has initiated permanent rulemaking to amend the above referenced administrative rule regarding the allocation of 3.1% of gross Keno sales to the Keno Jackpot Bonus prize pools.

The proposed rule amendments increase the 8-spot Keno Jackpot Bonus prize by allocating 3.1% of gross Keno sales to a prize pool held in reserve as an additional prize for winners of the top prize in the 8-spot category.

The proposed amendments discontinue the 6-spot and 7-spot Keno Jackpot Bonus prizes. The money held in the prize pools under the current version of the rule rolls into the prize pool for the 8-spot Jackpot Bonus prize under the amended rule. The 6-spot and 7-spot prize pools are then discontinued. The elimination of the 6-spot and 7-spot Jackpot Bonus prizes results in an increased 8-spot Jackpot Bonus prize because the 3.1% of gross Keno sales that is currently allocated for Jackpot Bonus prizes is no longer split among three prize pools.

Rules Coordinator: Mark W. Hohlt

Address: Oregon State Lottery, 500 Airport Rd. SE, Salem, OR 97301

Telephone: (503) 540-1417

Rule Caption: Affidavit, garnishment, and payment provisions for 1995-96 Win for Life Scratch-it game

Date: 3-17-14 **Time:** 9:30 a.m. **Location:** Oregon State Lottery Headquarters 500 Airport Rd. SE Salem, OR 97301

Hearing Officer: Larry Trott, Esq.

Stat. Auth.: ORS 461, ORS 461.210, 461.220, 461.250 & 461.715

Other Auth.: Oregon Constitution, Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.210, 461.220, 461.250, & 461.715

Proposed Adoptions: 177-094-0100

Last Date for Comment: 3-17-14, 10 a.m.

Summary: The Oregon Lottery has initiated permanent rulemaking to adopt an administrative rule regarding the Win for Life Scratch-it ticket game which began April 4, 1995 and ended February 29, 1996. This game had a top prize of \$1,000 a month for the winner's life (paid at \$12,000 per year). At the time, there were no administrative rules or game rules on the ticket to address what happens after the 20-year guaranteed prize payment period expires to ensure that the prize winner is still alive and eligible to be paid the annual prize payment.

The proposed rule retroactively applies to these tickets and requires the prize winner(s) to submit an annual affidavit (starting with the 21st annual payment) to verify that the prize winner is alive and entitled to be paid the annual prize payment of \$12,000. If a prize winner fails to provide the annual affidavit, that annual payment is forfeited and allocated to the benefit of the public purpose after six years if the prize winner fails to claim it within that time period.

NOTICES OF PROPOSED RULEMAKING

Unlike the current rules that apply to the Win for Life draw game, if the prize winner submits an affidavit at any time during those six years, the prize winner is entitled to be paid the prize payments that have accumulated. Interest will not be paid on any such prize payments.

The proposed rule includes the requirement that prize payments are decreased, consistent with a garnishment, when a child support garnishment applies.

The proposed rule also sets forth Lottery's policy that if a winner dies during a payment year, an annual prize that was prospectively paid to the winner is not subject to reimbursement. If a prize is paid the year after the winner dies, however, the prize is subject to reimbursement of the Lottery. This is consistent with the Win for Life draw game.

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

Oregon State Marine Board
Chapter 250

Rule Caption: Define slow-no wake and amend special area rules for definition consistency.

Date:	Time:	Location:
3-27-14	6 p.m.	State Marine Board 435 Commercial St. NE #400 Salem OR

Hearing Officer: Rachel Bullene
Stat. Auth.: ORS 830.110
Stats. Implemented: ORS 830.110
Proposed Amendments: 250-010-0010, 250-020-0033, 250-020-0051, 250-020-0053, 250-020-0091, 250-020-0102, 250-020-0151, 250-020-0161, 250-020-0221, 250-020-0270, 250-020-0280, 250-020-0285, 250-020-0323, 250-020-0350, 250-030-0041

Last Date for Comment: 3-31-14, Close of Business
Summary: This rulemaking will define slow-no wake within the Definitions applicable to OAR Chapter 250. In addition, local and special area rules that use the term slow-no wake will be amended so that the wording is consistent for all restriction zones to read slow-no wake, maximum 5 mph.

Rules Coordinator: June LeTarte
Address: Oregon State Marine Board, P.O. Box 14145, Salem, OR 97309-5065
Telephone: (503) 378-2617

Rule Caption: Establish procedures for use of the Salvaged Vessel Subaccount to remove derelict and abandoned vessels

Date:	Time:	Location:
3-25-14	1 p.m.	State Marine Board 435 Commercial St. NE #400 Salem OR

Hearing Officer: Rachel Bullene
Stat. Auth.: ORS 830.110
Stats. Implemented: ORS 830.948
Proposed Adoptions: Rules in 250-026
Last Date for Comment: 3-31-14, Close of Business
Summary: These new rules will set forth the procedures for enforcement agencies to apply for reimbursement for the removal of abandoned and derelict vessels from the Oregon State Marine Board's Salvaged Vessel Account. The rules further establish procedures for distributing funds from the Salvaged Vessel Account to public bodies to run vessel-turn-in programs to dispose of vessels at risk of abandonment on the waters of this state.

Rules Coordinator: June LeTarte
Address: Oregon State Marine Board, P.O. Box 14145, Salem, OR 97309-5065
Telephone: (503) 378-2617

Oregon State Treasury
Chapter 170

Rule Caption: Modifies qualification requirements and application procedures related to the Oregon School Bond Guaranty Program.

Stat. Auth.: ORS 328.321-328.356
Other Auth.: ORS 328.331(2)(f) as adopted by HB 2322 (2013)
Stats. Implemented: ORS 328.321-328.356 & 328.331
Proposed Amendments: 170-063-0000

Last Date for Comment: 3-22-14, 5 p.m.
Summary: The proposed rule tightens the qualifications and clarifies various aspects of state aid intercept related to the OSBG program for school and community college district General Obligation bonds, including amendments that:

(1) Tighten procedures surrounding qualification for the program for schools and community college districts. In the future, a district's combined projected future annual guaranteed debt service cannot exceed 80% of its annual State aid unless it provides additional collateral as security or bond insurance to reimburse the State Treasury for any debt service payments made on its behalf.

(2) Require districts to affirmatively pledge their taxing power and full faith and credit to repay Oregon State Treasury for any payments made on the district's behalf.

(3) Modify filing dates for submission of materials to Oregon State Treasury (OST) in order to allow a thorough financial analysis prior to receiving Oregon School Bond Guaranty qualification and guaranty confirmation.

Rules Coordinator: Dan McNally
Address: Oregon State Treasury, 350 Winter St. NE, Suite 100, Salem, OR 97301
Telephone: (503) 373-1028

Parks and Recreation Department
Chapter 736

Rule Caption: Amendment of OAR 736-018-0045 to Adopt the Brian Booth State Park Comprehensive Plan

Date:	Time:	Location:
3-18-14	5:30 p.m.	South Beach State Park Meeting Yurt (near campground registration booth) 5580 South Coast Hwy. (HWY 101) Newport, OR

Hearing Officer: Ron Campbell
Stat. Auth.: ORS 390.180
Stats. Implemented: ORS 390.180(1)
Proposed Amendments: 736-018-0045
Last Date for Comment: 4-18-14, 5 p.m.

Summary: ORS 390.180(1) authorizes the Director of the Oregon Parks and Recreation Department (OPRD) to adopt administrative rules that establish a plan for each state park. Accordingly, OPRD is adopting a plan for Brian Booth State Park. Plans for state parks are adopted as state rules under OAR 736-018-0045. The purpose of amending OAR 736-018-0045 is to adopt the plan for Brian Booth State Park as a state rule.

The plan for the park responds to the most current information on park resource conditions and public recreation needs as they pertain to this park setting. The plan was formulated through OPRD's mandated planning process involving meetings with the general public, an advisory committee, recreation user groups, environmental advocacy groups, affiliated Tribes, affected state, federal and local government agencies, park neighbors and the local community.

Rules Coordinator: Vanessa DeMoe
Address: Parks and Recreation Department, 725 Summer St. NE, Suite C, Salem, OR 97301
Telephone: (503) 986-0719

NOTICES OF PROPOSED RULEMAKING

Public Utility Commission Chapter 860

Rule Caption: Implement 2013 SB 237 Regarding Adjustment of Utility Bills

Date: 3-31-14
Time: 10 a.m.
Location: Public Utility Commission
3930 Fairview Industrial Dr. SE
Salem, Oregon 97302

Hearing Officer: Michael Grant

Stat. Auth.: ORS 183, 756, 757 & 759

Stats. Implemented: ORS 756.040, 757.077, 757.250 & 759.045

Proposed Amendments: 860-021-0135, 860-034-0130, 860-036-0135, 860-037-0120

Last Date for Comment: 4-11-14, 5 p.m.

Summary: These proposed rule changes implement 2013 SB 237, section 2 (codified as ORS 757.077) to align the rules with the statutory limits on collection of incorrect billings and provisions of exceptions for instances of customer actions of misrepresentation, tampering with devices, diversion of service or product, providing false information, or theft. Although SB 237 applies only to energy and water utilities, the Commission also proposes clarifying changes to the telecommunications industry.

The Commission encourages participants to file written comments as early as practicable in the proceedings so that other participants have the opportunity to consider and respond to the comments before the deadline. Please reference Docket No. AR 579 on comments and file them by e-mail to the Commission's Filing Center at PUC. FilingCenter@state.or.us and also send a signed paper copy to the Filing Center at PO Box 1088, Salem, Oregon 97308-1088. For more information about the Commission's Filing Center, please see <http://apps.puc.state.or.us/edockets/center.htm>. Interested persons may review all filings online at <http://apps.puc.state.or.us/edockets/docket.asp?DocketID=18765>. For guidelines on filing and participation, please see OAR 860-001-0140 through 860-001-0160 and 860-001-0200 through 860-001-0250 found online at http://arcweb.sos.state.or.us/pages/rules/oars_800/oar_860/860_001.html.

Participants wishing to monitor the hearing by telephone must contact Diane Davis at diane.davis@state.or.us or (503) 378-4372 by close of business March 27, 2014, to request a dial-in number. The Commission strongly encourages those planning to present oral comment at the hearing to attend in person.

Rules Coordinator: Diane Davis

Address: Public Utility Commission of Oregon, PO Box 1088, Salem, OR 97308-1088

Telephone: (503) 378-4372

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Rule Caption: In the Matter of a Rulemaking Regarding Due Dates for Certain Energy Utility Reports.

Stat. Auth.: ORS Ch. 183, 756, 757 & 759

Other Auth.: 2013 HB 2266

Stats. Implemented: ORS 756.040, 756.105, 757.105, 757.120, 757.125, 757.135 & 759.225

Proposed Amendments: 860-027-0005, 860-027-0015, 860-027-0045, 860-027-0070

Last Date for Comment: 3-28-14, 5 p.m.

Summary: This rulemaking proposes changes to rules which set due dates for Energy Utilities to file their Budgets of Expenditures, Construction Budgets, Results of Operations, and Annual Reports such as the FERC 1 or FERC 2 including the Oregon Supplement. These changes are the result of the House Bill 2266 (2013). The rulemaking also proposes some housekeeping changes.

The Commission encourages participants to file written comments as early as practicable in the proceedings so that other participants have the opportunity to consider and respond to the comments before the deadline. Please reference Docket No. AR 578 on comments and file them by e-mail to the Commission's Filing Center at PUC. FilingCenter@state.or.us and also send a signed paper copy to the Filing Center at PO Box 1088, Salem, Oregon 97308-1088. For more

information about the Commission's Filing Center, please see <http://apps.puc.state.or.us/edockets/center.htm>. Interested persons may review all filings online at <http://apps.puc.state.or.us/edockets/docket.asp?DocketID=18723>. For guidelines on filing and participation, please see OAR 860-001-0140 through 860-001-0160 and 860-001-0200 through 860-001-0250 found online at http://arcweb.sos.state.or.us/pages/rules/oars_800/oar_860/860_001.html.

Rules Coordinator: Diane Davis

Address: Public Utility Commission of Oregon, PO Box 1088, Salem, OR 97308-1088

Telephone: (503) 378-4372

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Real Estate Agency Chapter 863

Rule Caption: Adds in 12 month expiration period for a background check for licensing purposes.

Date: 3-26-14
Time: 1:30 p.m.
Location: 1177 Center St. NE
Salem, OR 97301

Hearing Officer: Erica Kleiner

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.020 & 696.022

Proposed Amendments: 863-014-0015, 863-024-0015

Last Date for Comment: 3-28-14, Close of Business

Summary: The added language to the rule requires a broker, principal broker, or property manager license applicant to successfully complete the Agency's licensing process within the twelve months following a successfully completed background check. Language is also added to the rule to specify that an applicant must resubmit for a background check review, including submitting for fingerprints, if the licensing requirements aren't met within the twelve months.

NOTE: The Agency welcomes comments from the public on this rule amendment. Comments must be in writing and may be addressed to Erica Kleiner, Real Estate Agency, 1177 Center St. NE, Salem, OR 97301. Comments may also be submitted via email to erica.m.kleiner@state.or.us. For email comments, please write Rule Comment OAR 863-014-0015 and/or 863-024-0015 on the subject line. All comments must be submitted no later than 5:00 pm March 28, 2014.

Rules Coordinator: Erica Kleiner

Address: Real Estate Agency, 1177 Center St. NE, Salem, OR 97301

Telephone: (503) 378-4409

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Rule Caption: Removes waiver for national portion of the real estate examination for out-of-state applicants.

Date: 3-26-14
Time: 1:30 p.m.
Location: 1177 Center St. NE
Salem, OR 97301

Hearing Officer: Erica Kleiner

Stat. Auth.: ORS 696.385 & 696.425

Stats. Implemented: ORS 696.020, 696.022 & 696.425

Proposed Amendments: 863-014-0020

Last Date for Comment: 3-28-14, Close of Business

Summary: The rule was modified to remove the ability for the Real Estate Board to accept an applicant's passing results of the national portion of a broker examination taken in another state.

Rules Coordinator: Erica Kleiner

Address: Real Estate Agency, 1177 Center St. NE, Salem, OR 97301

Telephone: (503) 378-4409

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Rule Caption: Changes the renewal process for continuing education providers in rule.

Date: 3-26-14
Time: 1:30 p.m.
Location: 1177 Center St. NE
Salem, OR 97301

Hearing Officer: Erica Kleiner

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.182

NOTICES OF PROPOSED RULEMAKING

Proposed Amendments: 863-020-0030

Last Date for Comment: 3-28-14, Close of Business

Summary: The amendments to the rule specify the online renewal process for a continuing education provider. The amendments also remove the requirement that the renewal needs to be submitted at least 60 days before the certification expires.

Rules Coordinator: Erica Kleiner

Address: Real Estate Agency, 1177 Center St. NE, Salem, OR 97301

Telephone: (503) 378-4409

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Rule Caption: Allows the Agency to require a person applying for employment to complete criminal records check.

Date:	Time:	Location:
3-26-14	1:30 p.m.	1177 Center St. NE Salem, OR 97301

Hearing Officer: Erica Kleiner

Stat. Auth.: ORS 181.534 & 696.385

Stats. Implemented: ORS 181.534 & 696.790

Proposed Adoptions: 863-003-0000, 863-003-0005, 863-003-0010, 863-003-0020, 863-003-0040, 863-003-0050, 863-003-0060, 863-003-0070, 863-003-0080, 863-003-0090, 863-003-0100, 863-003-0110

Last Date for Comment: 3-28-14, Close of Business

Summary: This new division will allow the Real Estate Agency to require a person applying for employment with the Agency to complete a criminal records check. The purpose of these rules is to provide for the reasonable screening of subject individuals to determine if they have a history of criminal behavior such that they are not fit to work or volunteer in certain positions as specified in this new division. The fact that the Agency determines that a subject individual is fit does not guarantee the individual a position as an Agency employee, volunteer, contractor or vendor or that the individual will be hired by the Agency.

Rules Coordinator: Erica Kleiner

Address: Real Estate Agency, 1177 Center St. NE, Salem, OR 97301

Telephone: (503) 378-4409

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Rule Caption: Align licensing rules with the processes associated with the Agency's eLicense system and general clean-up.

Date:	Time:	Location:
3-26-14	1:30 p.m.	1177 Center St. NE Salem, OR 97301

Hearing Officer: Erica Kleiner

Stat. Auth.: ORS 696.385 & 696.026

Stats. Implemented: ORS 696.020, 696.022, 696.026 & 696.200

Proposed Amendments: 863-014-0003, 863-014-0010, 863-014-0015, 863-014-0035, 863-014-0040, 863-014-0050, 863-014-0062, 863-014-0063, 863-014-0065, 863-014-0066, 863-014-0095, 863-014-0100

Last Date for Comment: 3-28-14, Close of Business

Summary: OAR 863-014-0003 Definitions

- Added the definition for "Principal Broker Licensed Name (PBLN)".

- Deleted references to definitions that aren't found in ORS 696.010. Included references to relevant statutes for "Agency" and "Commissioner" definitions.

OAR 863-014-0010 License Application Form and Content

- Remove reference to broker's certified license history as examination qualification.

- Add Individual Taxpayer Id Number as option on license application.

OAR 863-014-0040 Principal Real Estate Broker Licensing Requirements

- Added reference to PBLN and PMLN.

OAR 863-014-0010 License Application Form and Content, 863-014-0035 Real Estate Broker Licensing Requirements, OAR 863-014-0040 Principal Real Estate Broker Licensing Requirements, OAR 863-014-0063 Real Estate License Transfers, Principal Bro-

ker's Responsibilities, Authority to Use Registered Business Name, OAR 863-014-0066 Licensee Name Change, OAR 863-014-0095 Business Name Registration, OAR 863-014-0100 Branch Office Registration

- Replaced a paper form/application reference with the current online application

OAR 863-014-0015 Background Check Application and Fingerprint, OAR 863-014-0035 Real Estate Broker Licensing Requirements, 863-014-0040 Principal Real Estate Broker Licensing Requirements, 863-014-0050 License Renewal, 863-014-0062 Mailing Address, Email Address, Address Change, Service of Notice.

- Removal of past effective dates.

OAR 863-014-0035 Real Estate Broker Licensing Requirements, OAR 863-014-0040 Principal Real Estate Broker Licensing Requirements, 863-014-0063 Real Estate License Transfers, Principal Brokers' Responsibilities, Authority to Use Registered Business Name

- Added a description of the current online association (license transfer) process

OAR 863-014-0065 Inactive License, Change License Status to Active, Change License Category, License Reactivation.

- Replaced former paper license inactivation, transfer, and reactivation form processes with the current online inactivation, transfer, and reactivation application processes.

- Also removes references to "changing license category".

OAR 863-014-0095 Business Name Registration

- Added a complete description of registering a PBLN or PMLN.

Rules Coordinator: Erica Kleiner

Address: Real Estate Agency, 1177 Center St. NE, Salem, OR 97301

Telephone: (503) 378-4409

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Rule Caption: Align property manager licensing rules with the Agency's electronic processes and general clean-up.

Date:	Time:	Location:
3-26-14	1:30 p.m.	1177 Center St. NE Salem, OR 97301

Hearing Officer: Erica Kleiner

Stat. Auth.: ORS 696.385, ORS 183.335

Stats. Implemented: ORS 696.010 & 696.020, ORS 696.022 & 696.270, ORS 696.026, ORS 696.280

Proposed Amendments: 863-024-0003, 863-024-0015, 863-024-0045, 863-024-0050, 863-024-0062, 863-024-0063, 863-024-0065, 863-024-0066, 863-024-0095, 863-024-0100

Last Date for Comment: 3-28-14, Close of Business

Summary: OAR 863-024-0003 Definitions

- Added the definition for "Property Manager Licensed Name (PMLN)".

- Deleted references to definitions that aren't found in ORS 696.010. Included references to relevant statutes for "Agency" and "Commissioner" definitions.

OAR 863-024-0045 Property Manager Licensing Requirements

- Added reference to PBLN and PMLN.

OAR 863-024-0045 Property Manager Licensing Requirements, OAR 863-024-0050 License Renewal, OAR 863-024-0063 Property Manager License Transfers, Principal Brokers' Responsibilities, Authority to Use Registered Business Name, OAR 863-024-0066 Licensee Name Change, OAR 863-024-0100 Branch Office Registration

- Replaced a paper form/application reference with the current online application.

OAR 863-024-0015 Background Check and Fingerprint Requirements, 863-024-0045 Property Manager Licensing Requirements, OAR 863-024-0050 License Renewal, OAR 863-024-0062 Mailing Address, Email Address, Address Change, Service of Notice

- Removal of past effective dates.

OAR 863-024-0063 Property Manager License Transfers, Principal Brokers' Responsibilities, Authority to Use Registered Business Name

NOTICES OF PROPOSED RULEMAKING

• Added a description of the current online association (license transfer) process.

OAR 863-024-0065 Inactive License, Change License Status to Active, License Reactivation

• Replaced former paper license inactivation, transfer, and reactivation form processes with the current online inactivation, transfer, and reactivation application processes.

• Also removes references to “changing license category”.

OAR 863-024-0095 Business Name Registration

• Added a complete description of registering a PBLN or PMLN.

Rules Coordinator: Erica Kleiner

Address: Real Estate Agency, 1177 Center St. NE, Salem, OR 97301

Telephone: (503) 378-4409

Rule Caption: Various amendments to responsibilities of and requirements for continuing education providers.

Date: 3-26-14 **Time:** 1:30 p.m. **Location:** 1177 Center St. NE Salem, OR 97301

Hearing Officer: Erica Kleiner

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.174, 696.182, 696.184 & 696.186, 696.022 & 696.301

Proposed Amendments: 863-020-0000, 863-020-0010, 863-020-0015, 863-020-0030, 863-020-0040, 863-020-0055, 863-020-0060

Last Date for Comment: 3-28-14, Close of Business

Summary: OAR 863-020-0000 Applicability and Purpose

• Clarifies the responsibilities of continuing education course providers to maintain records as directed by the Agency (in paper or electronic format). This provides the Agency with flexibility to require providers to maintain electronic records as it works toward a comprehensive online continuing education module.

OAR 863-020-0010 License Renewal Continuing Education Requirements, OAR 863-020-0015 Licensee Records, OAR 863-020-0040 Certain Courses Required for License Renewal that are Also Eligible for Continuing Education Credit

• Removal of past effective dates.

OAR 863-020-0030 Application for Continuing Education Provider Certification and Renewal, OAR 863-020-0055 Continuing Education Provider Record-keeping Requirements

• Replaces a paper form/application reference with an online application.

OAR 863-020-0055 Continuing Education Provider Record-keeping Requirements

• Clarifies that the Agency can request and the continuing education provider must produce records within 15 business days.

OAR 863-020-0060 Continuing Education Instructor Form

• Removes “successful completion of an instructor training course approved by the Board and two years of experience working in a field related to the topic of the course” as a qualification option on the Instructor form.

Rules Coordinator: Erica Kleiner

Address: Real Estate Agency, 1177 Center St. NE, Salem, OR 97301
Telephone: (503) 378-4409

Rule Caption: Clarification that compliance reviews and mail-in audits also apply to principal real estate brokers.

Date: 3-26-14 **Time:** 1:30 p.m. **Location:** 1177 Center St. NE Salem, OR 97301

Hearing Officer: Erica Kleiner

Stat. Auth.: ORS 696.385 & 183.335

Stats. Implemented: ORS 696.010 & 696.280

Proposed Adoptions: 863-015-0081

Proposed Amendments: 863-015-0003

Last Date for Comment: 3-28-14, Close of Business

Summary: Technical amendments were made to clarify compliance reviews and mail-in audits apply to principal real estate brokers, not only property managers. Previously, these provisions were only included in OAR Chapter 863, Division 25 related to property management. However, principal real estate brokers may also be included in compliance reviews and may have clients’ trust accounts which would be included in mail-in audits by the Agency.

The language currently used in OAR Chapter 863, Division 25 (related to compliance reviews and mail-in audits) was duplicated. “Property manager” was changed to “principal real estate broker” and “owner or tenant funds” was changed to “funds belonging to others”.

Rules Coordinator: Erica Kleiner

Address: Real Estate Agency, 1177 Center St. NE, Salem, OR 97301

Telephone: (503) 378-4409

Rule Caption: Added a definition of “property management agreement” to Division 25 and technical fixes.

Date: 3-26-14 **Time:** 1:30 p.m. **Location:** 1177 Center St. NE Salem, OR 97301

Hearing Officer: Erica Kleiner

Stat. Auth.: ORS 183.335 & 696.385

Stats. Implemented: ORS 696.361

Proposed Amendments: 863-025-0010

Last Date for Comment: 3-28-14, Close of Business

Summary: OAR 863-025-0010 Definitions

• Added “property management agreement”, which was defined in a new law.

• Updated for terms that are defined in ORS 696.010. Language now conforms to writing style utilized in other administrative rules for consistency.

• Reorganized order of included terms so terms appear in alphabetical order.

Rules Coordinator: Erica Kleiner

Address: Real Estate Agency, 1177 Center St. NE, Salem, OR 97301

Telephone: (503) 378-4409

ADMINISTRATIVE RULES

Board of Accountancy Chapter 801

Rule Caption: Update the professional standards effective date and recognize NASBA as foreign credentialing agency.

Adm. Order No.: BOA 1-2014

Filed with Sec. of State: 2-14-2014

Certified to be Effective: 3-1-14

Notice Publication Date: 12-1-2013

Rules Amended: 801-001-0035, 801-010-0050, 801-010-0085

Subject: The professional standards as used throughout OAR Chapter 801 are those that are in effect as of January 1, 2014. Amendment recognizes the National Association of State Boards of Accountancy (NASBA) as the foreign credentialing agency for individuals who obtained their education in a foreign country and wish to apply for either the CPA examination or a CPA license in the State of Oregon.

Rules Coordinator: Kimberly Fast—(503) 378-2268

801-001-0035

Professional Standards

The professional standards, interpretations, rulings and rules designated and adopted by the Board in OAR Chapter 801 are those in effect as of January 1, 2014.

Stat. Auth.: ORS 183.332 & 673.410

Stats. Implemented: ORS 183.337 & 673.410

Hist.: BOA 2-2003, f. 12-23-03 cert. ef. 1-1-04; BOA 2-2005, f. 2-24-05 cert. ef. 3-1-05; BOA 5-2005, f. 11-22-05, cert. ef. 1-1-06; BOA 1-2006, f. 12-22-06, cert. ef. 1-1-07; BOA 1-2007, f. 12-27-07 cert. ef. 1-1-08; BOA 1-2008, f. 12-30-08, cert. ef. 1-1-09; BOA 1-2009, f. 12-15-09 cert. ef. 1-1-2010; BOA 1-2010, f. 12-15-10, cert. ef. 1-1-11; BOA 1-2011, f. 12-28-11, cert. ef. 1-1-12; BOA 1-2013, f. & cert. ef. 1-8-13; BOA 1-2014, f. 2-14-14, cert. ef. 3-1-14

801-010-0050

Application for Uniform CPA Examination

(1) Definitions

(a) Authorization to Test (ATT): Issued by the Board of Accountancy to eligible exam candidates to authorize the candidate to test for specified sections of the CPA exam. The ATT may be issued for one or more CPA exam sections. Each ATT authorizes the candidate to take each CPA exam section designated in the ATT one time only. The ATT may become expired as to one exam section named in the ATT, and remain valid as to other specified exam sections. The candidate must submit an application and re-examination fee to the Board of Accountancy for any exam section that is expired under the ATT or to retake any section of the CPA Exam not passed.

(b) Notice to Schedule (NTS): Issued by NASBA and enables the candidate to schedule testing at an examination test center. The NTS must remain open until the candidate schedules testing or until six months have elapsed since the NTS was issued, whichever occurs first.

(c) Testing Center: Board approved computer testing facilities, at which candidates may take the CPA examination, are listed on the Board website. Testing centers are located throughout the United States and in Guam, Puerto Rico the Virgin Islands, Japan, United Arab Emirates, Kuwait, Lebanon and Bahrain.

(d) Testing Opportunity: Each testing window is considered a testing opportunity. There are four testing opportunities per year. A candidate may test for a particular section only once per testing window. A candidate may not retake a failed test section(s) in the same testing window.

(e) Testing Windows: The testing window is comprised of two months in which the examination is available to be taken and one month in which the examination will not be offered so that exam sections can be graded and maintenance may be performed.

(2) Applications.

(a) Applications for the CPA exam must be submitted on a form provided by the Board and must be accompanied by the appropriate fee. The act of filing an application for the CPA exam constitutes an agreement by the candidate to observe and comply with the CPA Exam rules adopted by the Board.

(b) An application will not be reviewed until the application fee and all required supporting documents have been received, including proof of identity (as determined by the Board and specified on the application form), official transcripts and evidence that the candidate has met eligibility requirements.

(c) All foreign academic credentials submitted as evidence of eligibility for the CPA exam are required to be evaluated by NASBA International Evaluation Services (NIES). Applications for the CPA exam received prior to June 1, 2014, involving foreign credentials will not be

required to be submitted to NIES if the applicant chooses to submit a credential evaluation from a provider that is a member of the National Association of Credential Evaluation Services, Inc. (NACES);

(d) An application for the CPA examination must be complete in every particular within 3 months from the date it is received at the Board office. If an application is incomplete, the candidate will be found ineligible and the file will be closed. A candidate whose file has been closed as described herein is required to submit a new application, application fee and all required documents.

(e) Candidates shall pay the CPA exam application fee designated in OAR 801-010-0010 to the Board. All other fees associated with the CPA exam are required to be paid to NASBA. All CPA exam fees are non-refundable. If a candidate fails to appear for a scheduled testing at an approved test center, all fees paid will be forfeited for the examinations scheduled on that day.

(f) At the time of application and during the time any ATT issued by the Oregon Board of Accountancy is open, the candidate must not have an open ATT for the same section in any other state or jurisdiction.

(g) The candidate must certify at the time of application that he or she is in compliance with subsection (f) of this rule. Falsifying this certification or including any false, fraudulent, or materially misleading statements on the application for the examination, or including any material omission on the application for the examination is cause for disciplinary action under ORS 673.170.

(h) The Board or its designee will forward authorization to test (ATT) for the computer-based CPA exam to the candidate and to the NASBA National Candidate Database once eligibility is determined.

(i) The Board will offer a candidate the opportunity to voluntarily disclose the candidate's social security number to the Board so that the Board may provide the social security number to NASBA for identification purposes.

(3) Eligibility under education requirements. Candidates for admission to the CPA exam after January 1, 2000 that apply under the educational requirements of ORS 673.050(1)(a) must demonstrate eligibility as follows:

(a) 150 Hour rule: Satisfactory evidence that the candidate has successfully completed 150 semester hours or 225 quarter hours, including:

(A) A baccalaureate or higher degree from a regionally accredited college or university as described in ORS 673.050(1)(a);

(B) A minimum of 24 semester hours or 36 quarter hours, or the equivalent thereof, in the study of accounting; and

(C) A minimum of 24 semester hours or 36 quarter hours in accounting or related subjects. Related subjects are defined as business, finance, economics, and written and oral communication.

(D) The required number of hours in accounting or related subjects may be obtained by satisfactory completion of such hours taken from divisions of continuing education extended by a regionally accredited four-year college or university, or from a community college, providing the community college courses are transferable as equivalent courses to an accredited four-year college or university.

(E) Credit for community college courses. Applicants who have earned a baccalaureate or higher degree from a regionally accredited college or university may obtain additional hours from a community college, if such hours would be transferable to an accredited college or university. However, completion of 150 hours consisting entirely of courses taken from a community college or divisions of continuing education shall not be considered equivalent to a baccalaureate or higher degree from a four-year accredited college or university under the requirements of ORS 673.050.

(b) Candidates who applied before January 1, 2000: Returning candidates after January 1, 2000 who do not meet the educational requirement under ORS 673.050(1)(a) are required to sit for at least two sections of the CPA exam, per calendar year, in order to maintain eligibility under the requirements of ORS 673.050, which were in effect prior to January 1, 2000. Returning candidates must provide satisfactory evidence that:

(A) The candidate met CPA exam eligibility requirements that were in effect in Oregon at the time the candidate sat for the CPA exam for the first time in any jurisdiction; and

(B) The candidate sat for and received grades for at least one of the Uniform CPA Examinations in any jurisdiction in 1998 or 1999.

(c) Evidence of eligibility. Candidates must meet all requirements under this rule at the time of application. Satisfactory evidence of the educational requirement may be provided in the following manner:

(A) Candidates who have completed all course requirements and been awarded a baccalaureate or higher degree must provide an official tran-

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script(s) demonstrating successful completion of all courses required under these rules, and that a degree was awarded.

(B) Candidates who have completed all course requirements at the time of application, but for whom a baccalaureate degree has not yet been awarded must provide an official transcript(s) showing successful completion of all courses required under these rules, together with a letter from the Registrar's Office of the college or university stating that the candidate has met the degree requirements and the date that the degree will be awarded.

(C) Only official transcripts that are forwarded directly to the Board office by the issuing college or university will be accepted.

(D) Colleges or universities, which are accredited by one of the six regional accrediting associations and listed as accredited in the Directory of Post secondary Institutions, published by the National Center for Education Statistics, are recognized by the Board.

(4) Eligibility under experience standards. Candidates for the CPA exam who are applying under the experience requirements of ORS 673.050(2) to be licensed as a Public Accountant must submit satisfactory evidence that:

(a) The candidate graduated from a high school with a four-year program, or the equivalent; and

(b) The candidate completed two years of experience in public accountancy or the equivalent satisfactory to the Board that meets the requirements of OAR 801-010-0100(2) and OAR 801-010-0065(2).

(c) Returning candidates after January 1, 2002 who were eligible to take two sections of the CPA Exam under provisions of ORS 673.100 in effect prior to January 1, 2002, are required to sit for at least one exam section in any two testing windows each year in order to maintain eligibility under those requirements.

(5) Authorization to Test and Notice to Schedule

(a) An ATT authorizes the candidate to test one time for those sections of the CPA exam that are specified in the ATT. An ATT is effective for six months from the date on which the corresponding NTS is issued or until the NTS expires, whichever occurs first; however, the ATT will expire ninety (90) days after it is issued if the candidate has not paid the appropriate fees to NASBA.

(b) Expiration of the ATT. Authorization to take a specified exam section will expire on any of the following events:

(A) When the candidate schedules and takes a designated exam section;

(B) If the candidate schedules a testing date for a designated exam section but fails to appear and take the section at the scheduled time;

(C) If the candidate fails to schedule a designated exam section within the six-month period defined by the NTS; or

(D) If the candidate fails to request an NTS and pay the appropriate fees to NASBA within 90 days of the date the ATT is issued.

(c) Suspension of the ATT. An ATT may be suspended by the Board of Accountancy based on a report from NASBA that a problem related to the candidate is identified on the National Candidate Database, or for other good cause as determined by the Board.

(d) Payment of CPA Exam testing fees. To obtain a Notice to Schedule (NTS), the candidate must remit the CPA exam testing fees required for the CPA exam sections specified in the ATT to NASBA within ninety (90) days from the date the ATT is issued. Failure to remit the required fees and obtain the NTS will cause the ATT to expire, and the candidate must submit a re-examination application to the Board, with the appropriate CPA exam fee, to receive another ATT.

(e) NTS. When the candidate receives an ATT from the Board, the candidate is required to:

(A) Submit to NASBA payment of all fees related to testing of the CPA exam sections authorized by the ATT;

(B) Upon receipt of the NTS, contact an approved test center to schedule the time and place for testing of the exam sections authorized by the NTS. CPA exam sections do not have to be scheduled on the same date.

(C) The NTS remains valid for each exam section until the candidate schedules testing for that specific section, or for six months from the date the NTS was issued, whichever occurs first.

(D) The NTS expires as to each individual exam section when the candidate schedules testing for that section, whether or not the candidate appears at the scheduled testing appointment.

(f) Testing.

(A) A candidate may schedule testing at an approved testing center in Oregon or in another jurisdiction. A list of approved testing centers is on the Board of Accountancy website.

(B) Candidates must comply with the procedures and rules of the test center.

(g) Re-examination. A completed re-examination application and payment of the appropriate fee to the Board of Accountancy is required:

(A) To retake any exam section that the candidate does not pass;

(B) To obtain an NTS for any exam section that the candidate failed to schedule during the six-month period for which a previous NTS was issued;

(C) To obtain an NTS for any exam section for which the candidate failed to obtain an NTS during the ninety (90) day period after the date the ATT was issued.

Stat. Auth.: ORS 670.310, 673.050 & 673.100

Stats. Implemented: ORS 673.050, 673.100 & 673.410

Hist.: 1AB 10, f. 2-7-63; 1AB 14, f. 8-15-68; 1AB 20, f. 10-22-71, ef. 11-15-71; 1AB 34, f. 1-29-74, ef. 2-25-74; 1AB 41, f. & ef. 12-2-76; 1AB 44, f. & ef. 3-31-77; 1AB 48, f. & ef. 7-21-77; 1AB 6-1978, f. & ef. 6-22-78; 1AB 7-1981, f. & ef. 7-27-81; 1AB 2-1983, f. & ef. 9-20-83; AB 3-1988, f. & cert. ef. 6-9-88; AB 2-1989, f. & cert. ef. 1-25-89; AB 4-1991, f. & cert. ef. 7-1-91; AB 4-1994, f. & cert. ef. 9-27-94; AB 1-1995, f. & cert. ef. 1-25-95; AB 5-1995, f. & cert. ef. 8-22-95; AB 1-1996, f. & cert. ef. 1-29-96; AB 1-1997, f. & cert. ef. 1-28-97; BOA 5-1998, f. & cert. ef. 7-9-98; BOA 6-1998, f. & cert. ef. 7-29-98; BOA 7-1998(Temp), f. & cert. ef. 7-29-98 thru 1-25-99; BOA 8-1998, f. & cert. ef. 10-22-98; BOA 4-1999, f. & cert. ef. 7-23-99; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 4-2001, f. 12-28-01, cert. ef. 1-1-02; BOA 3-2002, f. 12-27-02, cert. ef. 1-1-03; BOA 4-2003, f. 12-23-03 cert. ef. 1-1-04; BOA 1-2004(Temp), f. & cert. ef. 3-15-04 thru 7-1-04; BOA 2-2004(Temp), f. & cert. ef. 7-2-04 thru 12-29-04; BOA 4-2004, f. 12-30-04, cert. ef. 1-1-05; BOA 7-2005, f. 11-22-05, cert. ef. 1-1-06; BOA 2-2006, f. 12-22-06, cert. ef. 1-1-07; BOA 2-2008, f. 12-30-08, cert. ef. 1-1-09; BOA 3-2010, f. 12-15-10, cert. ef. 1-1-11; BOA 3-2011, f. 12-28-11, cert. ef. 1-1-12; BOA 1-2014, f. 2-14-14, cert. ef. 3-1-14

801-010-0085

Holders of Foreign Licenses, Certificates, Credentials or Degrees

(1) The Board recognizes the International Qualifications Appraisal Board (IQAB), a joint body of NASBA and AICPA. IQAB is charged with:

(a) Evaluating the professional credentialing process of certified public accountants or their equivalents in countries other than the United States; and

(b) Negotiating principles of reciprocity agreements with the appropriate professional and/or governmental bodies of other countries seeking recognition as having requirements substantially equivalent to requirements in the United States to qualify for and receive the license of certified public accountant.

(2) The Board shall honor the principles of reciprocity agreements issued by IQAB.

(3) An applicant for a certified public accountant license in Oregon who holds a license, credential or degree issued by a foreign country that is claimed to be comparable to a license issued by the Board, or an applicant who holds a certificate or license issued by the licensing body of any state or US Territory that is based upon the certificate, credential or degree granted by a foreign country that is not recognized under any IQAB Reciprocity Agreement is required to meet the following requirements:

(a) Satisfy the educational requirement under ORS 673.050 for admission to the CPA exam.

(b) Pass all sections of the CPA exam required by ORS 673.060; and

(c) Complete the experience requirement under ORS 673.040, ORS 673.100 and OAR 801-010-0065.

Stat. Auth.: ORS 670.310 & 673.410

Stats. Implemented: ORS 673.040 & 673.060

Hist.: 1AB 2-1986, f. & ef. 10-15-86; AB 1-1994, f. & cert. ef. 1-21-94; AB 4-1994, f. & cert. ef. 9-27-94; AB 5-1995, f. & cert. ef. 8-22-95; BOA 6-1998, f. & cert. ef. 7-29-98; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 4-2001, f. 12-28-01, cert. ef. 1-1-02; BOA 3-2002, f. 12-27-02, cert. ef. 1-1-03; BOA 4-2003, f. 12-23-03 cert. ef. 1-1-04; BOA 4-2004, f. 12-30-04, cert. ef. 1-1-05; BOA 3-2011, f. 12-28-11, cert. ef. 1-1-12; BOA 1-2014, f. 2-14-14, cert. ef. 3-1-14

Board of Chiropractic Examiners Chapter 811

Rule Caption: This rule more clearly defines a clinic owners responsibility

Adm. Order No.: BCE 1-2014

Filed with Sec. of State: 1-29-2014

Certified to be Effective: 1-29-14

Notice Publication Date: 1-1-2014

Rules Amended: 811-035-0015

Subject: Provides that chiropractic clinic owners share responsibility for employee/associate compliance to rules and statutes.

Rules Coordinator: Kelly J. Beringer—(503) 373-1573

811-035-0015

Unprofessional Conduct in the Chiropractic Profession

Unprofessional conduct means any unethical, deceptive, or deleterious conduct or practice harmful to the public; any departure from, or fail-

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ure to conform to, the minimal standards of acceptable chiropractic practice; or a willful or careless disregard for the health, welfare or safety of patients, in any of which cases proof of actual injury need not be established. Unprofessional conduct shall include, but not be limited to, the following acts of a Chiropractic physician:

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

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

(c) "Sexual relations" means:

(A) Sexual intercourse; or

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

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

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

(2) Charging fees for unnecessary services;

(3) Failing to teach and/or directly supervise persons to whom chiropractic services have been delegated;

(4) Practicing outside the scope of the practice of chiropractic in Oregon;

(5) Charging a patient for services not rendered;

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

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

(8) Soliciting or borrowing money from patients;

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

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

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

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

(13) Using any controlled or illegal substance or intoxicating liquor to the extent that such use impacts the ability to safely conduct the practice of chiropractic;

(14) Practicing chiropractic without a current Oregon license;

(15) Allowing another person to use one's chiropractic license for any purpose;

(16) Resorting to fraud, misrepresentation, or deceit in applying for or taking the licensure exam or obtaining a license or renewal thereof;

(17) Impersonating any applicant or acting as a proxy for the applicant in any chiropractic licensure examination;

(18) Disclosing the contents of the licensure examination or soliciting, accepting, distributing, or compiling information regarding the contents of the examination before, during, or after its administration; Notwithstanding this section, the Ethics and Jurisprudence Examination is open book and there is no restriction on applicants discussing answers to individual questions between themselves or with others

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

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

(21) Failing to comply with State and Federal laws regarding child and elderly abuse, and communicable diseases;

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

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

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

(25) Chiropractic physicians holding an ownership interest as described in OAR 811-010-0120 may be held responsible, entirely or in part, for supervised staff (listed below) who provide patient services. This includes a responsibility to render adequate supervision, management and training of ancillary staff or other persons including, but not limited to, chiropractic physicians, student interns, chiropractic assistants and/or others practicing under the licensee's supervision. Chiropractors with supervised staff may be held responsible, entirely or in part, for undue influence on staff or a restriction of a supervised chiropractic physician from using their own clinical judgment.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 684.155

Hist.: CE 6-1995, f. & cert. ef. 12-19-95; CE 2-1996(Temp), f. & cert. ef. 5-31-96; CE 3-1996, f. & cert. ef. 9-26-96; BCE 1-1999, f. & cert. ef. 4-7-99; BCE 2-2000, f. & cert. ef. 5-4-00; BCE 2-2003, f. & cert. ef. 12-11-03; BCE 2-2009, f. & cert. ef. 12-22-09; BCE 1-2014, f. & cert. ef. 1-29-14

Board of Examiners for Engineering and Land Surveying Chapter 820

Rule Caption: Amend rules related to the FE and FLS examinations due to CBT.

Adm. Order No.: BEELS 1-2014(Temp)

Filed with Sec. of State: 2-14-2014

Certified to be Effective: 2-14-14 thru 8-13-14

Notice Publication Date:

Rules Amended: 820-010-0225, 820-010-0226, 820-010-0227, 820-010-0228, 820-010-0420

Subject: OAR 820-010-0225 — Amends language to complement ORS 672.121 and provide the timeframe in which the official transcript must be submitted after sitting for the FE examination prior to graduation.

OAR 820-010-0226 — Amends language to complement ORS 672.121 and provide the timeframe in which the official transcript must be submitted after sitting for the FLS examination prior to graduation.

OAR 820-010-0227 — Provides an applicant with a method to have military training evaluated for qualifications to the FE examination as authorized under ORS 672.105(2)(b).

OAR 820-010-0228 — Provides an applicant with a method to have military training evaluated for qualifications to the FLS examination as authorized under ORS 672.118(2)(b).

OAR 820-010-0420 — Revises language to be consistent with the process of the examination for enrollment as an engineering intern.

Rules Coordinator: Mari Lopez—(503) 362-2666

820-010-0225

Educational Qualifications to Take the Fundamentals of Engineering (FE) Examination for Enrollment as an Engineering Intern (EI)

Applicants for admission to examination for enrollment as an EI will be required to submit the following evidence to show eligibility to take the FE examination:

(1) Official transcripts that document the degree and date awarded, demonstrating completion of an engineering curriculum satisfactory to the Board, as described in subsection (2) below.

(2) For entrance to the FE examination, a curriculum satisfactory to the Board shall include:

(a) Graduation from an EAC of ABET accredited engineering program;

(b) Graduation from a TAC of ABET baccalaureate engineering program;

(c) Graduation from an ACCE accredited four-year baccalaureate construction engineering management program;

(d) Graduation from a graduate degree program in engineering at a college or university that has an EAC of ABET accredited undergraduate degree program in the same field as the graduate degree program, combined with completion of 21 semester/32 quarter hours of engineering related technical course work. The courses shall include at least six of the following nine subjects: Differential Equations, Physics, Statistics, Statics, Dynamics, Thermodynamics, Fluid Mechanics, Electrical Fundamentals and Strength of Materials.

(e) Graduation from TAC of ABET accredited two-year Engineering Technology program or graduation from a two-year Associate of Applied Science program in Engineering Technology that includes the following:

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(A) A total of at least 64 semester/96 quarter hours;
(B) At least 32 semester/48 quarter hours in technical courses. (Skills and knowledge of appropriate methods, procedures and techniques; experience in carrying out established engineering procedures);
(C) At least 16 semester/24 quarter hours in math and science, including:

(i) 4 semester/6 quarter hours in basic science (physics, chemistry, earth and life sciences);
(ii) 8 semester/12 quarter hours in mathematics (not including courses below the level of college algebra or courses in computer programming);
(D) At least 9 semester/13 quarter hours in social science, humanities and communications; and

(E) In addition to the educational requirements set forth in paragraph (e) of subsection (3), graduates from two-year programs shall complete two or more years of engineering work before qualifying to take the FE examination for enrollment as an EI. In the alternative, graduates from two-year programs may complete additional course work consisting of 21 semester/32 quarter hours in Differential Equations, Physics, Statistics, Statics, Dynamics, Thermodynamics, Fluid Mechanics, Electrical Fundamentals and Strength of Materials.

(f) Completion of a curriculum that the Board finds has adequately prepared the application for enrollment as an EI.

(3) To be eligible to sit for the examination prior to graduation from a baccalaureate engineering program described in subsections (2)(a), (b) or (c) of this rule, a verification statement must be signed by an official from the applicant's school, university or college, verifying the applicant is currently enrolled in the senior year of a qualifying baccalaureate program, and also verifying that if the applicant graduates timely, when the degree from that program will be conferred upon the applicant.

(4) To be eligible to sit for the examination prior to graduation from a baccalaureate engineering program that is not accredited as described in subsections (2)(a), (b) or (c) of this rule, a verification statement must be signed by an official from the applicant's school, university or college, verifying the applicant is currently enrolled in the senior year of a baccalaureate engineering program that includes 21 semester/ 32 quarter hours in at least six of the following nine courses: differential equations; Physics; Statics; Dynamics; Thermodynamics; Fluid Mechanics; Electrical Fundamentals; Strength of Materials, and also verifying that if the applicant graduates timely, when the degree from that program will be conferred upon the applicant.

(5) The verification statement required under subsections (3) and (4) of this rule must be submitted in the same packet as the completed application to be considered.

(6) NCEES will be notified of approved applications. The applicant may not schedule with NCEES to sit for the examination unless and until NCEES has been notified of the Board's approval of the application.

(7) An applicant who is admitted to the examination under subsections (3) or (4) of this rule shall, within 10 months of sitting for the exam, provide the Board with an official transcript showing that the degree for which the applicant was approved to sit for the examination has been conferred on the applicant. Failure of the applicant to timely provide the board with an official transcript showing that the degree has been conferred on the applicant vacates any passing score that the applicant achieved on the examination.

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

Stats. Implemented: ORS 672.002 - 672.325

Hist.: EE 13, f. 3-29-72, ef. 4-15-72; EE 16, f. 3-5-74, ef. 3-25-74; EE 20, f. & ef. 12-15-77; EE 1-1986, f. 2-4-86, ef. 2-15-86; EE 1-1992, f. & cert. ef. 2-3-92; EE 1-1995, f. 8-15-95, cert. ef. 9-1-95; EE 2-1996, f. & cert. ef. 10-3-96; BEELS 1-1998, f. & cert. ef. 2-10-98; BEELS 1-1999, f. 5-27-99, cert. ef. 7-1-99; BEELS 1-2001, f. & cert. ef. 5-22-01; BEELS 1-2004, f. & cert. ef. 1-26-04; BEELS 2-2006, f. & cert. ef. 11-21-06; BEELS 2-2008, f. & cert. ef. 7-9-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 4-2012, f. & cert. ef. 9-14-12; BEELS 1-2013, f. & cert. ef. 3-13-13; BEELS 4-2013(Temp), f. & cert. ef. 7-10-13 thru 1-6-14; BEELS 8-2013(Temp) f. & cert. ef. 11-14-13 thru 1-6-14; Administrative correction, 2-5-14; BEELS 1-2014(Temp), f. & cert. ef. 2-14-14 thru 8-13-14

820-010-0226

Educational Qualifications to Take the Fundamentals of Land Surveying (FLS) Examination for Enrollment as a Land Surveying Intern (LSI)

Applicants for admission to examination for enrollment as an LSI will be required to submit the following evidence to show eligibility to take the FLS examination:

(1) Official transcripts that document the degree and date awarded, demonstrating completion of a land surveying curriculum satisfactory to the Board, as described in subsection (2) below.

(2) For entrance to the FLS Examination, a curriculum satisfactory to the Board shall include:

(a) Graduation from an EAC of ABET accredited four-year baccalaureate land surveying program;

(b) Graduation from an ASAC of ABET accredited four-year baccalaureate land surveying program;

(c) Graduation from a TAC of ABET accredited four-year baccalaureate land surveying program;

(d) Graduation from an EAC of ABET accredited four-year baccalaureate engineering program with 11 semester/16 quarter hours of surveying instruction and surveying law.

(e) Graduation from a TAC of ABET accredited four-year baccalaureate engineering program with 11 semester/16 quarter hours of surveying instruction and surveying law.

(f) Graduation from an ACCE accredited four-year baccalaureate engineering program with 11 semester/16 quarter hours of surveying instruction and surveying law.

(g) Graduation from a graduate degree program in land surveying at a college or university that has an ABET accredited undergraduate degree program in the same field, combined with completion of 11 semester/16 quarter hours of surveying instruction.

(h) Graduation from an ASAC of ABET accredited two-year Surveying Technology program, a TAC of ABET accredited two-year Surveying Technology program, or a two-year Association of Applied Science program in Surveying Technology or Engineering Technology that includes the following:

(A) A total of at least 64 semester/96 quarter hours;

(B) At least 32 semester/48 quarter hours in technical courses, of which a minimum of 11 semester/16 quarter hours shall be in surveying instruction;

(C) At least 16 semester/24 quarter hours in subjects such as math, science, basic electricity, hydraulics, road design, construction management and estimating engineering economics with college level algebra, trigonometry and statistics;

(D) At least 9 semester/13 quarter hours in social science, humanities and communications; and

(E) In addition to the educational requirements set forth in paragraph (h) of subsection (2) above, graduates from two-year education programs shall complete two or more years of active practice in land surveying work before qualifying to take the FLS examination for enrollment as an LSI.

(i) Graduation from a baccalaureate degree program related to engineering or land surveying that includes the following:

(A) 21 semester/32 quarter hours of coursework with a direct geomatics focus that requires the application of geomatics knowledge and skills. One of these courses must be surveying law related;

(B) 27 semester/40 quarter hours that requires the application of mathematics for problem solving. At least one of these courses must focus on the application of differential and integral calculus;

(C) 24 semester/35 quarter hours related to physical and natural science with laboratory applications; and

(D) 4 semester/6 quarter hours of capstone or integrating experience that develops student competencies in applying both technical and non-technical skills in solving problems.

(j) Completion of a curriculum that the Board finds adequately prepared the applicant for enrollment as an LSI.

(3) To be eligible to sit for the examination prior to graduation from a baccalaureate land surveying or engineering program described in subsections (2)(a) through (c) of this rule, a verification statement must be signed by an official from the applicant's school, university or college, verifying the applicant is currently enrolled in the senior year of a qualifying baccalaureate program, and also verifying that if the applicant graduates timely, when the degree from that program will be conferred upon the applicant.

(4) To be eligible to sit for the examination prior to graduation from a baccalaureate engineering program described in subsections (2)(d) through (f) of this rule, a verification statement must be signed by an official from the applicant's school, university or college, verifying the applicant is currently enrolled in the senior year of a qualifying baccalaureate engineering program that includes: 11 semester/16 quarter hours of surveying instruction and surveying law, and also verifying that if the applicant graduates timely, when the degree from that program will be conferred upon the applicant.

(5) To be eligible to sit for the examination prior to graduation from a baccalaureate engineering or land surveying program that is not accredited as described in subsections (2)(a) through (f) of this rule, a verification statement must be signed by an official from the applicant's school, university or college, verifying the applicant is currently enrolled in the senior year of a baccalaureate engineering or land surveying program that

ADMINISTRATIVE RULES

includes: 21 semester/32 quarter hours of coursework with a direct geomatics focus that requires the application of geomatics knowledge and skills. One of these courses must be surveying law related; 27 semester/40 quarter hours that requires the application of mathematics for problem solving. At least one of these courses must focus on the application of differential and integral calculus; 24 semester/35 quarter hours related to physical and natural science with laboratory applications; and 4 semester/6 quarter hours of capstone or integrating experience that develops student competencies in applying both technical and non-technical skills in solving problems, and also verifying that if the applicant graduates timely, when the degree from that program will be conferred upon the applicant.

(6) The verification statement required under this subsections (3), (4), and (5) of this rule must be submitted in the same packet as the completed application to be considered.

(7) NCEES will be notified of approved applications. The applicant may not schedule with NCEES to sit for the examination unless and until NCEES has been notified of the Board's approval of the application.

(8) An applicant who is admitted to the examination under subsections (3), (4), or (5) of this rule shall, within 10 months of sitting for the exam, provide the Board with an official transcript showing that the degree for which the applicant was approved to sit for the examination has been conferred on the applicant. Failure of the applicant to timely provide the Board with an official transcript showing that the degree has been conferred on the applicant vacates any passing score that the applicant achieved on the examination.

Stat. Auth.: ORS 670.310 & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: BEELS 2-2006, f. & cert. ef. 11-21-06; BEELS 2-2008, f. & cert. ef. 7-9-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 4-2012, f. & cert. ef. 9-14-12; BEELS 1-2013, f. & cert. ef. 3-13-13; BEELS 4-2013(Temp), f. & cert. ef. 7-10-13 thru 1-6-14; BEELS 8-2013(Temp) f. & cert. ef. 11-14-13 thru 1-6-14; Administrative correction, 2-5-14; BEELS 1-2014(Temp), f. & cert. ef. 2-14-14 thru 8-13-14

820-010-0227

Educational and Experience Qualifications to Take the Fundamentals of Engineering (FE) Examination for Enrollment as an Engineering Intern (EI) and Applications Based on Non-Accredited Degrees

(1) An applicant that does not qualify pursuant to OAR 820-010-0225 may apply for admission to the FE examination based on a combination of education and experience in the practice of engineering. Applicants will be allowed to submit as qualifying work experience that work experience obtained based on employment up to the date of the FE examination.

(2) Degrees from educational institutions not identified in OAR 820-010-0225 may be considered as qualifying if they are evaluated by NCEES Credentials Evaluations, and the Board determines that the degree or course work is substantially equivalent to the educational degrees or courses required for degrees for those institutions listed in 820-010-0225. The cost for such evaluation will be borne by the applicant.

(3) Military training or experience may be considered as qualifying if it is evaluated by the Joint Services Transcript (JST), and the Board determines that the military training or experience is considered substantially equivalent to the educational degrees or courses listed in OAR 820-010-0225.

(4) Course work from institutions that are identified in OAR 820-010-0225 may be considered as qualifying if the coursework involves engineering principles or was obtained by the applicant while enrolled in an engineering program.

(5) Where an applicant applies for admission to the FE examination on the basis of sections (1) through (3) of this rule, the applicant must also demonstrate that the applicant's years of education when combined with the applicant's years of engineering work total at least 8 years. Work experience in excess of that needed to satisfy this requirement may be included by applicant in a subsequent application to apply for admission to the PE examination.

(6) The Board may give credit for qualifying course work in proportion to the amount of course work completed relative to the degree towards which the course work would apply. For example, completion of one year of a two-year Engineering Technology program may be considered equivalent to one year of education, requiring 7 years of engineering work experience, in accordance with section (4). Qualifying course work includes classes in engineering ethics, fundamentals and design.

(7) An applicant may qualify for admission to the FE examination on the basis of 8 years of engineering work without any qualifying degree or course work.

(8) Applicants for admission to the fundamentals of engineering examination on the basis of experience or combined education and experience will be required to provide a minimum of three references with knowl-

edge of engineering technician work gained as defined in the OAR 820-010-0010.

(a) At least one of the three references must be registered in a NCEES jurisdiction.

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

(c) References must be submitted on the Board approved Reference Details form. The Reference Details form must be received by the Board office in a sealed envelope.

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

(9) FE examination application fee is \$0.00.

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

Stats. Implemented: ORS 672.002 - 672.325

Hist.: BEELS 2-2006, f. & cert. ef. 11-21-06; BEELS 5-2007, f. & cert. ef. 9-20-07; BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 6-2013, f. & cert. ef. 9-11-13; BEELS 7-2013(Temp); f. & cert. ef. 11-12-13 thru 5-9-14; BEELS 10-2013(Temp), f. & cert. ef. 12-5-13 thru 3-14-14; BEELS 1-2014(Temp), f. & cert. ef. 2-14-14 thru 8-13-14

820-010-0228

Combined Educational and Experience Qualifications to Take the Fundamentals of Land Surveying (FLS) Examination for Enrollment as a Land Surveying Intern (LSI) and Applications Based on Non-Accredited Degrees

(1) An applicant that does not qualify pursuant to OAR 820-010-0226 may apply for admission to the FLS examination based on a combination of education and experience in the practice of land surveying. Applicants will be allowed to submit as qualifying work experience that work experience obtained based on employment up to the date of the FLS examination.

(2) Degrees from educational institutions not identified in OAR 820-010-0226 may be considered as qualifying if they are evaluated by NCEES Credentials Evaluations, and the Board determines that the degree or course work is substantially equivalent to the educational degrees or courses required for degrees for those institutions listed in 820-010-0226. The cost for such evaluation will be borne by the applicant.

(3) Military training or experience may be considered as qualifying if it is evaluated by the Joint Services Transcript (JST), and the Board determines that the military training or experience is considered substantially equivalent to the educational degrees or courses listed in OAR 820-010-0226.

(4) Course work from institutions that are identified in OAR 820-010-0226 may be considered as qualifying if the coursework involves land surveying principles or was obtained by the applicant while enrolled in a land surveying program.

(5) Where an applicant applies for admission to the FLS examination on the basis of sections (1) through (3) of this rule, the applicant must also demonstrate that the applicant's years of education when combined with the applicant's years of land surveying work total at least 8 years. Work experience in excess of that needed to satisfy this requirement may be included by applicant in a subsequent application to apply for admission to the PLS examination.

(6) The Board may give credit for qualifying course work in proportion to the amount of course work completed relative to the degree towards which the course work would apply. For example, completion of one year of a two-year Surveying Technology program may be considered equivalent to one year of education, requiring 7 years of surveying work experience, in accordance with section (4). Qualifying course work includes classes in land surveying ethics, fundamentals and application.

(7) An applicant may qualify for admission to the FLS examination on the basis of 8 years of land surveying work without any qualifying degree or course work.

(8) Applicants for admission to the fundamentals of land surveying examination on the basis of experience or combined education and experience will be required to provide a minimum of three references with knowledge of land surveying technician or photogrammetric mapping technician work gained as defined in the OAR 820-010-0010.

(a) At least one of the three references must be registered in a NCEES jurisdiction.

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

(c) References must be submitted on the Board approved Reference Details form. The Reference Details form must be received by the Board office in a sealed envelope.

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

(9) FLS examination application fee is \$0.00.

Stat. Auth.: ORS 670.310, 672.095, 672.118, & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: BEELS 2-2006, f. & cert. ef. 11-21-06; BEELS 5-2007, f. & cert. ef. 9-20-07; BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 6-2013, f. & cert. ef. 9-11-13; BEELS 7-2013(Temp); f. & cert. ef. 11-12-13 thru 5-9-14; BEELS 10-2013(Temp), f. & cert. ef. 12-5-13 thru 3-14-14; BEELS 1-2014(Temp), f. & cert. ef. 2-14-14 thru 8-13-14

820-010-0420

Nature of Examination for Engineering Intern (EI)

The examination to qualify for enrollment as an EI will be an examination devoted to basic engineering subjects on the fundamentals of engineering. The examination may cover such subjects as chemistry, dynamics, engineering economics, engineering mechanics, electrical circuits, electronics and electrical machinery, fluid mechanics, materials science, mathematics, mechanics of materials, statistics, structure of matter and thermodynamics, and discipline specific questions in the chosen discipline.

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

Stats. Implemented: ORS 672.002 - 672.325

Hist.: EE 13, f. 3-29-72, ef. 4-15-72; EE 16, f. 3-5-74, ef. 3-25-74; EE 20, f. & ef. 12-15-77; EE 1-1983, f. 2-28-83, ef. 3-1-83; EE 1-1992, f. & cert. ef. 2-3-92; EE 1-1995, f. 8-15-95, cert. ef. 9-1-95; BEELS 1-1998, f. & cert. ef. 2-10-98; BEELS 1-2014(Temp), f. & cert. ef. 2-14-14 thru 8-13-14

Board of Parole and Post-Prison Supervision Chapter 255

Rule Caption: Update the rule governing the release to post-prison supervision or parole and exit interviews.

Adm. Order No.: PAR 1-2014(Temp)

Filed with Sec. of State: 1-17-2014

Certified to be Effective: 1-17-14 thru 7-16-14

Notice Publication Date:

Rules Amended: 255-060-0012

Subject: To update the rule to be in conformity with statutory changes.

Rules Coordinator: Shawna Harnden—(503) 945-0913

255-060-0012

Psychological or Psychiatric Reports

Sections (1)–(6) of this rule apply to: inmates whose crimes were committed before November 1, 1989; all inmates convicted of aggravated murder; and inmates convicted of murder committed on or after June 30, 1995.

(1) Pursuant to ORS 144.125, the Board may order any available psychiatric/psychological report(s) from the Department of Corrections.

(2) Pursuant to ORS 144.223, the Board may postpone the parole release date administratively and order a psychiatric/psychological evaluation of any inmate anytime prior to release, except for inmates convicted of murder committed on or between November 1, 1989, and June 29, 1995, and not designated a dangerous offender at sentencing.

(3) After review of the psychiatric/psychological reports, and all other information or documents presented during the hearing the Board may defer parole release until a specified future date upon finding. The inmate has a present severe emotional disturbance, such as to constitute a danger to the health or safety of the community.

(4) The Board shall not deny release on parole solely because of an inmate's present severe emotional disturbance. The Board must also find the condition constitutes a danger to the health or safety of the community.

(5) The Board may defer a scheduled parole release date for no fewer than two years and no longer than ten years. A deferral of longer than two years must comply with OAR 255 division 62 of these rules.

(6) If the Board finds the inmate does not have a present severe emotional disturbance such as to constitute a danger to the health or safety of the community, the Board shall affirm the parole release date and set parole conditions.

(7) If the Board finds the inmate has a present severe emotional disturbance, but that the disturbance is not so severe as to constitute a danger to the health or safety of the community, the Board may affirm the parole release date and set parole conditions.

(8) For purposes of the Board finding that an inmate/offender is a sexually violent dangerous offender pursuant to OAR 255-060-0008, the Board may order a psychological or psychiatric evaluation.

Stat. Auth.: ORS 144.125, 144.223, 144.280, 144.635, 144.637

Stats. Implemented:

Hist.: PAR 2-1990, f. & cert. ef. 4-5-90; PAR 6-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 5-1998, f. & cert. ef. 11-9-98; PAR 4-2000, f. & cert. ef. 2-15-00; PAR 1-2014(Temp), f. & cert. ef. 1-17-14 thru 7-16-14

Rule Caption: Bring the rules up to date with current Board practice

Adm. Order No.: PAR 2-2014(Temp)

Filed with Sec. of State: 2-14-2014

Certified to be Effective: 2-14-14 thru 8-13-14

Notice Publication Date:

Rules Amended: 255-075-0079

Subject: bring the rules up to date with current Board practice, which is a result of the Court of Appeals decision in Hostetter (Hostetter v. Board of Parole and Post-Prison Supervision, 353 Or 747, 304 P3d 38 (2013) denying review of Hostetter v. Board of Parole and Post-Prison Supervision, 255 Or App 328, 296 P3d 664 (2013))

Rules Coordinator: Shawna Harnden—(503) 945-0914

255-075-0079

Guidelines for Re-release

(1) For technical violation(s):

(a) An offender whose parole has been revoked may serve further incarceration of up to 90 days for each revocation, except when re-release is denied pursuant to OAR 255-075-0096.

(b) An offender sentenced to post-prison supervision who has been revoked and returned to custody may serve further incarceration of up to 90 days for each return, not to exceed the total revocation sanction days allowed in OAR 213-011-0004.

(2) For conduct constituting a crime:

(a) An offender whose parole has been revoked may serve further incarceration of up to 180 days for each revocation, except when re-release is denied pursuant to OAR 255-075-0096.

(b) An offender sentenced to post-prison supervision who has been revoked and returned to custody may serve further incarceration of up to 180 days, not to exceed the total revocation sanction days provided in OAR 213-011-0004.

(3) For conduct constituting a crime and resulting in automatic revocation to the Department of Corrections, pursuant to ORS 144.345(2), an offender may serve further incarceration of up to 180 days.

(4) Notwithstanding subsections (1)–(2) of this rule, offenders sentenced to life imprisonment for murder whose parole has been revoked may serve further incarceration to the sentence expiration date. Offenders sentenced to life imprisonment for aggravated murder whose parole has been revoked may serve further incarceration to the sentence expiration date.

(5) Pursuant to OAR 253-05-004(2) (9/1/89), an offender sentenced to lifetime post-prison supervision for murder or aggravated murder committed on or after November 1, 1989 but before July 14, 1997, may serve further incarceration of up to 90 days for each technical violation, or 180 days for a criminal violation, without a limit on the total revocation days.

(6) Notwithstanding subsections (1)–(2) of this rule, offenders sentenced as dangerous offenders for crimes committed on or after November 1, 1989 may serve repeated incarcerations of 180 days or more up to the sentence expiration date for any supervision violation.

(7) Offenders sentenced as sexually violent dangerous offenders pursuant to ORS 137.765 for crimes committed on or after October 23, 1999, may serve repeated incarcerations of 180 days or more for any violation of post-prison supervision unless or until the post-prison supervision is terminated by a court. The Board may impose only a single sanction for all violations known as of the date of the sanction.

(8)(a) The commencement date for the further term of incarceration as a result of the violation of conditions shall be the date of arrest or return to Oregon custody if arrested out of state for the violation which resulted in the revocation of parole or post-prison supervision.

(b) The commencement date for the further term of incarceration as a result of termination of parole or post-prison supervision under ORS 144.345(2) ("autorevoke") shall be the sentencing date, if no further action is taken by the Board.

(c) If the jailer, hearings officer, or Board releases the offender from custody pending the violation hearing, the time spent outside actual custody does not count toward the further term of incarceration.

(9) The Board and the Department of Corrections may develop other programs that create exceptions to the sanctions provided in this rule.

(10) Notwithstanding subsections (1)–(7) of this rule, the Board may choose to postpone re-release on parole pursuant to Divisions 50 and 60 of this chapter.

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(11) Notwithstanding subsections (1)–(8) of this rule, the Board may choose to deny re-release on parole pursuant to OAR 255-075-0096.

(12) Administrative sanctions do not count toward the revocation sanction limits.

Stat. Auth.: ORS 144.107, 144.108, 144.109, 144.120(4), 144.125, 144.232, 144.345, 144.346, 144.395 & 161.735

Stats. Implemented: ORS 144.085, 144.120(4), 144.245, 144.395, 144.780 & 144.783 - 144.787

Hist.: PAR 1-1989(Temp), f. & cert. ef. 4-19-89; PAR 3-1989, f. 10-13-89, ef. 10-16-89; PAR 4-1989, f. & cert. ef. 11-1-89; PAR 6-1990(Temp), f. & cert. ef. 10-15-90; PAR 1-1991, f. & cert. ef. 1-16-91; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 11-1997(Temp), f. & cert. ef. 11-14-97; PAR 1-1998, f. & cert. ef. 5-11-98; PAR 3-2000, f. & cert. ef. 1-25-00; PAR 2-2003, f. & cert. ef. 5-13-03; PAR 5-2004(Temp), f. & cert. ef. 6-14-04 thru 12-10-04; PAR 11-2004, f. & cert. ef. 11-2-04; PAR 2-2014(Temp), f. & cert. ef. 2-14-14 thru 8-13-14

Board of Pharmacy
Chapter 855

Rule Caption: Adopt/amend rules required by the 2013 Oregon Legislature. Adopt epinephrine and amend reporting rules.

Adm. Order No.: BP 2-2014

Filed with Sec. of State: 1-24-2014

Certified to be Effective: 1-24-14

Notice Publication Date: 11-1-2013

Rules Adopted: 855-041-1001, 855-041-2300, 855-041-2310, 855-041-2320, 855-041-2330

Rules Amended: 855-007-0080, 855-011-0020, 855-019-0205, 855-019-0270, 855-019-0280, 855-041-1030, 855-041-1105

Rules Repealed: 855-041-2300(T), 855-041-2310(T), 855-041-2320(T), 855-041-2330(T)

Subject: On December 18, 2013 the Board of Pharmacy adopted or amended rules relating to public health emergencies, the Health Professional's Service Program (HPSP), bio similars and naloxone as required by the 2013 Oregon Legislature. Rules for the distribution of epinephrine in emergency health circumstances were also adopted on this date. Rules in Division 019 and 041 were adopted and amended to require a pharmacist and outlet to notify the Board within one (1) business day in the event of significant drug losses or violations related to drug theft.

Copies of the full text of these rules can be obtained on the Board's website at www.pharmacy.state.or.us or by calling the Board office at (971) 673-0001.

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

855-007-0080

Emergency Immunization and Drug Distribution

When a public health emergency has been declared, the following principles and procedures shall apply to the distribution, dispensing and administration of vaccines or drugs:

(1) The distribution of vaccines and drugs is to be in accordance with instructions provided by OSPHD.

(2) LHDs are authorized to distribute SNS or state stockpile drugs to designated Treatment Centers (TC) or health-care providers designated by the State Public Health Director or a local health administrator.

(3) A TC may include but is not limited to:

- (a) A LHD;
- (b) A clinician;
- (c) A community health clinic;
- (d) An independent or chain pharmacy;
- (e) A hospital or other health-care facility;
- (f) A temporary pharmacy;
- (g) A mobile pharmacy; or
- (h) A tribal health-care facility.

(4) A TC may possess, distribute, dispense and administer vaccines and drugs if these rules are in effect.

(5) A health-care provider, designated by the local health administrator, at a TC shall be responsible for administration, distribution and tracking of vaccines and drugs in accordance with procedures established by OSPHD.

(6) A health-care provider may, if permitted under that provider's scope of practice and these rules, distribute, dispense and administer vaccines and drugs.

(7) An Individual Data Collection Form (IDCF) shall be filled out for each person receiving a vaccine or drug at a TC or from a health-care

provider, and this IDCF shall be treated as a valid prescription and retained as follows:

(a) An IDCF initiated at a pharmacy or other licensed health-care facility shall be filed and retained for three years;

(b) An IDCF initiated at a facility that is not a licensed health-care facility or at a temporary or mobile pharmacy shall be sent to OSPHD at the end of the state of emergency except that where the temporary or mobile facility has been established under the authority of OAR 855-007-0100 all records shall be filed and retained in accordance with 855-007-0110.

(8) Community Partner: A Community Partner means any entity that is authorized by OSPHD or OBOP to:

(a) Purchase and store vaccines or drugs prior to a pandemic event;

(b) Store vaccines or drugs in a Board registered facility or at a tribal site;

(c) Take possession of the vaccines or drugs and distribute to critical infrastructure and key resources when so directed by OSPHD in accordance with OSPHD protocols and procedures.

(d) A Community Partner shall:

(A) Distribute all drugs within 72 hours of removal from the storage site;

(B) Store all drugs in accordance with manufacture's guidelines;

(C) Record all distributions on a Distribution Log that shall include:

(i) The name and age of the person receiving the drugs;

(ii) The name, strength and quantity of the drugs;

(iii) The date and the time of the distribution.

(e) The Distribution Log shall be treated as a valid prescription and stored or otherwise disposed of as specified in 855-007-0110;

(9) This authority for LHDs, TCs, health-care providers and Community Partners to possess drugs shall extend beyond the declared emergency until procedures issued by OSPHD for the return or destruction of unused drugs have been completed.

(10) A pharmacist may administer a vaccine to a person who is at least three years of age or older.

Stat. Auth.: ORS 401.065, 433.441, 689.205 & 2013 OL Ch 332

Stats. Implemented: 689.155 & 2013 OL Ch 332

Hist.: BP 4-2008(Temp), f. 12-31-08, cert. ef. 1-5-09 thru 7-3-09; BP 1-2009, f. & cert. ef. 6-22-09; BP 4-2009, f. & cert. ef. 12-24-09; BP 2-2014, f. & cert. ef. 1-24-14

855-011-0020

Participation in Health Professional's Service Program

(1) Effective July 1, 2010, the Oregon Board of Pharmacy (Board) will participate in the Program.

(2) The Board may only refer licensees of the Board to the Program if they meet the referral criteria established by the Board.

(3) The Board may refer a licensee to the Program in lieu of or in addition to public discipline.

(4) A licensee who has not been referred to the Program by the Board may participate in the Program as permitted by ORS 676.190. Licensees may not refer themselves to the Program unless they certify that, to the best of their knowledge, they are not currently under investigation by the Board.

Stat. Auth.: ORS 689.205 & 2013 OL Ch 367

Stats. Implemented: ORS 676.200 & 2013 OL Ch 367

Hist.: BP 7-2010(Temp), f. & cert. ef. 6-29-10 thru 12-24-10; BP 12-2010, f. & cert. ef. 12-23-10; BP 2-2014, f. & cert. ef. 1-24-14

855-019-0205

Duty to Report

(1) Failure to answer completely, accurately and honestly, all questions on the application form for licensure or renewal of licensure is grounds for discipline.

(2) Failure to disclose any arrest for a felony or misdemeanor, or any indictment for a felony may result in denial of the application.

(3) A pharmacist must report to the Board within 10 days if they:

(a) Are convicted of a misdemeanor or a felony; or

(b) If they are arrested for a felony.

(4) A pharmacist who has reasonable cause to believe that another licensee (of the Board or any other Health Professional Regulatory Board) has engaged in prohibited or unprofessional conduct as these terms are defined in OAR 855-006-0005, must report that conduct to the board responsible for the licensee who is believed to have engaged in the conduct. The reporting pharmacist shall report the conduct without undue delay, but in no event later than 10 working days after the pharmacist learns of the conduct unless federal laws relating to confidentiality or the protection of health information prohibit disclosure.

(5) A pharmacist who reports to a board in good faith as required by section (4) of this rule is immune from civil liability for making the report.

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(6) A pharmacist who has reasonable grounds to believe that any violation of these rules has occurred, must notify the Board within 10 days. However, in the event of a significant drug loss or violation related to drug theft, the pharmacist shall notify the Board within one (1) business day.

(7) A pharmacist must notify the Board in writing, within 15 days, of any change in employment location or residence address.

Stat. Auth.: ORS 689.205
Stats. Implemented: 689.151, 689.155 & 689.455
Hist.: BP 6-2010, f. & cert. ef. 6-29-10; BP 2-2014, f. & cert. ef. 1-24-14

855-019-0270

Qualifications

(1) In this rule and in OAR 855-019-0280, an intern who is appropriately trained and qualified in accordance with Section (3) of this rule may perform the same duties as a pharmacist, provided that the intern is supervised by an appropriately trained and qualified pharmacist.

(2) A pharmacist may administer vaccines to persons who are at least 11 years of age as provided by these rules. For the purposes of this rule, a person is at least 11 years of age on the day of the person's eleventh birthday.

(3) A pharmacist may administer vaccines under section (1) or section (2) of this rule only if:

(a) The pharmacist has completed a course of training approved by the Board;

(b) The pharmacist holds a current basic Cardiopulmonary Resuscitation (CPR) certification issued by the American Heart Association or the American Red Cross or any other equivalent program that contains a hands-on training component and is valid for not more than three years, and documentation of the certification is placed on file in the pharmacy;

(c) The vaccines are administered in accordance with an administration protocol written and approved by the Oregon Health Authority (OHA); and

(d) The pharmacist has a current copy of the CDC reference, "Epidemiology and Prevention of Vaccine-Preventable Diseases."

(4) A pharmacist otherwise in compliance with section three of this rule may, during a declared emergency, administer a vaccine to a person who is at least three (3) years of age when:

(a) The Governor declares a state of public health emergency and authorizes the reduced age limitation; or

(b) The Public Health Director, during a declared disease outbreak, authorizes a reduction in the age limit.

(5) A pharmacist may not delegate the administration of vaccines to another person.

Stat. Auth.: ORS 689.205 433.441, 433.443 & 2013 OL Ch 332
Stats. Implemented: ORS 689.151, 689.155, 689.645 & 2013 OL Ch 332
Hist.: BP 7-2000, f. & cert. ef. 6-29-00; BP 3-2006, f. & cert. ef. 6-9-06; BP 1-2007, f. & cert. ef. 6-29-07; Renumbered from 855-041-0500, BP 2-2008, f. & cert. ef. 2-20-08; BP 11-2010, f. 10-22-10, cert. ef. 1-1-11; BP 2-2014, f. & cert. ef. 1-24-14

855-019-0280

Protocols, Policies and Procedures

(1) Prior to administering a vaccine to a person who is at least 11 years of age a pharmacist must follow protocols written and approved by the Oregon Health Authority (OHA) for administration of vaccines and the treatment of severe adverse events following administration of a vaccine.

(2) A pharmacist during a declared emergency may administer a vaccine to a person who is at least three (3) years of age when:

(a) The Governor declares a state of public health emergency and authorizes the reduced age limitation; or

(b) The Public Health Director, during a declared disease outbreak, authorizes a reduction in the age limit.

(3) The pharmacy must maintain written policies and procedures for handling and disposal of used or contaminated equipment and supplies.

(4) The pharmacist must give the appropriate Vaccine Information Statement (VIS) to the patient or legal representative with each dose of vaccine covered by these forms. The pharmacist must ensure that the patient or legal representative is available and has read, or has had read to them, the information provided and has had their questions answered prior to administering the vaccine.

(5) The pharmacist must report adverse events as required by the Vaccine Adverse Events Reporting System (VAERS) and to the primary care provider as identified by the patient.

(6) The pharmacist must make available the Adolescent Well Visit Referral document, provided by the OHA, to a patient aged 11 through 18 years of age or their legal representative.

(7) The pharmacist may administer or dispense an oral vaccine as established by written protocols approved by OHA.

Stat. Auth.: ORS 689.205, 433.441, 433.443 & 2013 OL Ch 332

Stats. Implemented: ORS 689.151, 689.155, 689.645 2013 OL Ch 332
Hist.: BP 7-2000, f. & cert. ef. 6-29-00; BP 3-2006, f. & cert. ef. 6-9-06; Renumbered from 855-041-0510, BP 2-2008, f. & cert. ef. 2-20-08; BP 11-2010, f. 10-22-10, cert. ef. 1-1-11; BP 9-2011, f. 12-30-11, cert. ef. 1-1-12; BP 2-2014, f. & cert. ef. 1-24-14

855-041-1001

Definitions

(1) "Biological product" means, with respect to the prevention, treatment or cure of a disease or condition of human beings, a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component, blood derivative, allergenic product, protein other than a chemically synthesized polypeptide, analogous products or arsphenamine or any other trivalent organic arsenic compound.

(2) "Biosimilar product" means a biological product licensed by the United States Food and Drug Administration pursuant to 42 U.S.C. 262(k)(3)(A)(i).

(3) "Interchangeable" means, in reference to a biological product, that the United States Food and Drug Administration has determined that a biosimilar product meets the safety standards set forth in 42 U.S.C. 262(k)(4).

(4) "Reference biological product" means the biological product licensed pursuant to 42 U.S.C. 262(a) against which a biological product is evaluated in an application submitted to the United States Food and Drug Administration for licensure of a biological product as a biosimilar product or for determination that a biosimilar product is interchangeable.

Stat. Auth.: ORS 689.205 & 2013 OL Ch 342
Stats. Implemented: ORS 689.155 & 2013 OL Ch 342
Hist.: BP 2-2014, f. & cert. ef. 1-24-14

855-041-1030

Reporting Drug Loss

(1) Disasters, accidents and emergencies which may affect the strength, purity, or labeling of drugs or devices shall immediately be reported to the Board.

(2) The outlet shall notify the Board in the event of a significant drug loss or violation related to drug theft within one (1) business day.

(3) At the time a Report of Theft or Loss of Controlled Substances (D.E.A. Form 106) is sent to the Drug Enforcement Administration, a copy shall be sent to the Board.

Stat. Auth.: ORS 475.035, 689.155, 689.205, 689.305 & 689.315
Stats. Implemented: ORS 689.155

Hist.: 1PB 2-1981, f. & ef. 8-20-81; 1PB 1-1986, f. & ef. 6-5-86; PB 1-1992, f. & cert. ef. 1-31-92 (and corrected 2-7-92); Renumbered from 855-041-0037, BP 7-2012, f. & cert. ef. 12-17-12; BP 2-2014, f. & cert. ef. 1-24-14

855-041-1105

Requirements for Prescriptions

(1) Prescriptions, prescription refills, and drug orders must be correctly dispensed in accordance with the prescribing practitioner's authorization. When a prescription is transmitted orally, both the receiving pharmacist's name or initials and the name of the person transmitting must be noted on the prescription.

(2) Each pharmacy must document the following information:

(a) The name of the patient for whom or the owner of the animal and the species of the animal for which the drug is dispensed;

(b) The full name and, in the case of controlled substances, the address and the Drug Enforcement Administration registration number of the practitioner or other number as authorized under rules adopted by reference under rule OAR 855-080-0085;

(c) The name, strength, dosage forms of the substance, quantity prescribed and, if different from the quantity prescribed, the quantity dispensed;

(d) The directions for use, if given by the practitioner; and

(e) The date of filling, and the total number of refills authorized by the prescribing practitioner.

(3) In accordance with ORS 689.515(3), a practitioner may specify in writing, by a telephonic communication or by electronic transmission that there may be no substitution for the specified brand name drug in a prescription.

(a) For a hard copy prescription issued in writing or a prescription orally communicated over the telephone, instruction may use any one of the following phrases or notations:

(A) No substitution;

(B) N.S.;

(C) Brand medically necessary;

(D) Brand necessary;

(E) Medically necessary;

(F) D.A.W. (Dispense As Written); or

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(G) Words with similar meaning.

(b) For an electronically transmitted prescription, the prescriber or prescriber's agent shall clearly indicate substitution instructions by way of the text (without quotes) "brand medically necessary" or words with similar meaning, in the electronic prescription drug order, as well as all relevant electronic indicators sent as part of the electronic prescription transmission.

(c) Such instructions shall not be default values on the prescription.

(4) A pharmacy or pharmacist filling a prescription or order for a biological product may not substitute a biosimilar product for the prescribed biological product unless:

(a) The biosimilar product has been determined by the United States Food and Drug Administration to be interchangeable with the prescribed biological product;

(b) The prescribing practitioner has not designated on the prescription that substitution is prohibited;

(c) The patient for whom the biological product is prescribed is informed of the substitution prior to dispensing the biosimilar product;

(d) The pharmacy or pharmacist provides written, electronic or telephonic notification of the substitution to the prescribing practitioner or the prescribing practitioner's staff within three (3) business days of dispensing the biosimilar product; and

(e) The pharmacy or pharmacist retains a record of the substitution for a period of not less than three (3) years.

(5) Upon written request and for good cause, the Board may waive any of the requirements of this rule. A waiver granted under this section shall only be effective when it is issued by the Board in writing.

Stat. Auth.: ORS 689.205 & 2013 OL Ch. 342

Stats. Implemented: ORS 689.505, 689.515 & 2013 OL Ch. 342

Hist.: 1PB 2-1979(Temp), f. & cert. ef. 10-3-79; 1PB 2-1980, f. & cert. ef. 4-3-80; 1PB 3-1984, f. & cert. ef. 4-16-84; 1PB 1-1986, f. & cert. ef. 6-5-86; PB 8-1987, f. & cert. ef. 9-30-87; PB 10-1989, f. & cert. ef. 7-20-89; PB 1-1991, f. & cert. ef. 1-24-91; PB 4-1991, f. & cert. ef. 9-19-91; PB 1-1992, f. & cert. ef. 1-31-92 (and corrected 2-7-92); PB 4-1992, f. & cert. ef. 8-25-92; PB 1-1995, f. & cert. ef. 4-27-95; PB 1-1996, f. & cert. ef. 4-5-96; PB 3-1997(Temp), f. & cert. ef. 11-12-97; BP 1-1998(Temp), f. & cert. ef. 1-27-98 thru 5-4-98; BP 2-1998, f. & cert. ef. 3-23-98; BP 2-1999(Temp), f. & cert. ef. 8-9-99 thru 1-17-00; BP 2-2000, f. & cert. ef. 2-16-00; BP 3-2000, f. & cert. ef. 2-16-00; BP 6-2000, f. & cert. ef. 6-29-00; BP 1-2002, f. & cert. ef. 1-8-02; BP 1-2003, f. & cert. ef. 1-14-03; BP 12-2010, f. & cert. ef. 12-23-10; Renumbered from 855-041-0065, BP 7-2012, f. & cert. ef. 12-17-12; BP 2-2014, f. & cert. ef. 1-24-14

855-041-2300

Purpose and Scope

The purpose of OAR 855-041-2300 through 855-041-2330 is to define the procedures for distributing emergency medication to certain authorized individuals for the use in emergency health circumstances. The authorized person is someone who has been trained under the guidelines set forth in 333-055-0110.

Stat. Auth.: ORS 689.205 & 2013 OL Ch. 340

Stats. Implemented: ORS 689.155 & 2013 OL Ch. 34

Hist.: BP 6-2013(Temp), f. 9-23-13, cert. ef. 9-24-13 thru 3-23-14; BP 2-2014, f. & cert. ef. 1-24-14

855-041-2310

Definitions

The following words and terms, when used in OAR 855-041-2300 through 855-041-2330 shall have the following meanings, unless the context clearly indicates otherwise.

(1) "Allergic reaction" means a medical condition caused by exposure to an allergen, with physical symptoms that may be life threatening, ranging from localized itching to severe anaphylactic shock and death.

(2) "Authorization to Obtain Epinephrine" means a certificate that contains the name, signature, and license number of the supervising professional authorizing the dispensing of epinephrine to the individual whose name appears on the certificate. Additionally, the certificate contains a record of the number of epinephrine orders filled to date.

(3) "Authorization to Obtain Naloxone" means a certificate that contains the name, signature, and license number of the supervising professional authorizing the dispensing of naloxone to the individual whose name appears on the certificate. Additionally, the certificate contains a record of the number of naloxone orders filled to date.

(4) "Opiate" means a narcotic drug that contains: opium, any chemical derivative of opium, or any synthetic or semi-synthetic drug with opium-like effects.

(5) "Opiate overdose" means a medical condition that causes depressed consciousness and mental functioning, decreased movement, depressed respiratory function, and the impairment of vital functions as a result of ingesting opiates in any amount larger than can be physically tolerated.

(6) "Statement of Completion" means a certificate that states the specific type of emergency the trainee was trained to respond to, the trainee's

name and address, the name of the authorized trainer and the date that the training was completed.

(7) "Supervising Professional" means a physician or nurse practitioner licensed to practice in this state who has prescription writing authority.

(8) "Trainee" means an individual who has attended and successfully completed the formal training pursuant to the protocols and criteria established by the Oregon Health Authority, Public Health Division.

(9) "Trainer" means an individual conducting the formal training as directed by the supervising professional and in accordance with the protocols and criteria established by the Oregon Health Authority, Public Health Division.

Stat. Auth.: ORS 689.205 & 2013 OL Ch. 340

Stats. Implemented: ORS 689.155 & 2013 OL Ch. 340

Hist.: BP 6-2013(Temp), f. 9-23-13, cert. ef. 9-24-13 thru 3-23-14; BP 2-2014, f. & cert. ef. 1-24-14

855-041-2320

Epinephrine

(1) A pharmacist may fill an order for epinephrine to be used by trainees to treat an anaphylactic reaction. Trainees must be 18 years of age or older and must have responsibility for or contact with at least one (1) other person as a result of the trainee's occupation or volunteer status, such as, but not limited to, a camp counselor, scout leader, forest ranger, school employee, tour guide or chaperone.

(2) Individuals must successfully complete a training program approved by the Oregon Health Authority, Public Health Division. Upon successful completion, the trainee will receive the following certificates:

(a) Statement of Completion; and

(b) Authorization to Obtain Epinephrine.

(3)(a) Distribution of epinephrine from a pharmacy to be used for the treatment of allergic emergencies may occur in the following manner:

(b) A trainee may obtain epinephrine upon presentation of the Statement of Completion and Authorization to Obtain Epinephrine certificate to a pharmacy which:

(A) A pharmacist may generate a prescription for, and dispense an emergency supply of epinephrine for not more than one (1) child and one (1) adult in an automatic injection device, as specified by the supervising professional whose name, signature, and license number appear on the Authorization to Obtain Epinephrine certificate.

(B) The pharmacist who generates the hardcopy prescription for epinephrine in this manner shall reduce the prescription to writing, and file the prescription in a manner appropriate for a non-controlled substance.

(C) Once the pharmacist generates the epinephrine prescription, the pharmacist shall write in the appropriate space provided on the Authorization to Obtain Epinephrine certificate, the date and the number of doses dispensed, and return the certificate to the trainee.

(4) The Statement of Completion and the Authorization to Obtain Epinephrine certificate may be used to obtain epinephrine up to four (4) times within three (3) years from the date of the initial training.

(a) Both the Statement of Completion and the Authorization to Obtain Epinephrine certificate expire three (3) years from the date of the trainee's last Oregon Health Authority approved allergy response training.

(b) Upon completion of the training, the trainee will receive a new Statement of Completion and Authorization to Obtain Epinephrine certificate, with a valid duration of three (3) years.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.155

Hist.: BP 6-2013(Temp), f. 9-23-13, cert. ef. 9-24-13 thru 3-23-14; BP 2-2014, f. & cert. ef. 1-24-14

855-041-2330

Naloxone

(1) A Pharmacy may fill orders for unit-of-use naloxone to be used by trainees for opiate overdose emergencies. Individuals must successfully complete a training program approved by the Oregon Health Authority, Public Health Division. Upon successful completion, the trainee will receive the following certificates:

(a) Statement of Completion; and

(b) Authorization to Obtain Naloxone.

(2) Distribution of naloxone from a pharmacy to be used for opiate overdose emergencies may occur in the following ways:

(a) A supervising professional may obtain a supply of naloxone for a program pursuant to a request by the supervising professional and a pharmacy sale by invoice. The pharmacy shall keep the invoice on record for three (3) years.

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(b) A trainee may obtain naloxone upon presentation of the Statement of Completion and Authorization to Obtain Naloxone certificate to a pharmacy which:

(A) A pharmacist may generate a prescription for, and dispense up to two (2) unit-of-use doses of naloxone as specified by the supervising professional whose name, signature, and license number appear on the Authorization to Obtain Naloxone certificate.

(B) The pharmacist who generates the hardcopy prescription for naloxone in this manner shall reduce the prescription to writing and file the prescription in a manner appropriate for a non-controlled substance.

(C) Once the pharmacist generates the naloxone prescription, the pharmacist shall write in the appropriate space provided on the Authorization to Obtain Naloxone certificate the date and the number of doses dispensed, and return the certificate to the trainee.

(3) The Statement of Completion and Authorization to Obtain Naloxone certificate may be used to obtain naloxone up to six (6) times within three (3) years from the date of the initial training.

(a) Both the Statement of Completion and the Authorization to Obtain Naloxone certificate expire three (3) years from the date of the trainee's last Oregon Health Authority, Public Health Division approved naloxone training.

(b) Upon completion of the training, the trainee will receive a new Statement of Completion and Authorization to Obtain Naloxone, with a valid duration of three (3) years.

(4) The naloxone container must be labeled with the following information:

(a) A statement that the naloxone is intended for use in the Oregon Opiate Overdose Treatment program;

(b) Trainees name; and

(c) Trainer; or

(d) Supervising Professional.

Stat. Auth: ORS 689.205 & 2013 OL Ch. 340

Stats. Implemented: ORS 689.155 & 2013 OL Ch. 340

Hist.: BP 6-2013(Temp), f. 9-23-13, cert. ef. 9-24-13 thru 3-23-14; BP 2-2014, f. & cert. ef. 1-24-14

Board of Tax Practitioners Chapter 800

Rule Caption: 2013 Overhaul based on Rules Advisory Committee recommendations and voted on by the Board.

Adm. Order No.: BTP 1-2014

Filed with Sec. of State: 1-16-2014

Certified to be Effective: 2-1-14

Notice Publication Date: 12-1-2013

Rules Amended: 800-010-0020, 800-010-0025, 800-010-0040, 800-010-0041, 800-010-0050, 800-015-0015, 800-020-0025, 800-020-0065, 800-025-0020, 800-025-0040, 800-025-0060

Subject: The Board of Tax Practitioners proposes to adopt a rule change for a \$10 decrease in consultant, preparer and business registration fees due to an unexpected revenue surplus. This rule is conditional upon the Board's ending balance remaining at a sufficient level to operate the agency. Should the Board's ending balance decrease below sufficient operating funds, the fees would revert to the fee structure currently being assessed.

Additional amendments/adoptions to the OARs, under which the Board operates, result from the Rules Advisory Committee, Assistant Attorney General and Board staff recommendations and are for general "housekeeping" & "maintenance" as well as to change language to better reflect the "norm" in industry standards and the practices of other state agencies. In addition, the proposed amendments will provide better clarification to constituents as well as continue to conform to the current standards. The Rules Advisory Committee is comprised of Oregon licensed tax professionals and was established by the Board of Tax Practitioners for the purpose of reviewing the OARs governing tax practitioners in the State of Oregon. In addition, the establishment of the Rules Advisory Committee has provided an avenue for the Board to involve licensees in the rule making process.

Rules Coordinator: Monica J. Walker—(503) 378-4860

800-010-0020

Confidential Information

(1) A licensee shall not disclose any confidential information obtained in the course of professional engagement except:

(a) With the written consent of the client;

(b) After being subpoenaed by a court or governmental agency of competent jurisdiction;

(c) In response to an inquiry by the Board or its investigator;

(d) As required by federal or state regulations.

(2) Members of the Board and its employees shall not disclose any confidential client information which comes to their attention except as required to carry out their official responsibilities.

Stat. Auth.: ORS 673

Stats. Implemented:

Hist.: TSE 6, f. & ef. 1-5-76; TSE 1-1985, f. & ef. 1-15-85; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2013, f. 1-15-13, cert. ef. 2-1-13; BTP 1-2014, f. 1-16-14, cert. ef. 2-1-14

800-010-0025

Integrity and Objectivity

(1) A licensee shall not knowingly misrepresent facts while preparing, assisting or advising in the preparation of income tax returns. A licensee may resolve doubt in favor of a client if there is reasonable support for the position.

(2) A licensee who finds that a client has made an error or omitted information or related material required on an income tax return shall promptly advise the client of such error or omission.

(3) A licensee shall not arrange for or permit a client's individual income tax refund check to be mailed or made payable to the licensee at any time, for any purpose.

(4) Commissions earned for additional personal services by the licensee, such as real estate, insurance, investment and securities sales, may be earned if the licensee also holds any license, permit or registration required by law to perform the services. A licensee shall disclose in writing that he/she will be compensated for other personal services. The client will acknowledge receipt of the disclosure in writing.

(5) Fees in connection with preparation of tax returns must be stated separately from, and in addition to, any other professional services provided.

(6) A licensee shall, upon written request by a client, make available or return within a reasonable time to the client, personal papers or source material in the manner furnished to the licensee by the client;

(a) A licensee who has provided a tax return to a client shall, upon written request by the client, make available within a reasonable time to the client, copies of depreciation schedules that support the return;

(b) A licensee is not required to furnish records to a client more than once under this subsection.

(7) A licensee shall not engage in fraudulent, deceptive or dishonest conduct relating to the licensee's professional practice.

(8) A licensee shall not violate any position of trust, including positions of trust outside the licensee's professional practice.

(9) A licensee must be current on all tax return filings and all tax payment plans pertaining to the licensee and/or licensee's business before a license can be issued or renewed.

Stat. Auth.: ORS 673.730(6)

Stats. Implemented:

Hist.: TSE 6, f. & ef. 1-5-76; TSE 3-1980, f. & ef. 8-22-80; TSE 1-1985, f. & ef. 1-15-85; TSE 4-1986, f. & ef. 8-15-86; TSE 3-1989, f. & cert. ef. 12-20-89; TSE 1-1992, f. 3-24-92, cert. ef. 6-1-92; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2014, f. 1-16-14, cert. ef. 2-1-14

800-010-0040

Identification

(1) A licensee shall include the name of the tax preparation business, permanent address, and signature on the original and all copies of federal and state personal income tax returns or electronic filing documents prepared by the licensee, together with all other data required by the Internal Revenue Service, Department of Revenue, and State Board of Tax Practitioners. Office copies are exempt from this requirement.

(2) The state personal income tax return shall include the signature and the board issued license number of the licensee who substantially prepared the return.

(3) In addition to the original returns filed on behalf of a client, at least one (1) copy of the complete set of the tax returns, including all accompanying forms and schedules, specifically depreciation schedules shall be supplied to the client. A licensee is not required to provide a free copy of the tax returns to a client more than once. However, in the case of a joint

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tax return, each spouse is entitled, upon request, to a free copy of the tax return.

Stat. Auth.: ORS 673.730(5)

Stats. Implemented:

Hist.: TSE 6, f. & ef. 1-5-76; TSE 12, f. & ef. 9-20-77; TSE 1-1978, f. & ef. 2-3-78; TSE 2-1982, f. & ef. 5-10-82; TSE 1-1985, f. & ef. 1-15-85; TSE 2-1995, f. & cert. ef. 5-5-95; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11; BTP 1-2012, f. 1-30-12, cert. ef. 2-1-12; BTP 1-2014, f. 1-16-14, cert. ef. 2-1-14

800-010-0041

Address and Telephone

Licensees shall file with the Board their current mailing address, residence address, e-mail address and telephone number(s). In addition, licensees and non-licensed business owners shall file with the Board their current tax preparation business address, telephone number and a year-round address and telephone number where clients and the Board may contact the licensee. Whenever any of the information required in this section changes, the licensee shall notify the Board in writing within 15 business days. Stat. Auth.: ORS 673

Stats. Implemented:

Hist.: TSE 1-1985, f. & ef. 1-15-85; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11; BTP 1-2014, f. 1-16-14, cert. ef. 2-1-14

800-010-0050

Advertising and Solicitation

(1) As used in this rule, "advertise" and "advertising" means any form of printed, broadcast or electronic material that makes known professional income tax services. This includes, but is not limited to, business cards and stationery, and all web and e-commerce advertising of an individual or tax preparation business.

(2) No licensee or tax preparation business shall advertise or solicit clients in a false, fraudulent, deceptive or misleading manner.

(3) All advertising must include the name of a firm that has complied with ORS 673.643 or state the name of the firms Designated Licensed Tax Consultant.

(a) Only a person holding a valid Tax Consultant's License may use the designation "L.T.C.", "LTC" or the titles "Licensed Tax Consultant" or "Tax Consultant."

(b) Only a person holding a valid Tax Preparer's License may use the designation "L.T.P.", "LTP" or the title "Licensed Tax Preparer".

(4) All advertising must be reviewed and approved in advance by the designated Licensed Tax Consultant. The designated Licensed Tax Consultant and the designating tax preparation business shall each be responsible for the business's compliance with the provisions of this rule.

(5) No licensee shall advertise to give a discount unless:

(a) The discount is based upon a basic fee schedule posted in public view in the licensee's place of business; and

(b) The fees on the posted basic fee schedule are the usual and customary charges of the tax preparation business; and

(c) The basic fee schedule must include the minimum fees charged for at least the following forms and schedules: 1040, 1040A, 1040EZ, Sch. A, Sch. B, Sch. EIC, Form 2441, Schedule 8812, Oregon 40 & 40N & 40P.

(6) All business advertising must include the board issued business registration number of the firm written as: "OBTP#" or the license number of the firm's Designated Licensed Tax Consultant written as: "LTC#".

(7) All individual advertising must include licensee's board issued LTC or LTP license number written as: "LTC#" or "LTP#".

Stat. Auth.: ORS 673.663

Stats. Implemented:

Hist.: TSE 6, f. & ef. 1-5-76; TSE 2-1981(Temp), f. 2-18-81, ef. 2-19-81; TSE 3-1981, f. 7-22-81, ef. 7-23-81; TSE 4-1981, f. & ef. 8-13-81; TSE 3-1982, f. & ef. 11-19-82; TSE 1-1985, f. & ef. 1-15-85; TSE 3-1986, f. & ef. 7-14-86; TSE 2-1990, f. & cert. ef. 1-25-90; TSE 2-1992, f. & cert. ef. 5-15-92; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11; BTP 3-2011, f. 6-3-11, cert. ef. 7-1-12; BTP 1-2014, f. 1-16-14, cert. ef. 2-1-14

800-015-0015

Continuing Education: Audit, Required Documentation and Sanctions

(1) The Board will audit a select percentage of licensee records determined by the Board to verify compliance with continuing education requirements.

(2) Licensees notified of selection for audit of continuing education shall submit to the Board, within 30 calendar days from the date of issuance of the notification, satisfactory evidence of participation in required continuing education in accordance with OAR 800-015-0010.

(3) Documentation of a certificate of completion of attendance at a program, seminar or course provided by a sponsor must include:

(a) Name of student;

(b) Name, address and telephone number of sponsoring institution/association or organization;

(c) Location of program;

(d) Title of program and description of content;

(e) Name of instructor or presenter;

(f) Date(s) of attendance;

(g) Number of instruction hours;

(4) For documentation of completion of a college/university course, a licensee must submit a photocopy/electronic copy of an official transcript, diploma, certificate, statement or affidavit.

(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 shall 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 673.605 - 673.740

Stats. Implemented: ORS 673.605 - 673.740

Hist.: BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11; BTP 1-2012, f. 1-30-12, cert. ef. 2-1-12; BTP 1-2014, f. 1-16-14, cert. ef. 2-1-14

800-020-0025

Fees

The fees for licenses and registrations issued, renewed, reactivated or otherwise, shall be prescribed by the State Board of Tax Practitioners by rule but shall not exceed the following:

(1) The fee for application for examination for a tax preparer's license is \$50.

(2) The fee for application for examination for a tax consultant's license is \$85.

(3) The fee for issuance of a tax preparer's initial license is \$50.

(4) The fee for a combination tax preparer's initial license/tax preparation business registration is \$100.

(5) The fee for renewal of a tax preparer's active license is \$70.

(6) The fee for issuance or renewal of a tax consultant's active license is \$85.

(7) The fee for an initial consultant license, if an applicant holds an active preparer's license is \$55.

(8) The fee for a combination tax consultant's initial license/tax preparation business registration, if an applicant holds an active preparer's license is \$115.

(9) The fee to place a tax preparer's license in inactive status is \$35.

(10) The fee to place a tax consultant's license in inactive status is \$50.

(11) The fee for reactivation of a tax preparer license in inactive status is \$70.

(12) The fee for reactivation of a tax consultant license in inactive status is \$85.

(13) The fee to reactivate a tax preparer or tax consultant license in lapsed status is \$35, plus payment of all unpaid renewal fees.

(14) The fee for a duplicate practitioner's license is \$10.

(15) The fee for a duplicate business/branch registration is \$10.

(16) The fee for a replacement tax consultant's certificate is \$15.

(17) The fee for issuance or renewal of a tax preparation business registration is \$100.

(18) As provided by subsection (a) and (b) of this section, the fee for issuance or renewal of a combination tax consultant's or tax preparer's license and tax preparation business registration is \$145:

(a) For Consultants — If postmarked on or before June 15th.

(b) For Preparers — If postmarked on or before October 15th.

(19) The fee for issuance or renewal of a branch office registration is \$20.

(20) The nonrefundable processing fee retained for all refunds issued is \$10.

(21) Dishonored Check or Electronic Payment. Pursuant to ORS 30.701, whenever a bank check, credit or debit transaction in payment of an obligation due for fees, penalties, copies of records or materials, or other services to the agency, is dishonored by the bank upon which the check is drawn, the applicant or authorization holder will be assessed and must pay an administrative processing fee in the amount of \$25. The Board may take any other disciplinary action against an authorization holder or payer and may seek other legal remedies in pursuing to effect collection of the returned items. If a check is returned for Non-Sufficient Fund (NSF) or

ADMINISTRATIVE RULES

uncollected funds the Board will attempt to collect payment by other means.

Stat. Auth.: ORS 673.730
Stats. Implemented: ORS 673.685
Hist.: TSE 4(Temp), f. & ef. 11-20-75 through 3-19-76; TSE 8, f. & ef. 5-19-76; TSE 14, f. 10-25-77, ef. 11-1-77; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 3-1979, f. 11-28-79, ef. 11-30-79; TSE 1-1985, f. & ef. 1-15-85; TSE 2-1986, f. & ef. 7-14-86; TSE 1-1987(Temp), f. 6-30-87, ef. 7-1-87; TSE 5-1987, f. & ef. 10-2-87; TSE 7-1987(Temp), f. & ef. 11-17-87; TSE 1-1988, f. & cert. ef. 2-19-88; TSE 4-1990, f. & cert. ef. 5-3-90; TSE 3-1991(Temp), f. 8-14-91, cert. ef. 9-29-91; TSE 5-1991, f. & cert. ef. 10-28-91; TSE 12-1991(Temp), f. & cert. ef. 11-25-91; TSE 3-1992, f. 5-15-92, cert. ef. 6-1-92; TSE 3-1997, f. & cert. ef. 9-4-97; BTSE 1-2001, f. & cert. ef. 4-19-01; BTSE 1-2002(Temp), f. & cert. ef. 8-6-02 thru 1-1-03; Administration correction 4-16-03; BTP 1-2003, f. & cert. ef. 9-23-03; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 3-2007, f. 7-30-07, cert. ef. 8-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11; BTP 2-2011, f. 2-7-11, cert. ef. 7-1-11; BTP 1-2012, f. 1-30-12, cert. ef. 2-1-12; BTP 2-2013(Temp), f. 7-22-13, cert. ef. 8-5-13 thru 2-1-14; BTP 1-2014, f. 1-16-14, cert. ef. 2-1-14

800-020-0065

Displaying of Licenses

Licensed Tax Consultants and Licensed Tax Preparers shall display their licenses in public view in their place(s) of business.

Stat. Auth.: ORS 673
Stats. Implemented:
Hist.: TSE 8, f. & ef. 5-19-76; TSE 2-1982, f. & ef. 5-10-82; TSE 1-1985, f. & ef. 1-15-85; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2014, f. 1-16-14, cert. ef. 2-1-14

800-025-0020

Tax Preparation Business Registration

(1) A tax preparation business shall not offer services to the public until the business has:

(a) Complied with applicable laws and rules of the Oregon Corporation Division;

(b) Registered with the Board, on a Board-approved application form, the tax preparation business name, address, telephone number, and e-mail address; the name(s) of the owner(s) of the business; and the name of the individual(s) responsible under OAR 800-025-0040 for the tax activities of the business; and

(c) Paid the tax preparation business registration fee required under OAR 800-025-0025.

(2) Within 15 business days of a change of name or ownership, a tax preparation business must file a new business registration with the Board and pay a new business registration fee.

(3) A person who offers tax preparation services under more than one tax preparation business name must register each such name as a separate business.

(4) All tax preparation businesses shall comply with State Fire Marshall Address Identification requirements.

Stat. Auth.: ORS 673.730(5)
Stats. Implemented:
Hist.: TSE 1-1985, f. & ef. 1-15-85; TSE 13-1991(Temp), f. & cert. ef. 11-25-91; TSE 14-1991, f. 11-25-91, cert. ef. 1-1-92; TSE 4-1992, f. & cert. ef. 5-15-92; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11; BTP 1-2012, f. 1-30-12, cert. ef. 2-1-12; BTP 1-2014, f. 1-16-14, cert. ef. 2-1-14

800-025-0040

Designated Consultants

(1) A tax preparation business shall not engage in the preparation of personal income tax returns for the public, or offer such services, until the business has designated a Licensed Tax Consultant or other authorized person ("Designated Consultant") as the responsible individual. A form prescribed by the Board shall be signed by the Designated Consultant and signed by the owner or authorized representative of the tax preparation business.

(2) The Designated Consultant shall be responsible for all tax preparation activities of the business. The Designated Consultant and the designating business shall each be responsible for the business compliance with laws and rules of the Board.

(3) A Designated Consultant will cease to be responsible for a business's tax preparation services upon receipt by the Board of written notice from the consultant or business.

(4) A Licensed Tax Consultant may act as the Designated Consultant for only one tax preparation business, except by written application for waiver.

(5) An application for waiver to serve as a Designated Consultant for more than one (1) tax preparation business shall set forth the following:

(a) The name and address of the tax preparation business for which the Licensed Tax Consultant is presently serving as the Designated Consultant;

(b) The name and address of the additional tax preparation business for which the Licensed Tax Consultant is requesting approval to serve as the Designated Consultant;

(c) A detailed plan how each tax preparation business will be supervised in carrying out the duties as a Designated Consultant;

(d) The financial relationship of the proposed Designated Consultant and the tax preparation businesses; and

(e) Unusual or extenuating circumstances why approval should be granted.

(6) In determining whether a Licensed Tax Consultant will be approved to act as a Designated Consultant for more than one (1) tax preparation business, the Board:

(a) May approve an application for waiver only wherein the Licensed Tax Consultant has an ownership interest in the tax preparation businesses, or unusual or extenuating circumstances exist, such as the death of a Designated Consultant, resulting in undue hardship. The Board may limit the Licensed Tax Consultant designation period; and

(b) Shall consider the Licensed Tax Consultant's past record of compliance with ORS 673.605 to 673.735, rules of the Board, statutes of the State of Oregon together with information set forth in the application for waiver, particularly the feasibility of the plan in supervising the corporation, firm or partnership.

(7) A tax preparation business shall notify the Board in writing within 15 business days of any change in status of its Designated Consultant.

(8) A Designated Consultant shall notify the Board in writing within 15 business days of any change in their status as Designated Consultant.

Stat. Auth.: ORS 673.730(5)
Stats. Implemented:
Hist.: TSE 8, f. & ef. 5-19-76; TSE 3-1980, f. & ef. 8-22-80; TSE 2-1982, f. & ef. 5-10-82; TSE 3-1982, f. & ef. 11-19-82; TSE 1-1985, f. & ef. 1-15-85; Renumbered from 800-020-0050; TSE 4-1989, f. & cert. ef. 12-20-89; TSE 11-1991, f. & cert. ef. 10-28-91; TSE 10-1992, f. & cert. ef. 12-22-92; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 1-2006, f. & cert. ef. 9-5-06; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2010, f. 1-19-10, cert. ef. 2-1-10; BTP 1-2014, f. 1-16-14, cert. ef. 2-1-14

800-025-0060

Consultant in Residence

(1) A Licensed Tax Consultant shall be in residence at each principal and branch office. "Tax consultant in residence" means that a Licensed Tax Consultant is physically present to conduct and carry out his/her duties in the principal or branch office for at least 50 percent of the time an office is open to the public for tax preparation, assistance and advice during each week from January 1 to the federal filing deadline without extension and during each month for the remainder of the year for year round offices in accordance with OAR 800-025-0050.

(2) The Board may waive the Licensed Tax Consultant in residence requirement of subsection (1) upon written application which details how the management and supervision of principal and branch offices will effectively be accomplished.

(3) In granting or denying a written application for waiver, the Board shall evaluate each case on an individual basis, considering the following factors:

(a) Distance between offices supervised by a Licensed Tax Consultant.

(b) Past compliance of waiver applicants with ORS 673.605 to 673.735 and rules of the Board.

(c) Whether the policies and procedures described in the application will result in effective management and supervision of Licensed Tax Preparers in the absence of a Resident Consultant.

(d) Sickness or death of a Licensed Tax Consultant; and

(e) Any other unusual or unforeseen circumstances making such waiver necessary.

(4) Applicants shall apply annually for waiver of the resident consultant rule. The application shall provide all of the information described in guidelines established by the Board for applying for waivers. Except in emergency circumstances, such as incapacitation, death or resignation of a resident tax consultant, waiver applications will not be accepted after January 31 for branch offices intended to operate at any time during the period January 1 to the federal filing deadline without extension of the same calendar year. Approved waivers shall expire on the expiration date of the associated tax business registration or a date established by the Board.

(5) All applications must be acted upon by the Board. Disapproval of an application by the Board may be appealed.

(6) The supervising Licensed Tax Consultant of an office for which a waiver has been approved shall meet in person with Licensed Tax Preparers in the office at least twice weekly to review the work of each Licensed Tax Preparer and respond to questions.

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(7) A tax preparation business shall notify the Board in writing within 15 business days of any change in status of its Resident Consultant.

(8) A Resident Consultant shall notify the Board in writing within 15 business days of any change in their status as Resident Consultant.

Stat. Auth.: ORS 673.730(5)

Stats. Implemented: ORS 673.615(2)4

Hist.: TSE 1-1985, f. & ef. 1-15-85; TSE 5-1986, f. & ef. 10-6-86; TSE 6-1987, f. & ef. 10-2-87; TSE 3-1988, f. & cert. ef. 8-26-88; TSE 5-1995, f. & cert. ef. 5-5-95; TSE 2-1996, f. & cert. ef. 12-30-96; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 3-2005, f. 8-31-05, cert. ef. 9-1-05; BTP 2-2007, f. 1-12-07, cert. ef. 2-1-07; BTP 1-2008, f. 1-14-08, cert. ef. 2-1-08; BTP 1-2009, f. & cert. ef. 2-5-09; BTP 1-2011, f. 1-24-11, cert. ef. 2-1-11; BTP 1-2014, f. 1-16-14, cert. ef. 2-1-14

Bureau of Labor and Industries
Chapter 839

Rule Caption: Conforms fee amount for a farm or forest labor contractor license to revised statutory maximum

Adm. Order No.: BLI 1-2014(Temp)

Filed with Sec. of State: 1-21-2014

Certified to be Effective: 1-21-14 thru 6-30-14

Notice Publication Date:

Rules Amended: 839-015-0155

Subject: The temporary rule would conform the fee amounts for the farm or forest labor contractor licenses set out in the current rule to the maximum fee established by HB 2113 (2013), which took effect on January 1, 2014.

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

839-015-0155

Procedure for Obtaining a License

Application for a license may be made as follows:

(1) File a completed application on forms supplied by the Bureau. In the case of a partnership, each partner must complete and file a separate application form.

(2) A farm or forest labor contractor may apply for a license on behalf of an employee, providing that all of the requirements of OAR 839-015-0141 are met.

(3) At the time the application is filed, pay the maximum amount of the fees set out by ORS 658.413 for the type of work to be performed. In the case of a partnership, each partner must pay the appropriate fee.

(4) File with the application proof of financial ability to pay wages and advances in the amount required by OAR 839-015-0210 on forms supplied by the bureau. Except as provided in OAR 839-015-0157, in the case of a partnership, each partner must file such proof. Such proof may be a corporate surety bond, a cash deposit or a deposit the equivalent of cash.

(5) File any assumed business name and corporate name with the Office of the Secretary of State and submit proof of such filing with the application.

(6) If a corporation, show proof of being authorized to do business in Oregon.

(7) All forms, documents and other required information shall be filed with Bureau of Labor and Industries, Wage and Hour Division, Farm Labor Unit, 3865 Wolverine Street, NE, Bldg. E-1, Salem, OR 97305.

Stat. Auth.: ORS 651.060(4), 658.407 & 658.413

Stats. Implemented: ORS 658.413 & HB 2113, 77th Leg. Reg. Session (OR 2013)

Hist.: BL 6-1984, f. & ef. 4-27-84; BL 16-1988, f. & cert. ef. 12-13-88; BL 3-1990, f. & cert. ef. 3-1-90; BL 11-1993(Temp), f. 10-29-93, cert. ef. 11-3-93; BL 1-1994, f. & cert. ef. 5-3-94; BL 2-1996, f. & cert. ef. 1-9-96; BLI 12-1999, f. 9-28-99, cert. ef. 10-23-99; BLI 28-2005, f. 12-29-05, cert. ef. 1-1-06; BLI 1-2014(Temp), f. & cert. ef. 1-21-14 thru 6-30-14

Citizens' Initiative Review Commission
Chapter 710

Rule Caption: Rules related to procedure and administration for Citizens' Initiative Review Commission

Adm. Order No.: CIRC 1-2014

Filed with Sec. of State: 2-11-2014

Certified to be Effective: 2-11-14

Notice Publication Date: 2-1-2014

Rules Adopted: 710-001-0000, 710-001-0005, 710-005-0005

Subject: The first two rules are procedural: the first identifies the procedures by which the Citizens' Initiative Review Commission, a newly established semi-independent state agency, provides notice of rulemaking; the second affirms that the Commission has adopted the Attorney General's Model Rules of Procedure. The third and final

rule is administrative, specifying the Commission's 2013–15 Biennium Budget, and the method for amending the budget if necessary.

Rules Coordinator: Tony Iaccarino—(503) 508-0886

710-001-0000

Notice of Proposed Rulemaking

Before permanently adopting, amending or repealing any rule, the Citizens' Initiative Review Commission (Commission) will give notice of the intended action:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days before the effective date of the rule;

(2) By mailing or e-mailing a copy of the notice to persons on the Commission mailing list established pursuant to ORS 183.335(8) at least 28 days before the effective date of the rule;

(3) By e-mailing a copy of the notice to the legislators specified in ORS 183.335(15) at least 49 days before the effective date of the rule; and

(4) By mailing, e-mailing, or furnishing a copy of the notice to:

(a) The Associated Press;

(b) And Capitol Press Room.

(5) The Commission may update the mailing list described in section two of this rule annually by requesting persons to confirm that they wish to remain on the mailing list. If a person does not respond to the request for confirmation within 28 days of the date the Commission sends the request, the Commission will remove the person from the mailing list. Any person removed from the mailing list will be immediately returned to the mailing list upon request, so long as the person provides a mailing or e-mailing address to which notice may be sent.

Stat. Auth.: ORS 250.137(3)(b), 182.462 (1) & 2013 OL Ch. 722, Sec. 11

Stats. Implemented: ORS 182.462 (1) & 2013 OL Ch. 722, Sec. 11

Hist.: CIRC 1-2014, f. & cert. ef. 2-11-14

710-001-0005

Model Rules of Procedure

The Attorney General's Model Rules of Procedure under the Administrative Procedures Act, in effect on February 1, 2012, are hereby adopted as the rules of procedure by reference for the Citizens' Initiative Review Commission.

Stat. Auth.: ORS 250.137(3)(b), 182.462 (1) & 2013 OL Ch. 722, Sec. 11

Stats. Implemented: ORS 182.462 (1) & 2013 OL Ch. 722, Sec. 11

Hist.: CIRC 1-2014, f. & cert. ef. 2-11-14

710-005-0005

Commission Budget

The Citizens' Initiative Review Commission hereby adopts by reference the Citizens' Initiative Review Commission 2013–2015 Biennium Budget of \$190,000 covering the period from July 1, 2013 through June 30, 2015. The Chair of the Commission, in consultation with the Commission, will amend budgeted accounts as necessary within the approved budget of \$190,000 for the effective operation of the Commission. The Commission will not exceed the approved 2013–2015 Biennium Budget without amending this rule and holding a public hearing thereon as required, by ORS 182.462(1). The budget can be found on the Commission's website.

Stat. Auth.: ORS 250.137(3)(b), 182.462 (1) & 2013 OL Ch. 722, Sec. 11

Stats. Implemented: ORS 182.462 (1) & 2013 OL Ch. 722, Sec. 11

Hist.: CIRC 1-2014, f. & cert. ef. 2-11-14

Construction Contractors Board
Chapter 812

Rule Caption: Fees for course approval, Series B courses, rosters, timelines, certificates and renewal

Adm. Order No.: CCB 1-2014

Filed with Sec. of State: 2-6-2014

Certified to be Effective: 2-6-14

Notice Publication Date: 1-1-2014

Rules Adopted: 812-022-0029, 812-022-0034, 812-022-0035

Rules Amended: 812-022-0010, 812-022-0015, 812-022-0021, 812-022-0025, 812-022-0026, 812-022-0027, 812-022-0028

Rules Repealed: 812-022-0010(T), 812-022-0015(T), 812-022-0021(T), 812-022-0025(T), 812-022-0026(T), 812-022-0027(T), 812-022-0028(T), 812-022-0029(T), 812-022-0034(T), 812-022-0035(T)

Subject: 812-022-0010 is amended to allow providers that obtained approval under the old law or obtain approval under the new law to continue to offer BEST or building codes courses that were approved under the old law. This will be without additional cost or application

ADMINISTRATIVE RULES

requirements for the providers or courses. And, SB 783, Section 7(2), permits a phase-in approach to developing the new system, until January 1, 2015. For the first three months of 2014, renewing contractors may elect to renew under the old or the new law.

812-022-0015 is amended to clarify that it is the “scheduled renewal date,” not when the actual renewal occurs, that establishes the look-back period for licensure for six years.

812-022-0021 is amended to clarify that plumbing or electrical contractor’s owner or employee must complete the trade licensing continuing education to qualify the contractor for the exemption.

812-022-0025 is amended to remove the ability to apply as a provider and submit course approval at the same time; and to permit community colleges and SBDCs to become providers without paying the \$2,000 application fee. It will also permit community colleges and SBDCs to become providers without submitting a \$20,000 surety bond.

812-022-0026 is amended to permit community colleges and SBDCs to become providers without paying the \$2,000 application fee. It will also permit community colleges and SBDCs to become providers without submitting a \$20,000 surety bond.

812-022-0027 is amended to delete references to the agency agreements with providers. The rule can be revised at a later date, if and when, the agency begins entering into provider agreements. And it is amended to permit community colleges and SBDCs to become providers without obtaining a \$20,000 surety bond.

812-022-0028 is amended to require RCE provider approval prior to submitting a Series A course for approval.

812-022-0029 is adopted to establish a \$100 fee for course approval of any Series A course.

812-022-0034 is adopted to describe when contractors may take Series B courses and require RCE provider approval prior to submitting a Series B course for registration.

812-022-0035 is adopted to require providers to maintain student rosters for Series B courses. It describes information that must be included in student rosters. Requires providers to issue certificate of completion for each Series B course and indicates what information must be contained in certificate.

Rules Coordinator: Catherine Dixon—(503) 934-2185

812-022-0010

Effective Date — Continuing Education for Residential Contractors (SB 783)

(1) OAR 812-022-0000 to 812-022-0047 apply to residential contractors:

(a) That have active, non-lapsed licenses that expire on or after January 1, 2014.

(b) That renew lapsed licenses with expiration dates on or after January 1, 2014.

(c) That renew lapsed licenses with expiration dates before January 1, 2014, but that are renewed on or after January 1, 2014.

(2) Notwithstanding section (1), until December 31, 2014, a residential contractor may apply hours earned from attending the courses, completed during the licensing period immediately preceding January 1, 2014, towards the new residential continuing education requirements regardless of whether the courses would qualify under the new law. These courses may include:

(a) Construction Contractor Board laws, regulations and business practices (up to three hours);

(b) Building codes courses approved by CCB before January 1, 2014, (up to two hours);

(c) Building Exterior Shell Training (BEST) (up to three hours); and

(d) Elective courses.

(3) Notwithstanding section (1), a residential contractor renewing a license on or after January 1, 2014, that expired before October 1, 2013, must complete three hours of BEST and two hours of building code courses. The BEST and building code course hours will substitute for required Series A Course hours.

(4) Notwithstanding section (1), a residential contractor renewing a license on or after January 1, 2014, which expired between October 1, 2013, and December 31, 2013, must complete two hours of building code course. The hours will substitute for required Series A Course hours.

(5) Notwithstanding OAR 812-021-0028(7) and (8), providers approved pursuant to OAR 812-021-0025 or 812-022-0025 may continue to offer BEST or building codes courses previously approved by CCB under OAR 812-021-0028 without submitting additional application or fees for provider or course approval.

(6) Notwithstanding section (1), a contractor renewing its license between January 1, 2014, and March 31, 2014, may elect to renew the license pursuant to OAR 812-021-0015 rather than renewing its license pursuant to this rule. A contractor making this election will need to maintain record of the continuing education courses it completes to satisfy OAR 812-021-0015 for which the provider does not otherwise submit notification of completion of core hours.

Stat. Auth.: ORS 670.310, 701.126 & 701.235

Stats. Implemented: OL 2013, Ch.718 (SB 783)

Hist.: CCB 2-2013, f. & cert. ef. 10-24-13; CCB 3-2013(Temp), f. & cert. ef. 10-29-13 thru 4-26-14; CCB 1-2014, f. & cert. ef. 2-6-14

812-022-0015

Minimum Continuing Education Requirements — Continuing Education for Residential Contractors (SB 783)

(1) Except as provided in section (3), residential contractors shall have an owner, officer, RMI or employee, or a combination of those persons, who complete a minimum of eight hours of continuing education every licensing period as described in sections (2) and (3).

(2) Residential continuing education hours consist of the following:

(a) Three hours of education on laws, regulations and business practices offered by the agency or by an approved provider under an agreement with the agency; and

(b) Five hours of Series A Courses, approved by the agency and offered by approved providers, in one or more of the following subjects:

(A) Construction business practices;

(B) Marketing;

(C) Customer service;

(D) Accounting;

(E) Business law;

(F) Bidding;

(G) Building Codes; or

(H) Safety.

(3) Residential contractors that have not been licensed as a residential contractor during any part of the six-years immediately preceding their scheduled renewal date must complete an additional eight hours of residential continuing education offered by an approved provider. The education hours may include:

(a) Series A Courses described in section (2)(b); or

(b) Series B Courses in one or more of the following subjects:

(A) Energy efficiency; or

(B) Trade specific subjects, such as roofing, excavation, or exterior shell construction, as selected by the contractor.

(4) Courses shall be a minimum of 50 minutes to qualify for one hour of residential continuing education credit. Courses shall be at least one credit hour.

(5) Credit shall not be given for an individual student repeating the same residential continuing education course during a two-year licensing period.

(6) If, during the two years immediately preceding the expiration date of the license, a residential contractor served on active duty in the United States armed forces, including but not limited to mobilization or deployment, the residential continuing education requirement is waived for that two-year licensing period. This exemption applies only if the residential contractor is a:

(a) Sole proprietor without employees;

(b) Sole owner of a corporation; or

(c) Sole member of a limited liability company.

Stat. Auth.: ORS 670.310, 701.082, & 701.235

Stats. Implemented: ORS 701.082

Hist.: CCB 2-2013, f. & cert. ef. 10-24-13; CCB 4-2013(Temp), f. & cert. ef. 11-26-13 thru 5-23-14; CCB 1-2014, f. & cert. ef. 2-6-14

812-022-0021

Exemptions from Continuing Education — Continuing Education for Residential Contractors (SB 783)

(1) Subject to section (2) of this rule, the following persons are exempt from completing Series A Courses required under OAR 812-022-0015(2)(b) and Series B Courses required under OAR 812-022-0015(3)(b):

(a) Contractors licensed as plumbing contractors under ORS 447.010 to 447.156; and

(b) Contractors licensed as electrical contractors under ORS 479.630.

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(2) A contractor that is exempt under this rule and has been licensed as a residential contractor during all of the six years immediately preceding renewal must complete sufficient course hours in trade licensing continuing education or Series A Courses to total five hours. To qualify for the exemption, an owner or employee of the contractor must complete the trade licensing continuing education.

(3) A contractor that is exempt under this rule and has not been licensed as a residential contractor during any part of the six years immediately preceding renewal must:

(a) Complete sufficient course hours in trade licensing continuing education or Series A Courses to total five hours; and

(b) Complete sufficient course hours in trade licensing education, Series A Courses, or Series B Courses to total eight hours.

(c) To qualify for the exemption, an owner or employee of the contractor must complete the trade licensing continuing education.

Stat. Auth.: ORS 670.310, 701.082, 701.083, & 701.235

Stats. Implemented: ORS 701.082, 701.083

Hist.: CCB 2-2013, f. & cert. ef. 10-24-13; CCB 4-2013(Temp), f. & cert. ef. 11-26-13 thru 5-23-14; CCB 1-2014, f. & cert. ef. 2-6-14

812-022-0025

Provider Approval — Continuing Education for Residential Contractors (SB 783)

(1) The agency will review and approve providers offering residential continuing education.

(2) Providers will apply for approval on a form, and submit fees, prescribed by the agency.

(3) Providers seeking approval to offer residential continuing education must submit the following to the agency:

(a) Name, address and contact information of the provider;

(b) Business entity type of the provider and, if applicable, the Corporation Division business registry number;

(c) Description of the subject area(s) the provider intends to offer;

(d) Indication whether provider will offer:

(A) Series A Courses;

(B) Series B Courses; or

(C) Both Series A and Series B Courses; and

(e) Such other information or documentation as the agency may request.

(4) To qualify for approval, providers must:

(a) Employ or contract with instructors who have at least four years work experience or four years of education, or any combination of both, in the subject that they instruct;

(b) Be capable of entering and transmitting electronic data to the agency;

(c) Describe and follow a process for prompt resolution of complaints by registrants;

(d) Describe a process for cancellations and refunding registrant payments. If the provider does not permit cancellation or refunds, it must provide notice of that fact in a conspicuous manner in its advertising, solicitation and registration materials;

(e) Describe and follow attendance verification procedures;

(f) Provide an evaluation opportunity as prescribed by the agency for course attendees to complete;

(g) Be capable of submitting rating results to the agency by 12:00 noon of the business day following the day the contractor completes the course;

(h) Except as provided in OAR 812-022-0027(2), if offering agency developed courses, pursuant to an agreement under OAR 812-022-0018, or Series A Courses, provide a surety bond, as described in OAR 812-022-0027, in the amount of \$20,000 obligating the surety to pay the State of Oregon any fees unpaid by provider;

(i) Except as provided in OAR 812-022-0026(3), pay fees as provided under OAR 812-022-0026; and

(j) Maintain records available for agency to inspect for at least six years.

(5) Only an approved provider may offer or provide residential continuing education to a contractor or a contractor's employees.

(6) An approved provider may not allow any person not approved by the agency as a provider to offer or provide courses of the approved provider. For purposes of this rule, "offer or provide" includes, but is not limited to, assisting the contractor or the contractor's employees in obtaining or completing the courses or acting on behalf of an approved provider in advertising or soliciting the courses.

(7) Provider approval will be valid for two (2) years from the date the provider is approved by the agency.

(8) If providers change or add course types (Series A Courses or Series B Courses), they shall notify the agency within 24 hours.

(9) If providers change or add instructors, they shall notify the agency within 24 hours.

(10) Providers must re-submit an application and fees for renewal of approval. Renewal of approval will be subject to the same requirements as initial approval.

(11) The agency may withdraw approval issued to any provider that violates Oregon Laws 2013, chapter 718, or any rule of the agency.

Stat. Auth.: ORS 670.310, 701.265, 701.235

Stats. Implemented: ORS 701.265

Hist.: CCB 2-2013, f. & cert. ef. 10-24-13; CCB 3-2013(Temp), f. & cert. ef. 10-29-13 thru 4-26-14; CCB 5-2013(Temp), f. & cert. ef. 12-12-13 thru 4-26-14; CCB 1-2014, f. & cert. ef. 2-6-14

812-022-0026

Fees for Provider Approval — Continuing Education for Residential Contractors (SB 783)

(1) Providers will remit to the agency a non-refundable fee of \$2,000, together with an application for approval, or renewal of approval, to offer Series A Courses, Series B Courses, or both Series A Courses and Series B Courses.

(2) Providers will be assessed a fee of \$4 per student per hour for each Series A Course hour provided. Providers will pay agency the fees at the time provider submits each student's records. The agency will establish the manner in which the provider must remit payment. Students will receive credit for Series A Course hours only after CCB receives provider's payment.

(3) The fees established under section (1) of this rule do not apply to Oregon public community colleges or small business development centers (including BizCenter Online Learning).

Stat. Auth.: ORS 670.310, 701.235, 701.267

Stats. Implemented: ORS 701.267

Hist.: CCB 2-2013, f. & cert. ef. 10-24-13; CCB 5-2013(Temp), f. & cert. ef. 12-12-13 thru 4-26-14; CCB 1-2014, f. & cert. ef. 2-6-14

812-022-0027

Surety Bond to Assure Performance of Agency Agreements

(1) Providers that provide Series A Courses as provided in OAR 812-022-0015(2)(b), will maintain a surety bond in the amount of \$20,000, issued by a surety company authorized to do business in the State of Oregon, for the benefit of the State of Oregon, Construction Contractors Board. The bond must be in the form "Series A Course Provider Surety Bond," dated October 24, 2013.

(2) Section (1) of this rule does not apply to Oregon public community colleges or small business development centers (including BizCenter Online Learning).

Stat. Auth.: ORS 670.310, 701.235, 701.265, 701.267

Stats. Implemented: ORS 701.265, 701.267

Hist.: CCB 2-2013, f. & cert. ef. 10-24-13; CCB 3-2013(Temp), f. & cert. ef. 10-29-13 thru 4-26-14; CCB 5-2013(Temp), f. & cert. ef. 12-12-13 thru 4-26-14; CCB 1-2014, f. & cert. ef. 2-6-14

812-022-0028

Course Approval — Continuing Education for Residential Contractors (SB 783)

(1) The agency will approve Series A Courses required under OAR 812-022-0015(2)(b). Providers seeking course approval must be approved providers under OAR 812-022-0025.

(2) A provider seeking approval for Series A Courses must submit the following:

(a) Course name, course description, objective of the offered course, and number of hours of continuing education credit sought (must be no less than one hour);

(b) A written description of the course instructors' credentials, including years of education and experience in the subject matter they instruct;

(c) Course syllabus;

(d) Comprehensive course outline;

(e) Copies of the course materials provided to students;

(f) Cost of the offered course;

(g) For live classes and classes held in real time:

(A) Anticipated date, time, place of the course; and

(B) Number of registrants that each course can accommodate;

(h) For self-study courses:

(A) Anticipated date when the course will first be offered;

(B) Description of provider's procedures to answer student questions; and

(C) The length of time a student has to complete the course and receive credit.

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(i) Any other information as directed by the agency.

(3) The agency will only approve Series A Courses that the agency, in its sole discretion, considers offer high quality in the following respects:

(a) The course relates to one or more of the subjects listed in OAR 812-022-0015(2)(b);

(b) The course's use of animation, audio, video or color to stimulate multiple learning styles;

(c) The course holds interest through the use of visual, textual, audio or interactive components;

(d) The course material is presented in a logical and understandable manner;

(e) The spelling, grammar and sentence structure in written materials are correct;

(f) For courses using internet, video, audio or other electronic media, the course program is technically sufficient (e.g., video does not "stutter"; internet material does not "lock up"); and

(g) For courses using internet, video, audio or other electronic media, there is adequate instruction and guidance to navigate from the beginning to the end of the course.

(4) The agency will only approve Series A Courses that provide qualified instructors to answer questions in real-time, either in person, by telephone or by electronic means (e.g. chat rooms, e-mail, instant message).

(5) Series A Course approval will be valid for two (2) years from the date the provider is approved by the agency.

(6) Providers must re-submit an application and fees for renewal of Series A Course approval. Renewal of approval will be subject to the same requirements as initial approval.

Stat. Auth.: ORS 670.310, 701.235, 701.265, 701.267

Stats. Implemented: ORS 701.265, 701.267

Hist.: CCB 2-2013, f. & cert. ef. 10-24-13; CCB 3-2013(Temp), f. & cert. ef. 10-29-13 thru 4-26-14; CCB 1-2014, f. & cert. ef. 2-6-14

812-022-0029

Fees for Course Approval — Continuing Education for Residential Contractors (SB 783)

Providers will remit to the agency a non-refundable fee of \$100 together with an application for approval of any Series A Course.

Stat. Auth.: ORS 670.310, 701.235, 701.265, 701.267

Stats. Implemented: ORS 701.267

Hist.: CCB 3-2013(Temp), f. & cert. ef. 10-29-13 thru 4-26-14; CCB 1-2014, f. & cert. ef. 2-6-14

812-022-0034

Completion and Registration of Series B Courses — Continuing Education for Residential Contractors (SB 783)

(1) Contractors that were not licensed as a residential contractor during any part of the six-year period immediately preceding the renewal must complete eight hours of residential continuing education, which may include Series A Courses described in OAR 812-022-0015(2)(b) or Series B Courses described in OAR 812-022-0015(3)(b).

(2) The agency will register Series B Courses authorized under OAR 812-022-0015(3)(b). Providers seeking course approval must be approved providers under OAR 812-022-0025.

(3) A provider registering Series B Courses must submit the following:

(a) Course name, course description, objective of the offered course, and number of hours of continuing education credit;

(b) Cost of the offered course;

(c) For live classes and classes held in real time:

(A) Anticipated date, time, place of the course; and

(B) Number of registrants that each course can accommodate;

(d) For self-study courses:

(A) Anticipated date when the course will first be offered; and

(B) The length of time a student has to complete the course and receive credit.

(e) Any other information as directed by the agency.

(4) Series B Course registration will be valid for two (2) years from the date the provider is approved by the agency.

(5) Providers must re-submit a registration form for renewal of Series B Course registration. Renewal of registration will be subject to the same requirements as initial registration.

Stat. Auth.: ORS 670.310, 701.082, 701.235

Stats. Implemented: ORS 701.082

Hist.: CCB 2-2013, f. & cert. ef. 10-24-13; CCB 1-2014, f. & cert. ef. 2-6-14

812-022-0035

Provider Rosters, Notification of Completion and Certificates of Completion for Series B Course Hours — Continuing Education for Residential Contractors (SB 783)

(1) Providers will maintain rosters capturing data for all contractors that complete Series B Courses, as described in 812-022-0015(3)(b). Rosters will contain the following information:

(a) Course name and any other information identifying course, as required by agency;

(b) Contractor's name;

(c) Contractor's license number;

(d) Name of individual attending or completing the course;

(e) Relationship of individual completing the course to contractor (e.g. owner, officer, member, employee);

(f) Date individual attended or completed the course;

(g) Number of hours credit obtained by attending or completing the course; and

(h) Certification by individual completing the course that the identified individual:

(A) Attended or completed the entire course; and

(B) No other individual attended, completed or assisted in completing the course in place of the individual.

(2) Providers will transmit data, as directed by the agency, containing the information in section (1) and notifying the agency when a contractor completes a Series B Course. Providers must submit data by 12:00 noon of the business day following the date the contractor completes the course.

(3) Upon satisfactory completion of each Series B Course, providers will prepare a certificate of completion for the person completing the course. The certificate of completion will contain the following information:

(a) Provider name;

(b) Provider number assigned by the agency;

(c) Course name;

(d) Course number assigned by the agency;

(e) Number of credit hours;

(f) Date of course completion;

(g) Student name;

(h) Name of contractor with which student is associated;

(i) Contractor CCB number; and

(j) Any other information required by the agency.

Stat. Auth.: ORS 670.310, 701.235, 701.265, 701.267

Stats. Implemented: ORS 701.265, 701.267

Hist.: CCB 2-2013, f. & cert. ef. 10-24-13; CCB 1-2014, f. & cert. ef. 2-6-14

Department of Agriculture Chapter 603

Rule Caption: Housekeeping updates to six invertebrate quarantines.

Adm. Order No.: DOA 2-2014

Filed with Sec. of State: 2-14-2014

Certified to be Effective: 2-14-14

Notice Publication Date: 12-1-2013

Rules Amended: 603-052-0126, 603-052-0127, 603-052-0129, 603-052-0150, 603-052-1221, 603-052-1320

Subject: The Department of Agriculture changed six rules related to insects and other invertebrates. The change:

(1) Removed mention of Pierce's disease from the glassy-wing sharpshooter quarantine (ODA proposes to move Pierce's disease requirements to the grape quarantine,

(2) Rewrote the European corn borer quarantine in plain language,

(3) Clarified that the prohibition on raising and selling exotic snails applies to snails raised for any purpose,

(4) Eliminated specific treatment options in the Japanese beetle quarantine in favor of general ones,

(5) Corrected an omission in the Cherry Fruit Fly Control Area Order, and

(6) Added 13 insects/mites and one snail to the approved invertebrate list, removed *Atheta coriaria*, a non-native rove beetle, corrected a spelling error, and renumbered the list for clarity.

The Department also considered a request to reinstate monarch butterflies to the approved list. After considering information supplied by both proponents and opponents, the Department is leaving

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the current the current status of monarch butterflies unchanged, not approved for importation or release.

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

603-052-0126

Quarantine; European Corn Borer

A quarantine is established against European corn borer (*Ostrinia nubilalis*), a pest potentially harmful to many Oregon crops.

(1) Area Under Quarantine. All states and districts of the United States, except the States of Alaska, Arizona, California, Hawaii, Idaho, Nevada, New Mexico, Utah, and Washington, and any other state or district where European corn borer is found.

(2) Commodities Covered. All life stages of European corn borer. Corn, broomcorn, sorghums, and Sudan grass, plants and all parts thereof (including shelled grain and stalks, ears, cobs, and all other parts, fragments, or debris of said plants); beans in the pod; beets; celery; peppers (fruits); endive; Swiss chard; and rhubarb (cut or plants with roots); cut flowers and entire plants of aster, chrysanthemum, calendula, cosmos, hollyhock, marigold, zinnia, Japanese hop, dahlia (except tubers without stems), and gladiolus (except corms without stems), are hereby declared to be hosts or possible carriers of European corn borer.

(3) Definitions. As used in the quarantine and section:

(a) "Portions of Plants or Fragments Capable of Harboring Larva of European Corn Borer" means any portion of a host plant of any shape or size which cannot be passed through a 1/2-inch (1.27 cm) square aperture, and any completely whole, round, uncrushed section, portion, or piece of cob, stalk, or stem of one inch or more in length and 3/16-inch (0.48 cm) or more in diameter;

(b) "Official Certificate" means a document, issued by a duly authorized representative of the designated state, county, or federal department of agriculture, evidencing compliance with the provisions of this regulation;

(c) "Department" means the Department of Agriculture of the State of Oregon;

(d) "Shelled Grain" means the seeds or kernels separated from all other plant parts of corn, broomcorn, sorghum, and Sudan grass.

(4) Restrictions.

(a) Shelled grain must meet one of the following conditions.

(A) Shelled grain grown in or shipped from the area under quarantine described in section (1) of this rule must be clean and free of portions of plants or fragments capable of harboring larva of European corn borer as defined above, or

(B) Shelled grain may be accompanied by an official certificate showing that it has been disinfected or sterilized in a manner effective at killing all European corn borer according to label instructions.

(b) Covered commodities other than shelled grain must meet one of the following options.

(A) Covered commodities must be produced under a commercial production and packing system that ensures that the final product is free from European corn borer. Details of the pest management system must be made available to the Department upon request, or

(B) Covered commodities are accompanied by an official certificate stating that the commodity has been inspected and found free from European corn borer, or

(C) Covered commodities are accompanied by an official certificate stating that they have been treated in a manner effective against European corn borer according to label instructions.

(5) Violations. Any lot or shipment of a covered commodity from the area under quarantine, which does not meet the requirements in (4)(a) or (b) above or which contains any life stage of European corn borer shall be deemed to be in violation of this quarantine and is subject to treatment, re-export, or disposal as required by the Department.

[ED. NOTE: Diagrams referenced are available from the agency.]

Stat. Auth.: ORS 561.190, 561.510 - 561.600, 570.305, ORS 570.405 & 570.410 - 570.415

Stats. Implemented: ORS 561.190, 561.510 - 561.600, 570.305, 570.405 & 570.410 - 570.415

Hist.: AD 906(12-69), f. 9-23-69, ef. 10-15-69; DOA 7-2012, f. & cert. ef. 3-26-12; DOA 2-2014, f. & cert. ef. 2-14-14

603-052-0127

Quarantine; Japanese Beetle, European Chafer and Oriental Beetle

(1) Establishing a Quarantine. A quarantine is established against the pest known as Japanese beetle (*Popillia japonica*) European chafer (*Rhizotrogus majalis*), and Oriental beetle (*Anomala orientalis*), a member of the family Scarabaeidae, which in the larval stage feed on the roots of many plants and in the adult stage feed on the flowers, foliage and fruit of many plants.

(2) Areas Under Quarantine. The entire states of Alabama, Arkansas, Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, the District of Columbia, the Provinces of Ontario, Quebec, and British Columbia, Canada, and any other state, territory or province where the presence of an established population of any of these insects is confirmed and effective eradication procedures have not been implemented. Any property(ies) in Oregon where Japanese beetles, European chafers, or Oriental beetles are found including a buffer zone that may be infested around the area where the pests were discovered.

(3) Commodities Covered. All life stages of the Japanese beetle, European chafer, and Oriental beetle, including eggs, larvae, pupae, and adults; and the following hosts or possible carriers of Japanese beetle:

(a) Soil, growing media, humus, compost, and manure (except when commercially packaged, and except soil samples under a federal Compliance Agreement);

(b) All plants with roots;

(c) Grass sod, green (living) roofs;

(d) Plant crowns or roots for propagation (except when free from soil and growing media; clumps of soil or growing media larger than 1/2 inch diameter will be cause for rejection);

(e) Bulbs, corms, tubers, and rhizomes of ornamental plants (except when free from soil and growing media; clumps of soil or growing media larger than 1/2 inch diameter will be cause for rejection); and

(f) Any other plant, plant part, article or means of conveyance when it is determined by the department to present a hazard of spreading live Japanese beetle due to either infestation, or exposure to infestation, by Japanese beetle.

(4) Restrictions. All commodities covered are prohibited entry into Oregon from the area under quarantine unless they have the required certification. Plants may be shipped from the area under quarantine into Oregon provided such shipments conform to one of the options below and are accompanied by a certificate issued by an authorized state agricultural official at origin. Note that not all protocols in the U.S. Domestic Japanese Beetle Harmonization Plan are acceptable for Oregon. Advance notification of regulated commodity shipment is required. The certifying official shall mail, FAX or e-mail a copy of the certificate to: Plant Program Area Director, Oregon Department of Agriculture, 635 Capitol Street NE, Salem, Oregon 97310, FAX: 503-986-4786, e-mail: quarantine@oda.state.or.us. The shipper shall notify the receiver to hold such commodities for inspection by the Oregon Department of Agriculture. The receiver must notify the Oregon Department of Agriculture of the arrival of commodities imported under the provisions of this quarantine and must hold such commodities for inspection. Such certificates shall be issued only if the shipment conforms fully with (a), (b), (c), (d), (e) or (f) below:

(a) Bareroot Plants. Plants with roots are acceptable if they are bare-root, free from soil and growing media (clumps of soil or growing media larger than 1/2 inch diameter will be cause for rejection). The certificate accompanying the plants shall bear the following additional declaration: "Plants are bareroot, attached clumps of soil or growing media are less than 1/2 inch in diameter." Advance notification required (see section 4 above).

(b) Production in an Approved Japanese Beetle Free Greenhouse/Screenhouse. All the following criteria apply. All media must be sterilized and free of soil. All stock must be free of soil (bareroot) before planting into the approved medium. The potted plants must be maintained within the greenhouse/screenhouse during the entire adult flight period. During the adult flight period the greenhouse/screenhouse must be made secure so that adult Japanese beetles can not gain entry. Security will be documented by the appropriate phytosanitary official. No Japanese beetle contaminated material shall be allowed into the secured area at any time. The greenhouse/screenhouse will be officially inspected by phytosanitary officials and must be specifically approved as a secure area. They shall be inspected by the same officials for the presence of all life stages of the Japanese beetle. The plants and their growing medium must be appropriately protected from subsequent infestation while being stored, packed and shipped. Certified greenhouse/screenhouse nursery stock may not be transported into or through any infested areas unless identity is preserved and adequate safeguards are applied to prevent possible infestation. Each greenhouse/screenhouse operation must be approved by the phytosanitary officials as having met and maintained the above criteria. The certificate accompanying the plants shall bear the following additional declaration: "The rooted plants (or crowns) were produced in an approved Japanese beetle free

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greenhouse or screenhouse and were grown in sterile, soilless media.” Advance notification required (see section 4 above).

(c) Production During a Pest Free Window. The entire rooted plant production cycle will be completed within a pest free window, in clean containers with sterilized and soilless growing medium, i.e., planting, growth, harvest, and shipment will occur outside the adult Japanese beetle flight period, June through September. The accompanying phytosanitary certificate shall bear the following additional declaration: “These plant were produced outside the Japanese beetle flight season and were grown in sterile, soilless media.” Advance notification required (see section 4 above).

(d) Application of Approved Regulatory Treatments. All treatments will be performed under direct supervision of a phytosanitary official or under compliance agreement. Treatments and procedures under a compliance agreement will be monitored closely throughout the season. State phytosanitary certificates listing and verifying the treatment used must be forwarded to Oregon via fax or electronic mail, as well as accompanying the shipment. Note that not all treatments approved in the U.S. Domestic Japanese Beetle Harmonization Plan are acceptable for Oregon. The phytosanitary certificate shall bear the following additional declaration: “The rooted plants are in soilless media and were treated to control *Popillia japonica* according to the criteria for shipment to category 1 states as provided in the U.S. Domestic Japanese Beetle Harmonization Plan and Oregon’s Japanese beetle quarantine.” Containerized plant must be treated with one of the approved treatments (B), (C), or (D) below. Advance notification required (see section 4 above).

(A) Dip Treatment — B&B and Container Plants. Not approved.

(B) Drench Treatments — Container Plants Only. Not approved for ornamental grasses or sedges. Potting media used must be sterile and soilless, containers must be clean. Containers must be one gallon or smaller in size. Field potted plants are not eligible for certification using this protocol. This is a prophylactic treatment protocol targeting eggs and early first instar larvae. If the containers are exposed to a second flight season they must be retreated. **Containerized plants receiving a drench treatment must be treated according to label instructions in a manner that ensures the plants are free from Japanese beetle.**

(C) Media (Granule) Incorporation — Container Plants Only. Containers must be one gallon or smaller in size. Not approved for ornamental grasses or sedges. All pesticides used for media incorporation must be mixed prior to potting and plants potted a minimum of thirty (30) days prior to shipment. Potting media used must be sterile and soilless; containers must be clean. The granules must be incorporated into the media prior to potting. Field potted plants are not eligible for treatment. This treatment protocol targets eggs and early first instar larvae and allows for certification of plants that have been exposed to only one flight season after application. If the containers are to be exposed to a second flight season they must be repotted with a granule incorporated mix or retreated using an approved drench treatments. **Containerized plants receiving media incorporation must be treated according to label instructions in a manner that ensures the plants are free from Japanese beetle.**

(D) Methyl Bromide Fumigation. Nursery stock: methyl bromide fumigation at NAP, chamber or tarpaulin. **Containerized plants must be fumigated according to label instructions in a manner that ensures the plants are free from Japanese beetle.**

(e) Detection Survey for Origin Certification. Japanese Beetle Harmonization Plan protocol not approved. Alternative approved protocol: States listed in the area under quarantine may have counties that are not infested with Japanese beetle. Shipments of commodities covered may be accepted from these noninfested counties if annual surveys are made in such counties and adjacent counties and the results of such surveys are negative for Japanese beetle. In addition, the plants must be greenhouse grown in media that is sterilized and free of soil and the shipping nursery must grow all their own stock from seed, unrooted cuttings or bareroot material. A list of counties so approved will be maintained by the Oregon Department of Agriculture. Agricultural officials from a quarantined state or province may recommend a noninfested county be placed on the approved county list by writing for such approval and stating how surveys were conducted giving the following information:

(A) Areas surveyed;

(B) How survey was carried out;

(C) Number of traps;

(D) Results of survey;

(E) History of survey;

(F) If county was previously infested, give date of last infestation. If infestations occur in neighboring counties, approval may be denied. To be maintained on the approved list, each county must be reapproved every

twelve (12) months. Shipments of commodities covered from noninfested counties will only be allowed entry into Oregon if the uninfested county has been placed on the approved list prior to the arrival of the shipment in Oregon. The certificate must have the following additional declaration: “The plants in this consignment were produced in sterile, soilless media in (name of county), state of (name of state of origin) that is known to be free of Japanese beetle.” Advance notification required (see section 4 above).

(f) Privately owned house plants obviously grown, or certified at the place of origin as having been grown indoors without exposure to Japanese beetle may be allowed entry into this state without meeting the requirements of section (4). Contact the Oregon Department of Agriculture for requirements: Plant Program Area Director, Oregon Department of Agriculture, 635 Capitol Street NE, Salem, Oregon 97301, telephone: 503/986-4644, FAX: 503/986-4786, e-mail: quarantine@oda.state.or.us.

(g) Infested properties in Oregon: Confirmation of an infestation of Japanese beetle, European chafer, or Oriental beetle must be made by the ODA or an official cooperator. ODA will notify the property owner(s) and develop a response plan. The goal of the plan will be eradication as soon as possible. The plan may require cooperative measures by the property owner(s) to supplement measures taken by ODA.

(5) Exceptions. Upon written request, and upon investigation and finding that unusual circumstances exist justifying such action, the department may issue a permit allowing entry into this state of commodities covered without meeting the requirements of section (4). However, all conditions specified in the permit shall be met before such permit will be recognized.

(6) Violation of Quarantine. All covered commodities described in section (3) of this rule found to be in violation of this quarantine shall be returned immediately to point of origin by the Oregon receiver, or at the owner’s option be destroyed under the supervision of the department, without expense to or indemnity paid by the department. Violation of this quarantine may result in a fine, if convicted, of not less than \$500 nor more than \$5,000, as provided by ORS 561.990(4). Violators may also be subject to civil penalties of up to \$10,000 as provided by Oregon Laws 1999, chapter 390, section 2; nursery license suspension or nursery license revocation.

Stat. Auth.: ORS 561.020, 561.190, 561.510 & 570.305

Stats. Implemented: ORS 561.510

Hist.: AD 12-1977, f. 6-6-77, ef. 6-20-77; AD 7-1988(Temp), f. & cert. ef. 8-2-88; DOA 10-1998, f. & cert. ef. 12-30-98; DOA 27-2000, f. & cert. ef. 10-13-00; DOA 9-2006, f. & cert. ef. 3-22-06; DOA 7-2008, f. & cert. ef. 2-8-08; DOA 4-2010, f. & cert. ef. 1-28-10; DOA 3-2013, f. & cert. ef. 3-1-13; DOA 2-2014, f. & cert. ef. 2-14-14

603-052-0129

Quarantine; Against Exotic Phytophagous Snails

(1) Establishing Quarantine. A quarantine is established against exotic phytophagous snails that are members of the Phylum Mollusca of the Class Gastropoda characterized by a calcareous shell covering the visceral hump. This quarantine applies to exotic phytophagous snails in any stage of development, and includes, but is not limited to: brown garden snail (*Cornu aspersum* Müller), white garden snail (*Theba pisana* Müller), milk snail (*Otala lactea* Müller), giant African snail (*Achatina* spp.), giant South American snail (*Megalobulimus oblongus* Müller), and all other exotic phytophagous snails (hereafter, “exotic phytophagous snails”) except for species on the approved species list (OAR 603-052-1320). These snails are very important garden and agricultural pests causing severe damage to leaves and fruits of many plants.

(2) Areas Under Quarantine. The entire states of Arizona, California, Hawaii, Michigan, New Mexico, Texas, Utah, Washington, and any other state or territory where exotic phytophagous snails are established.

(3) Covered Commodities. Exotic phytophagous snails in any stage of development. Grass sod and all plants with roots in soil and any other plant material or articles capable of transporting exotic phytophagous snails into Oregon are hereby declared to be hosts or possible carriers of the pests herein quarantined and are prohibited entry into this state directly, indirectly, diverted, or reconsigned unless there is compliance with section (4) of this rule.

(4) Conditions:

(a) Covered commodities from regulated areas may be permitted entry into Oregon only when such commodities are accompanied by a certificate of quarantine compliance issued by an authorized official from the state of origin which certifies that it has been determined by official inspection immediately prior to shipment that such covered commodities were found to be free of all life stages of exotic phytophagous snails or that such commodities originate from an area determined by official inspection to be free of exotic phytophagous snails. The original certification document shall be forwarded to the Oregon State Department of Agriculture, Plant Program Area, 635 Capitol St. NE, Salem, Oregon 97310, immediately by

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First Class mail or fax (503) 986-4786. Each lot or shipment of the covered commodities shall be accompanied by a copy of the above described certification document. The Oregon receiver to whom the commodities are shipped shall notify the department immediately upon receipt of such commodities and shall hold the same until they are released by the department.

(b) Cut greens, cut flowers and soil-free plants including bare root plants, plant crowns, roots for propagation, bulbs, corms, tubers, and rhizomes of plants washed free of adherent soil are excepted from the quarantine, if such plant materials are found upon inspection not to be infested with exotic phytophagous snails or are found not to bear soil accumulations sufficient to carry or obscure any life stage of exotic phytophagous snails.

(c) Certified and noncertified covered commodities shall not be shipped together in the same transporting vehicle, and any such mixing of certified and noncertified covered commodities shall nullify certification and result in the rejection of the entire shipment of covered commodities. Upon inspection and determination by the Oregon State Department of Agriculture that the transporting vehicle or any properly certified covered commodities are infested with any life stage of exotic phytophagous snails, such shipment shall be found in violation of this quarantine.

(5) Heliculture Prohibited. Raising, maintaining, selling, shipping and/or holding live exotic phytophagous snails for any purpose within the State of Oregon is prohibited except for species on the approved species list (OAR 603-052-1320).

(6) Disposition of Commodities in Violation of the Quarantine. All covered commodities described in section (3) of this rule found to be in violation of this quarantine shall be returned immediately to point of origin by the Oregon receiver, or at the receiver's option be destroyed under the supervision of the department, without expense to or indemnity paid by the department.

(7) Exceptions. Upon request, and upon investigation and finding that unusual circumstances exist justifying such action, the department may issue a permit allowing entry into this state of covered commodities without meeting the requirements of subsection (4)(a) of this rule. However, all conditions specified in the permit shall be met before such permit will be recognized.

Stat. Auth.: ORS 561 & 570
Stats. Implemented: ORS 561.190, 561.510 - 561.600, 570.305, 570.405 & 570.410 - 570.415
Hist.: AD 14-1983, f. 11-15-83, ef. 12-1-83; AD 12-1997, f. & cert. ef. 7-31-97; DOA 8-1999, f. & cert. ef. 5-14-99; DOA 1-2006, f. & cert. ef. 1-13-06; DOA 2-2007, f. & cert. ef. 1-30-07; DOA 7-2008, f. & cert. ef. 2-8-08; DOA 3-2009, f. & cert. ef. 2-13-09; DOA 3-2013, f. & cert. ef. 3-1-13; DOA 2-2014, f. & cert. ef. 2-14-14

603-052-0150

Control Areas and Procedures

(1) As authorized by ORS 570.405 to 570.435, a control area is established in each of the following counties for the protection of the cherry industry in that area through the eradication or control of the cherry fruit fly, *Rhagoletis indifferens*:

- (a) Hood River County;
- (b) Lane County;
- (c) Linn County;
- (d) Marion County;
- (e) Polk County;
- (f) Sherman County;
- (g) Umatilla County;
- (h) Union County;
- (i) Yamhill County; and
- (j) The portion of Wasco county, north of Warm Springs Reservation.

(2) In order to prevent the buildup of western cherry fruit fly, cherry orchards in the control area must be maintained using approved IPM practices.

(3) Approved IPM practices, including spray formulations, are those recommended by the Oregon State Extension Service as described for specific control areas in the following extension documents:

(a) For Hood River and Wasco counties: Pest Management Guide for Tree Fruits in the Mid-Columbia Area. EM 8203, Oregon State University Extension Service.

(b) For Lane, Linn, Marion, Polk and Yamhill counties: Pest Management Guide for the Willamette Valley, EM 8329, Oregon State University Extension Service.

(c) For Umatilla and Union counties Cherry Fruit Fly Pest Management for control areas in Umatilla and Union counties. EM 8587, Oregon State University Extension Service.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 570
Stats. Implemented: ORS 561.190, 561.510 - 561.600, 570.305, 570.405 & 570.410 - 570.415

Hist.: AD 603, f. & ef. 10-31-58; AD 974(7-72), f. 7-27-72, ef. 8-15-72; AD 1073(19-75), f. & ef. 12-5-75; AD 11-1977, f. 5-10-77, ef. 5-20-77; DOA 4-2005, f. & cert. ef. 2-14-05; DOA 1-2006, f. & cert. ef. 1-13-06; DOA 2-2007, f. & cert. ef. 1-30-07; DOA 11-2011, f. & cert. ef. 7-20-11; DOA 7-2012, f. & cert. ef. 3-26-12; DOA 2-2014, f. & cert. ef. 2-14-14

603-052-1221

Quarantine; Glassy-Winged Sharpshooter

(1) Establishing a Quarantine. A quarantine is established against glassy-winged sharpshooter, *Homalodisca coagulata*. This quarantine is established under ORS 561.510 and 561.540 to protect Oregon's agricultural industries from the artificial spread of glassy-winged sharpshooter. Glassy-winged sharpshooter is a vector of Pierce's disease, *Xylella fastidiosa*, in grapes and other diseases of important horticultural plants. Glassy-winged sharpshooter is not known to be established in Oregon. Introduction of glassy-winged sharpshooter could result in serious damage to vineyards in Oregon and cause trade restrictions on many other host plants.

(2) Area under Quarantine: Mexico; the entire States of Alabama, Arkansas, California, Florida, Georgia, Louisiana, Mississippi, Missouri, North Carolina, South Carolina, and Texas; and any other state found to be infested with glassy-winged sharpshooter during the life of this quarantine. In Oregon, any property where glassy-winged sharpshooter is found.

(3) Commodities Covered: All plants referenced in Appendix A. This does not include cut flowers, cut foliage, leafless budwood, grafting wood, or dormant, leafless nursery stock except all types of propagative material of grape plants (*Vitis* spp.) (see (4)(c) below). All life stages of the glassy-winged sharpshooter, including eggs, nymphs, and adults.

(4) Provisions of the Quarantine: All shipments of covered commodities from areas under quarantine outside the state of Oregon are prohibited unless they meet the conditions below:

(a) Covered commodities, except grape plants (*Vitis* spp.), from non-infested counties in California (see (b) below) are exempt from provisions of this quarantine.

(b) Covered commodities originating from the area under quarantine including infested counties in California: Fresno, Kern, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, Santa Barbara, Tulare, Ventura, and any other county found to be infested with glassy-winged sharpshooter during the life of this quarantine, must meet either (A) or (B) below.

NOTE: an infestation is defined as an established, reproducing population as evidenced by positive trap catches or sightings over more than one generation of the glassy-winged sharpshooter or more than one life stage of the glassy-winged sharpshooter found on plants not including regulatory interceptions on recently imported plants.

(A) Originate from nurseries under compliance agreement with the state of origin Department of Agriculture requiring adherence to specific protocols to ensure that shipped host nursery stock is free of glassy-winged sharpshooter; or

(B) Have been treated with a registered pesticide effective at killing all stages of glassy-winged sharpshooter prior to shipment as near to the time of shipping as is reasonably possible. A phytosanitary certificate or certificate of quarantine compliance must accompany the shipment with one of the following additional declarations: "All glassy-winged sharpshooter host plants in this shipment have been grown in a nursery under compliance agreement with the [fill in state] Department of Agriculture to ensure freedom from glassy-winged sharpshooter," or: "All glassy-winged sharpshooter host plants in this shipment have been treated with [fill in name and rate of pesticide] for glassy-winged sharpshooter."

(c) Grape plants (*Vitis* spp.) from the area under quarantine, including the entire state of California, must be treated for glassy-winged sharpshooter as in (4)(b)(A) or (B) above. A phytosanitary certificate must accompany the shipment with one of the following additional declarations: "Grape plants (*Vitis* spp.) in this shipment have been treated for glassy-winged sharpshooter with [fill in name and rate of pesticide]. or "Grape plants (*Vitis* spp.) in this shipment have been grown under a compliance agreement with the [fill in state] Department of Agriculture to ensure freedom from glassy-winged sharpshooter.

(d) Notification of regulated commodity shipment is required. The shipper shall mail, FAX or e-mail documents including the phytosanitary certificate or certificate of quarantine compliance, listing the type and quantity of plants, address of shipper, address of recipient, test results if required in (4)(c) above, and contact phone numbers to: Nursery Program Supervisor, Plant Division, Oregon Department of Agriculture, 635 Capitol Street NE, Salem, Oregon 97301; FAX: 503/986-4786; e-mail: quarantine@oda.state.or.us. The Department may require that shipments be held until inspected and released.

(e) Sites within Oregon where glassy-winged sharpshooter is found associated with covered commodities imported from the area under quar-

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antennae must be treated with a registered pesticide effective at killing all stages of glassy-winged sharpshooter. All imported host material received from areas under quarantine must be treated as well as all other host material in a reasonable buffer zone approved by the Oregon Department of Agriculture. Host material within the spray block may not be moved or sold until after it is treated. In cases where spray blocks include more than one owner, each owner will be responsible for spraying host material on their own property.

(5) Violation of quarantine. Violation of this quarantine may result in a fine, if convicted, of not less than \$500 nor more than \$5,000, as provided by ORS 561.990(4). Violators may also be subject to civil penalties of up to \$10,000 as provided by Oregon Laws 1999, chapter 390, section 2; nursery license suspension or nursery license revocation. Commodities shipped in violation of this quarantine may be treated, destroyed or returned to their point of origin without expense or indemnity paid by the State. [Appendix not included. See ED. NOTE.]

[ED. NOTE: Tables & Appendices referenced are available from the agency.]
Stat. Auth.: ORS 561.190, 561.510 & 561.540
Stats. Implemented: ORS 570.305
Hist.: DOA 35-2000, f. & cert. ef. 12-15-00; DOA 1-2006, f. & cert. ef. 1-13-06; DOA 2-2007, f. & cert. ef. 1-30-07; DOA 7-2008, f. & cert. ef. 2-8-08; DOA 2-2014, f. & cert. ef. 2-14-14

603-052-1320

Approved Species (Non-Regulated)

(1) Invertebrate species listed as approved may be imported, possessed, sold, purchased, exchanged, transported, or released in Oregon without a permit from the Department. This applies only to stock collected within the continental United States. Species marked with an asterisk (*) have additional restrictions as noted below the sections in which they appear.

(2) A permit for the importation, possession, or intrastate transportation of some ODA-approved species may be required by the United States Department of Agriculture, Animal and Plant Health Inspection Service, Plant Protection and Quarantine: (http://www.aphis.usda.gov/plant_health/permits/organism/index.shtml).

(3) Live invertebrates not on the list of approved invertebrates in any life stage may not be imported, possessed, sold, purchased, exchanged, transported, or released in the state unless a permit is first obtained from the Department.

(4) These rules apply to all life stages, but do not apply to dead specimens.

(5) These rules do not apply to marine or aquatic invertebrates.

(6) Placement on this list does not constitute an endorsement by the Department of the efficacy of listed biological control agents, suitability of listed invertebrates as pets, or anything else except that trade in listed species does not pose a plant pest risk in Oregon.

(7) The following is a list of approved invertebrates that may be imported, possessed, sold, purchased, exchanged, transported, or released in Oregon. This list provides the common name, scientific name, and common use.

(a) Snails (Gastropoda).

Spike-topped apple snail, *Pomacea diffusa*.
For other Mollusks defined as wildlife (shellfish), e.g. clams, mussels, and oysters, see Department of Fish and Wildlife rules: ORS 506.011 and OAR 635-056-0050.

(b) Earthworms (Annelida).

Grey worm, *Aporrectodea caliginosa* (bait, pet food).
Compost earthworm, *Eisenia veneta* (composter, pet food, bait).
Grindal worm or pot worm, *Enchytraeus buchholzi* (pet food).
Red worm, *Lumbricus rubella* (composter, pet food, bait).
European earthworm, *Lumbricus terrestris* (composter, pet food, bait).
Earthworm, *Lumbricus variegatus* (composter, pet food, bait).
No common name, *Stylaria* spp. (education, research).

(c) Crustacea.

Pillbug, *Armadillium* spp. (education).
Land hermit crab, *Coenobita clypeatus* (pet).
Sowbug, *Oniscus* spp. (education).
For other Crustacea defined as wildlife (shellfish), e.g. shrimp, crabs, crayfish, see Department of Fish and Wildlife rules: ORS 506.011 and OAR 635-056-0050.

(d) Millipedes (Diplopoda).

Giant African millipede, *Archispirostreptus gigas* (pet).
Giant African black millipede, *Lophostreptus (=Scaphiostreptus) rutilans* (education, pet).
Desert millipede, *Orthoporus ornatus*, *O. texicolens* (pet).
Millipede, *Spiroboleus* spp. (education).
Giant millipede, *Thyropygus* spp. (education, pet).

(e) Mites (Acari).

Flour mite, *Acaris siro* (predator mite food).
Bindweed gall mite, *Aceria malherbae* (weed biocontrol agent).
Tulip bulb mite, *Aceria tulipae* (research).
Predatory mite, *Amblyseius barkeri* (arthropod biocontrol agent).
Predatory mite, *Amblyseius cucumeris* (arthropod biocontrol agent).
Predatory mite, *Amblyseius degenerens* (arthropod biocontrol agent).

Spider mite predator, *Amblyseius hibisci* (mite biocontrol agent).
Spider mite predator, *Amblyseius mckenziei* (arthropod biocontrol agent).
Dried fruit mite, *Carpoglyphus lactis* (predator mite food).
Rush skeletonweed gall mite, *Eriophyes chondrillae* (weed biocontrol agent).
Spider mite predator, *Galendromus occidentalis* (mite biocontrol agent).
Dust mite, *Lepidoglyphus destructor* (predator mite food).
Fungus gnat larval predator, *Statiolaelaps aculeifer*, *S. miles* (insect biocontrol agent).
Spider mite predator, *Mesoseiulus longipes* (mite biocontrol agent).
Spider mite predator, *Neoseiulus californicus* (mite biocontrol agent).
Spider mite predator, *Neoseiulus fallacis* (mite biocontrol agent).
Cyclamen mite, *Phytonemus pallidus* (research).
Spider mite predator, *Phytoseiulus persimilis* (mite biocontrol agent).
Gorse spider mite, *Tetranychus lintearius* (weed biocontrol agent).
Two-spotted spider mite, *Tetranychus urticae* (research).
Mold mite, *Tyrophagus putrescentiae* (predator mite food).
Fungus gnat larval predator, *Stratiolaelaps scimitus* (insect biocontrol agent).

(f) Spiders (Araneae).

Pink toed tarantula, *Avicularia avicularia* (education, pet).
Mexican redknee tarantula, *Brachypelma smithi* (education, pet).
Greenbottle blue tarantula, *Chromatopelma cyaneopubescens* (education, pet).
Chilean rose-haired tarantula, *Grammastola rosea* (education, pet).
Texan brown tarantula, *Aphonopelma hentzi* (education, pet).
Cellar spider, *Pholcus phalangioides* (education).
Wolf spider (Family Lycosidae) (education)*.
Orb weaver spider, (Family Araneidae) (education)*.
*only from stock collected in the Pacific Northwest

(g) Scorpions.

Emperor scorpion, *Pandinus imperator* (education, pet).

(h) Dragonflies and Damselflies (Odonata).

Dragonfly, *Aeschna* spp. (education).

(i) Roaches (Blattaria).

Giant cockroach, *Blaberus* spp. (education, pet).
Orange-spotted cockroach, *Blaptica dubia* (pet food).
Oriental cockroach, *Blatta orientalis* (education, research).
German cockroach, *Blattella germanica* (education, research).
Hissing cockroach, *Gromphadorhina oblongonata* (education, pet).
Madagascar hissing cockroach, *Gromphadorhina portentosa* (education, pet).
American cockroach, *Periplaneta americana* (education, research).

(j) Isoptera (Termites).

Western subterranean termite, *Reticulitermes hesperus* (education).
Western dampwood termite, *Zootermopsis orthocollis* (education).

(k) Crickets and Grasshoppers (Orthoptera).

House cricket, *Acheta domesticus* (education, pet food).
Tropical house cricket, *Gryllodes sigillatus* (education, pet food)

(l) Mantids (Mantodea).

European mantis, *Mantis religiosa* (education, insect biocontrol agent).
Chinese mantis, *Tenodera aridifolia sinensis* (education, insect biocontrol agent).

(m) True Bugs (Hemiptera).

Western boxelder bug, *Boisea rubrolineata* (education).
Western tarnished plant bug, *Lygus hesperus* (education).
Tarnished plant bug, *Lygus lineolaris* (education).
Large milkweed bug, *Oncopeltus fasciatus* (education).
Insidious flower bug, *Orius insidiosus* (insect biocontrol agent).

(n) Plant Lice, Mealybugs, Scales, and Whiteflies (Homoptera).

Bluegreen aphid, *Acyrtosiphon kondoi* (research).
Pea aphid, *Acyrtosiphon pisum* (research).
Cowpea aphid, *Aphis craccivora* (research).
Bean aphid, *Aphis fabae* (research).
Melon or cotton aphid, *Aphis gossypii* (research).
Corn root aphid, *Aphis maidiradicis* (research).
Oleander aphid, *Aphis nerii* (research).
Rose scale, *Aulacaspis rosae* (research).
Foxglove aphid, *Aulacorthum solani* (research).
Cabbage aphid, *Brevicoryne brassicae* (research).
Artichoke aphid, *Capitophorus elaeagni* (research).
Carrot aphid, *Cavariella aegopodii* (research).
Woolly apple aphid, *Eriosoma lanigerum* (research).
Boat gall aphid, *Hayhurstia atriplicis* (research).
Oystershell scale, *Lepidosaphes ulmi* (research).
Turnip aphid, *Lipaphis pseudobrassicae* (research).
Potato aphid, *Macrosiphum euphorbiae* (research).
Rose aphid, *Macrosiphum rosae* (research).
Green peach aphid, *Myzus persicae* (research).
European fruit lecanium, *Parthenolecanium corni* (research).
Longtailed mealybug, *Pseudococcus longispinus* (research).

European fruit scale, *Quadraspidiotus ostreaeformis* (research).

Bird cherry oat aphid, *Rhopalosiphum padi* (research).

Greenbug, *Schizaphis graminum* (research).

English grain aphid, *Sitobion avenae* (research).

Spotted alfalfa aphid, *Therioaphis trifolii* (research).

Greenhouse whitefly, *Trialeurodes vaporariorum* (research).

(o) Thrips (Thysanoptera).

Tobacco thrips, *Frankliniella fusca* (research).
Western flower thrips, *Frankliniella occidentalis* (research).
Predatory six-spotted thrips, *Scolothrips sexmaculatus* (mite biocontrol agent)*.
Gladiolus thrips, *Thrips simplex* (research).
Onion thrips, *Thrips tabaci* (research).

(p) Lacewings (Neuroptera).

Common green lacewing, *Chrysopa carnea* (insect biocontrol agent).

Green lacewing, *Chrysopa rufilabris* (insect biocontrol agent).

(q) Beetles (Coleoptera).

St. Johnswort borer, *Agrilus hyperici* (weed biocontrol agent).

Brown dot leafy spurge flea beetle, *Aphthona cyparissiae* (weed biocontrol agent).

Black dot leafy spurge flea beetle, *Aphthona czwalinae* (weed biocontrol agent).

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Copper or amber leafy spurge flea beetle, *Apthona flava* (weed biocontrol agent).
Brown-legged leafy spurge flea beetle, *Apthona lacertosa* (weed biocontrol agent).
Black dot leafy spurge flea beetle, *Apthona nigricutis* (weed biocontrol agent).
Broad-nosed seed head weevil, *Bangasternus fausti* (weed biocontrol agent).
Yellow star thistle bud weevil, *Bangasternus orientalis* (weed biocontrol agent).
Scotch broom bruchid, *Bruchidius villosus* (weed biocontrol agent).
Pea weevil, *Bruchus pisorum* (education, research).
Cowpea weevil, *Callosobruchus maculatus* (education, research).
Histerid beetle, *Carcinops pumilio* (insect biocontrol agent).
Corn sap beetle, *Carpophilus dimidiatus* (education, research).
Dried fruit beetle, *Carpophilus hemipterus* (education, research).
Canada thistle stem weevil, *Ceutorhynchus litura* (weed biocontrol agent).
Klamathweed beetle, *Chrysolina hyperici* (weed biocontrol agent).
Klamathweed beetle, *Chrysolina quadrigemina* (weed biocontrol agent).
Mealybug destroyer, *Crytolema montrouzieri* (insect biocontrol agent).
Knapweed root weevil, *Cyphocleonus achates* (weed biocontrol agent).
Dermestid beetles, *Dermestes* spp. (education, museum specimen preparation).
Yellow star thistle hairy weevil, *Eustenopus villosus* (weed biocontrol agent).
Scotch broom seed weevil, *Exapion fuscirostre* (weed biocontrol agent).
Gorse seed weevil, *Exapion ulicis* (weed biocontrol agent).
Black-margined loosestrife beetle, *Galerucella californiensis* (weed biocontrol agent).
Golden loosestrife beetle, *Galerucella pusilla* (weed biocontrol agent).
Toadflax seed capsule weevil, *Gymnetron antirrhini* (weed biocontrol agent).
Convergent ladybeetle, *Hippodamia convergens* (insect biocontrol agent).
Loosestrife root weevil, *Hyllobius transversovittatus* (weed biocontrol agent).
Yellow star thistle flower weevil, *Larinus curtus* (weed biocontrol agent).
Lesser knapweed flower weevil, *Larinus minutus* (weed biocontrol agent).
Blunt knapweed flower weevil, *Larinus obtusus* (weed biocontrol agent).
Cigarette beetle, *Lasioderma serricorne* (education, research).
Tansy ragwort flea beetle, *Longitarsus jacobaeae* (weed biocontrol agent).
Toadflax stem weevil, *Mecinus janthinus* (weed biocontrol agent).
Puncturevine seed weevil, *Microalarinus laevis* (weed biocontrol agent).
Puncturevine stem weevil, *Microalarinus lypriformis* (weed biocontrol agent).
Loosestrife seed weevil, *Nanophyes marmoratus* (weed biocontrol agent).
Red-necked leafy spurge stem borer, *Orebra erythrocephala* (weed biocontrol agent).
Bess beetle, *Odontotaenium disjunctus* (education).
Merchant grain beetle, *Orzaephilus mercator* (education).
Sawtoothed grain beetle, *Orzaephilus surinamensis* (education).
Mediterranean sage root weevil, *Phrydiuchus tau* (weed biocontrol agent).
Lesser grain borer, *Rhyzopertha dominica* (education).
Spider mite destroyer, *Stethorus punctillum* (biocontrol).
Granary weevil, *Sitophilus granaria* (education).
Granary weevil, *Sitophilus oryzae* (education).
Bronze knapweed root borer, *Sphenoptera jugoslavica* (weed biocontrol agent).
Drugstore beetle, *Stegobium paniceum* (education).
Yellow mealworm, *Tenebrio molitor* (education, pet food).
Yellow mealworm, *Tenebrio obscurus* (education, pet food).
Cadle, *Tenebroides mauritanicus* (education).
Red flour beetle, *Tribolium castaneum* (education, research).
Confused flour beetle, *Tribolium confusum* (education, research).
Giant mealworm, *Zophobas morio* (education, pet food).

(r) Butterflies and Moths (Lepidoptera).
Sulfur knapweed moth, *Agapeta zoegana* (weed biocontrol agent).
Polypheumus moth, *Antheraea polyphemus* (education)*.
St. Johnswort moth, *Aplocera plagiatra* (weed biocontrol agent).
Silkworm, *Bombyx mori* (education, research).
Almond moth, *Cadra cautella* (research).
Raisin moth, *Cadra figulilella* (research).
Toadflax moth, *Calophasia lunula* (weed biocontrol agent).
Butterworm, *Chilecomadia moorei* (pet food), USDA permit and irradiation required.
Russian thistle or tumbleweed casebearer, *Coleophora klimeschiella* (weed, biocontrol agent).
Russian thistle stem-mining moth or tumbleweed stem moth, *Coleophora parthenica* (weed biocontrol agent).
Orange sulfur or alfalfa caterpillar, *Colias eurytheme* (education, releases).
Mexican jumping bean, *Cydia deshaisiana* (education, pet).
Monarch Butterfly, *Danaus plexippus*, (education, releases)*
*Monarch butterfly importation and release from out-of-state sources is prohibited to allow biogeographical research related to determining why wild monarch populations in Oregon are declining.
Mediterranean meal moth, *Ephestia kuehniella* (education).
Saltmarsh caterpillar, *Estigmene acrea* (education)*.
Greater wax moth, *Galleria mellonella* (education, pet food, research).
Corn earworm/cotton bollworm/tomato fruitworm, *Helicoverpa zea* (research).
Tobacco budworm, *Heliopsis virescens* (research).
Brown house moth, *Hofmannophila pseudospretella* (research).
Ceanothus silk moth, *Hylaphora euryalus* (education, release)*.
Whitelined sphinx moth, *Hyles lineata* (education).
Scotch broom twig miner, *Leucoptera spartifoliella* (weed biocontrol agent).
Tomato hornworm, *Manduca quinque-maculata* (education, research).
Tomato hornworm, *Manduca sexta* (education, research).
Spotted knapweed seedhead moth, *Metzneria paucipunctella* (weed biocontrol agent).
Mourning cloak, *Nymphalis antiopa* (education, release).
Rusty tussock moth, *Orgyia antigua* (research).
Western tiger swallowtail butterfly, *Papilio rutulus* (education, release).
Anise swallowtail butterfly, *Papilio zelicaon* (education, release).
Cabbage white or imported cabbageworm, *Pieris rapae* (education).
Indian meal moth, *Plodia interpunctella* (education, pet food, research).
Meal moth, *Pyralis farinalis* (education, pet food, research).
Woolly bear, *Pyrraretia isabella* (education)*.
Beet Armyworm, *Spodoptera exigua* (research).
Cabbage looper, *Trichoplusia ni* (research).
Cinnabar moth, *Tyria jacobaeae* (weed biocontrol agent).
Red admiral, *Vanessa atlanta* (education, release).
Painted ladies, *Vanessa cardui*, *V. virginiensis* (education, release).
*only from stock collected in the western U.S.

(s) Diptera (Flies).

Aphid predator midge, *Aphidoletes aphidimyza* (insect biocontrol agent).
Ragwort seed head fly, *Botanophila seneciella* (weed biocontrol agent).
Darkwinged fungus gnats, *Bradysia* spp. (research).
Blow and bottle flies, *Calliphora* spp. (education).
Knapweed peacock fly, *Chaetorellia acrolophi* (weed biocontrol agent).
Yellow star thistle peacock fly, *Chaetorellia australis* (weed biocontrol agent).
Mosquito, *Culex* spp. (education, research).
Rush skeletonweed gall midge, *Cystiphora schmidti* (weed biocontrol agent).
Seedcorn maggot, *Delia platura* (research).
Vinegar fly, *Drosophila melanogaster* (education, pet food, research).
Vinegar fly, *Drosophila mohavensis* (education, research).
Vinegar fly, *Drosophila hydei* (education, research).
Vinegar fly, *Drosophila virilis* (education, research).
European hover fly, *Eristalis tenax* (bait).
Black soldier fly, *Hermetia illucens* (composter).
Serpentine leafminer, *Liriomyza brassicae* (research).
Fifth fly parasitoid, *Muscidifurax zaraptor* (insect biocontrol agent).
Fifth fly parasitoid, *Nasonia vitripennis* (insect biocontrol agent).
Grey flesh fly, *Sarcophaga bullata* (education, research).
Fifth fly parasitoid, *Spalangia cameroni* (insect biocontrol agent).
Fifth fly parasitoid, *Spalangia endius* (insect biocontrol agent).
Green clearwing fly, *Terellia virens* (seed biocontrol agent).
Banded gall fly, *Urophora affinis* (seed biocontrol agent).
Canada thistle stem gall fly, *Urophora cardui* (weed biocontrol agent).
UV knapweed seed head fly, *Urophora quadrifasciata* (weed biocontrol agent).
Yellow star thistle gall fly, *Urophora sirunaseva* (weed biocontrol agent).
Bull thistle seed head gall fly, *Urophora stylata* (weed biocontrol agent).

(t) Ants, Bees, and Wasps (Hymenoptera).
Weevil larva parasitoid, *Anisopteromalus calandrae* (insect biocontrol agent).
Aphid parasitoid, *Aphidius aphidimyza* (insect biocontrol agent).
Aphid parasitoid, *Aphidius colemani* (insect biocontrol agent).
Aphid parasitoid, *Aphidius ervi* (insect biocontrol agent).
Aphid parasitoid, *Aphidius matricariae* (insect biocontrol agent).
Italian honeybee, *Apis mellifera ligustica* (pollinator).
European honeybee, *Apis mellifera mellifera* (pollinator).
Bumblebees native to Oregon, e.g. *Bombus vosnesenskii*, *B. appositus*, *B. bifarius*, *B. californicus*, *B. griseocolis*, *B. melanopygus*, *B. mixtus*, *B. nevadensis*, *B. sitkensis* (pollinators).
Egg and larval parasitoid of stored product pests, *Bracon hebetor* (insect biocontrol agent).
Egg and larval parasitoid of stored product pests, *Cotesia plutellae* (insect biocontrol agent).
Whitefly parasitoid, *Encarsia formosa* (insect biocontrol agent).
Whitefly parasitoid, *Eretmocerus californicus* (insect biocontrol agent).
Aphid parasitoid, *Lysiphlebus testaceipes* (insect biocontrol agent).
Alfalfa leafcutter bee, *Megachile rotundata* (pollinator).
Alkali bee, *Nomia melanderi* (pollinator).
Blue orchard bee or mason bee, *Osmia lignaria propinqua* (pollinator).
Harvester ant, *Pogonomyrmex owyheei* (education).
Harvester ant, *Pogonomyrmex salinus* (education).
Parasitoid of Lepidoptera eggs, *Trichogramma minutum* (insect biocontrol agent).
Parasitoid of Lepidoptera eggs, *Trichogramma pretiosum* (insect biocontrol agent).
Parasitoid of Lepidoptera eggs, *Trichogramma platneri* (insect biocontrol agent).
Aphid parasitoid, *Trioxys pallidus* (insect biocontrol agent).
Stat.Auth.: 570.205, 570.210 & 570.215
Stats. Implemented: ORS 570.215
Hist.: DOA 19-2011, f. & cert. ef. 10-13-11; DOA 3-2013, f. & cert. ef. 3-1-13; DOA 2-2014, f. & cert. ef. 2-14-14

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**Department of Agriculture,
Oregon Trawl Commission
Chapter 656**

Rule Caption: Amends commissioner qualifications, chair and other officers, and per diem compensation

Adm. Order No.: OTC 1-2014

Filed with Sec. of State: 1-24-2014

Certified to be Effective: 1-24-14

Notice Publication Date: 1-1-2014

Rules Amended: 656-030-0020, 656-030-0040, 656-040-0010

Subject: OAR 656-030-0010 The Oregon Trawl Commission consists of eight (8) commissioners. The current Administrative Rules under 656-030-0020(2)(c) states "At least one member will be a handler". The change clarifies that two members will be handlers.

OAR 656-030-0020(3) is deleted.

OAR 656-030-0020(4) is renumbered to (3) and revised to update the rule number referenced and to reduce the length of vacancy from one (1) year to 90 days.

OAR 656-030-0040 does not include the office of Secretary-Treasurer. This proposed rule change will add the office of Secretary-Treasurer to the commission. This rule change complies with ORS 576.285.

OAR 656-040-0010(2) changes per diem for commissioners from \$30 to \$100. The 2009 Oregon Legislature approved HB 2458 which

ADMINISTRATIVE RULES

amended ORS 576.265 to exempt commodity commissions from the per diem limits set in ORS 292.495.

Rules Coordinator: Brad Pettinger—(541) 469-7830

656-030-0020

Qualifications of Commissioners

(1) For purposes of this rule:

(a) A “producer” is a person growing or producing within this state or procuring within the state, its rivers or the offshore waters, but not the Columbia River, for commercial handling within the state, a commodity for market, or receiving a share thereof as landowner, landlord, tenant, share-cropper, boat skipper or otherwise. A producer must have paid the commission assessment, if any, on the commodity in each of the preceding three calendar years.

(b) A “handler” is any producer, processor, distributor or other person engaged in handling or marketing of or dealing in the commodity, whether as owner, agent, employee, broker or otherwise. A handler must have collected the commission assessment, if any, each of the preceding three calendar years.

(2) Members of the Oregon Trawl Commission will have the following qualifications, which will continue during the term of office of the member:

(a) One member of the commission will be a member of the public with an active interest in the positive economic development, production and/or marketing of the commodity, but who is not associated with the production or handling of trawl caught products;

(b) A majority of the members will be producers;

(c) Two members will be handlers representing different companies;

(d) All members who are not a handler or the public member will be producers.

(3) If a position remains vacant for more than 90 days following reasonable efforts to recruit a member from a particular region, a person may be appointed at large and may reside anywhere within the State of Oregon.

Stat. Auth.: 2003 OL Ch. 604 & ORS 576

Stats. Implemented: 2003 OL Ch. 604 & ORS 576

Hist.: OTC 1-2003, f. 11-28-03 cert. ef. 1-1-04; OTC 1-2014, f. & cert. ef. 1-24-14

656-030-0040

Chair and Other Officers

Annually, at the first regular meeting of the Commission at the beginning of the new fiscal year, the Commission will elect from its members a Chair, a Vice Chair, and a Secretary-Treasurer who will serve until their successors are elected and qualified. The Chair, Vice Chair or Secretary-Treasurer may resign as such or may be removed from that position by vote of five Commissioners. If the Chair, Vice Chair or Secretary-Treasurer ceases to be a Commissioner, the office will be vacant and a successor will be selected at the next regular meeting of the Commission. The Chair will preside over all meetings of the Commission. The Vice Chair or Secretary-Treasurer will act in lieu of the Chair when the Chair is unable to perform the duties of the office of Chair or while the office is vacant.

Stat. Auth.: 2003 OL Ch. 604 & ORS 576

Stats. Implemented: 2003 OL Ch. 604 & ORS 576

Hist.: OTC 1-2003, f. 11-28-03 cert. ef. 1-1-04; OTC 1-2014, f. & cert. ef. 1-24-14

656-040-0010

Per Diem Compensation

(1) Subject to the availability of funds in the budget of the commission, the Oregon Trawl Commission must pay any member of the commission, other than a member who is employed in full-time public service, compensation for each day or portion thereof during which the member is actually engaged in the performance of official commission duties.

(2) The rate of compensation is \$100 per day or portion thereof, spent on commission business.

(3) In order to receive compensation, a member must submit to the Oregon Trawl Commission a written claim for compensation by the 15th day of the calendar month following the quarter for which the member seeks compensation. The member must specify the amount of time the member spent on official commission duties as well as the nature of the duties performed for any day or portion thereof for which the member claims compensation.

Stat. Auth.: ORS 292.495, 576.206 & 576.416

Stats. Implemented: ORS 292.495, 576.206(7) & 576.265

Hist.: OTC 1-2007, f. 10-2-07, cert. ef. 10-7-07; OTC 1-2014, f. & cert. ef. 1-24-14

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

Rule Caption: Clarifies scope and authority of state building code
Adm. Order No.: BCD 1-2014

Filed with Sec. of State: 1-22-2014

Certified to be Effective: 4-1-14

Notice Publication Date: 8-1-2013

Rules Amended: 918-008-0000

Subject: This rule clarifies the scope and authority of the state building code.

Rules Coordinator: Holly A. Tucker—(503) 378-5331

918-008-0000

Purpose and Scope

(1) The Department of Consumer and Business Services, Building Codes Division, adopts model building codes, standards and other publications by reference, as necessary, through administrative rule to create the state building code. When a matter is included in a specialty code or referenced publication that is in conflict with Oregon Revised Statutes or Oregon Administrative Rules, the statute or rule applies and the code or standard provision does not. All remaining parts or application of the code or standard remain in effect.

(2) Unless required by law, matters generally not authorized for inclusion in a specialty code or referenced standard include, but are not limited to: licensing or certification requirements, or other qualifications and standards for businesses or workers; structures or equipment maintenance requirements; matters covered by federal or state law; and matters that conflict with other specialty codes or publications adopted by the department.

(3) OAR 918-008-0000 to 918-008-0070 provides the process for adopting and amending the state building code that is consistent across all program areas.

(4) The state building code is derived from the most appropriate version of base model codes, which are updated periodically.

(5) The Oregon specialty code amendment process begins approximately midway into a code cycle.

(6) An appropriate advisory board approves or forwards the adoption of the Oregon specialty code and amendments to the Department for adoption.

(7) Notwithstanding sections (3) through (6) of this rule, the division may adopt supplemental code amendments as authorized by OAR 918-008-0028.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 447.020, 455.030 & 479.730

Stats. Implemented: ORS 447.020, 455.030 & 479.730

Hist.: BCD 26-1994, f. & cert. ef. 11-15-94; BCD 6-1997, f. & cert. ef. 4-1-97; BCD 3-2006(Temp), f. & cert. ef. 3-1-06 thru 8-27-06; BCD 9-2006, f. 6-30-06, cert. ef. 7-1-06; BCD 1-2014, f. 1-22-14, cert. ef. 4-1-14

Rule Caption: Creates a provisional general journeyman electrical license category.

Adm. Order No.: BCD 2-2014(Temp)

Filed with Sec. of State: 2-12-2014

Certified to be Effective: 2-12-14 thru 7-31-14

Notice Publication Date:

Rules Adopted: 918-282-0450, 918-282-0455, 918-282-0460

Subject: This temporary rule creates a provisional licensure category that recognizes the qualifications of the State of Washington’s general journey level electricians who have a certificate of completion from a registered State of Washington apprenticeship program.

Rules Coordinator: Holly A. Tucker—(503) 378-5331

918-282-0450

Provisional Electrical Licensure

It is the purpose of these rules to recognize the qualifications of the State of Washington’s General Journey Level Electricians who have a certificate of completion from a registered State of Washington apprenticeship program or a program approved by the Oregon Electrical and Elevator Board. The Oregon Electrical and Elevator Board has determined that the registered State of Washington apprenticeship program is substantially similar to Oregon’s standards, qualifications and examinations required under applicable Oregon statutes and rules. A State of Washington applicant may receive an Oregon general journeyman license in one of the following ways:

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(1) The division, without examination, may issue a provisional general journeyman electrician license to applicants that meet the conditions of this rule and pay the applicable application fee; or

(2) A person may apply for the license in OAR 918-282-0170, by following the application requirements and pass the examination in OAR division 30 and pay the applicable application fee.

Stat. Auth: ORS 455.117 & 479.730
Stat. Implemented: ORS 455.117 & 479.730
Hist.: BCD 2-2014(Temp), f. & cert. ef. 2-12-14 thru 7-31-14

918-282-0455

Application Process

For the purposes of this rule:

(1) Applicants for a provisional electrical license must apply on a division-approved form.

(2) The application must include:

(a) Applicant name and home address;

(b) Appropriate application fees; and

(c) Verification of training, work experience and other required documentation.

(3) Verification referenced in subsection (2)(c) above includes:

(a) Submitting proof of qualifying criteria as required by the appropriate rules and in the manner established by this rule.

(b) Submitting training and experience verification as follows:

(A) Copy of valid general journey level electrician certification issued by the State of Washington Department of Labor and Industries. The certificate must be current and in good standing with no history of violations; or

(B) Copy of master electrician's certificate issued by the State of Washington Department of Labor and Industries. The certificate must be current and in good standing with no history of violations; and

(C) Copy of certificate of completion from a registered State of Washington apprenticeship program or program approved by the Oregon Electrical and Elevator Board.

Stat. Auth: ORS 455.117 & 479.730
Stat. Implemented: ORS 455.117 & 479.730
Hist.: BCD 2-2014(Temp), f. & cert. ef. 2-12-14 thru 7-31-14

918-282-0460

Effective Dates

(1) The division may discontinue receipt of applications for provisional general journeyman electrician license applications issued under OAR 918-282-0450 and 918-282-0455 on July 1, 2014.

(2) All provisional electrical licenses issued under this rule are valid 3 years from the date of issuance and are not eligible for renewal.

(3) OAR 918-282-0455 expires on July 31, 2014 unless modified by another rule.

(4) OAR 918-282-0450 to 918-282-0460 are repealed effective July 1, 2017.

Stat. Auth: ORS 455.117 & 479.730
Stat. Implemented: ORS 455.117 & 479.730
Hist.: BCD 2-2014(Temp), f. & cert. ef. 2-12-14 thru 7-31-14

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

Rule Caption: Sets minimum number of times directors of financial institutions must meet.

Adm. Order No.: FCS 1-2014

Filed with Sec. of State: 2-12-2014

Certified to be Effective: 2-12-14

Notice Publication Date: 1-1-2014

Rules Adopted: 441-505-2000

Subject: Like any corporation, the board of directors appointed to direct and control the overall affairs of a banking institution (i.e., certain state-chartered banks) meets according to the terms of the institution's bylaws or articles of incorporation. However, unlike other corporations, the Oregon Bank Act (ORS chapters 706 to 716) specifies the default frequency of board meetings. Prior to 2013, boards of directors of banking institutions met at least once a month. Banking institutions could obtain approval from the Director of the Department of Consumer and Business Services to meet once every calendar quarter. In 2013, the Legislature adopted changes to the Oregon Bank Act through the passage of HB 2070. Among the changes in the bill, the Bank Act now requires the Director of the

Department of Consumer and Business Services to set the frequency of board meetings by rule. This permanent rulemaking activity sets the minimum number of regularly-scheduled meetings as four times per year, with flexibility by the Director to require additional meetings if needed to meet the unique situation of a particular banking institution.

Rules Coordinator: Shelley Greiner—(503) 947-7484

441-505-2000

Regular Meetings of Banking Institution Board of Directors

(1) For purposes of this rule:

(a) "Regular meeting" means a meeting established by the banking institution's bylaws or by board resolution that fix the time, date and location of the meeting on a re-occurring basis.

(b) "Special meeting" means a meeting not held on a re-occurring basis and under notice given to the board of directors consistent with the banking institution's articles of incorporation or the bylaws.

(2) The board of directors of a banking institution shall hold a minimum of four regular meetings during each calendar year. No more than 100 days shall pass between any two regular meetings.

(3) Notwithstanding section (2) of this rule, if the director reasonably believes that the condition of a banking institution warrants additional regular meetings, the director may require the banking institution to hold regular board meetings at a frequency to be determined by the director. The director may also require the institution's board of directors to convene special meetings as necessary.

Stat. Auth.: ORS 707.670
Stat. Implemented: ORS 707.670
Hist.: FCS 1-2014, f. & cert. ef. 2-12-14

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Department of Consumer and Business Services, Insurance Division Chapter 836

Rule Caption: Clarifies guaranteed issue requirements for health benefit plans.

Adm. Order No.: ID 2-2014(Temp)

Filed with Sec. of State: 2-4-2014

Certified to be Effective: 2-4-14 thru 7-31-14

Notice Publication Date:

Rules Amended: 836-053-0431

Subject: The amendments to OAR 836-053-0431(1) and (2) clarify that carriers that issue individual health benefit plans must offer and provide individual health benefit plan coverage to applicants (1) who are 65 or older unless such persons are enrolled in Medicare or (2) applying for coverage outside of the Oregon Health Insurance Exchange without regard to the legal status of a person.

Rules Coordinator: Victor Garcia—(503) 947-7260

836-053-0431

Underwriting, Enrollment and Benefit Design

(1) A carrier must offer all of its approved nongrandfathered individual health benefit plans and plan options, including individual plans offered through associations, to all individuals eligible for such plans on a guaranteed issue basis without regard to health status, age, immigration status or lawful presence in the United States. Except as provided in section (2) of this rule:

(a) For individual health benefit plans approved by October 1 of each calendar year for sale in the following calendar year, a carrier may limit enrollment to:

(A) October 1, 2013 to March 31, 2014 for coverage effective in 2014;

(B) November 15, 2014 through January 15, 2015 for coverage effective in 2015; and

(C) October 15 to December 7 of each preceding calendar year for coverage effective on or after January 1, 2016; and

(b) Coverage must be effective consistent with the dates described in 45 CFR 155.410(c) and (f).

(2)(a) Notwithstanding section (1) of this rule, a carrier must deny enrollment under the following circumstances:

(A) To an individual who is not lawfully present in the United States in a plan provided through the Oregon Health Insurance Exchange Corporation.

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(B) To an individual entitled to benefits under a Medicare plan under part A or B or a Medicare Choice or Medicare Advantage plan described in 42 USC 1395W-21, if and only if the individual is enrolled in such a plan.

(b) A carrier must enroll an individual who, within 60 days before application for coverage with the carrier:

(A) Loses minimum essential coverage. Loss of minimum essential coverage does not include termination or loss due to failure to pay premiums or rescission as specified in 45 CFR 147.128. The effective date of coverage for the loss of minimum essential must be consistent with the requirements of 45 CFR 155.420(b)(1).

(B) Gains a dependent or becomes a dependent through marriage, birth, adoption or placement for adoption or foster care. The effective date for coverage for enrollment under this paragraph must be:

(i) In the case of marriage, no later than the first day of the first calendar month following the date the carrier receives the request for special enrollment.

(ii) In the case of birth, on the date of birth.

(iii) In the case of adoption or placement for adoption or foster care, no later than the date of adoption or placement for adoption or foster care.

(iv) Experiences a qualifying event as defined under section 603 of the Employee Retirement Income Security Act of 1974, as amended.

(D) Experiences an event described in 45 CFR 155.420(d)(4), (5), (6), or (7). The effective date of coverage for enrollment under this paragraph must be:

(i) For 45 CFR 155.420(d)(4) or (d)(5), consistent with the requirements of 45 CFR 155.420(b)(2)(iii).

(ii) For 45 CFR 155.420(d)(6) or (d)(7), consistent with the requirements of 45 CFR 155.420(b)(1).

(E) Loses eligibility for coverage under a Medicaid plan under title XIX of the Social Security Act or a state child health plan under title XXI of the Social Security Act. The effective date of coverage for enrollment under this paragraph must be consistent with the requirements of 45 CFR 155.420(b)(1).

(3) Notwithstanding section (1)(a)(A) of this rule, a carrier must enroll an individual who is enrolled in an individual health benefit plan with a policy year that terminates after March 31, 2014 if the individual applies for coverage within 30 calendar days before the end of the individual's individual health benefit plan policy year. This subsection does not require a carrier to enroll an individual enrolled in an individual health benefit plan with a policy year that ends after December 31, 2014 if enrollment is not otherwise required under section (1) or (2) of this rule. The effective date of coverage for enrollment under this subsection must be effective consistent with the requirements of 45 CFR 155.420(b)(1).

(4) Except as permitted under a preexisting condition provision of a grandfathered individual plan, a carrier may not modify the benefit provisions of an individual health benefit plan for any enrollee by means of a rider, endorsement or otherwise for the purpose of restricting or excluding coverage for medical services or conditions that are otherwise covered by the plan.

(5) A carrier may offer wrap-around occupational coverage to an accepted individual health benefit plan applicant.

(6) A carrier may impose an individual coverage waiting period on the coverage of certain new enrollees in a grandfathered individual health benefit plan in accordance with ORS 743.766. The terms of the waiting period must be specified in the policy form and enrollee summary. The waiting period may apply only when the carrier has determined that the enrollee has a preexisting health condition warranting the application of a waiting period through evaluation of the form entitled "Oregon Individual Standard Health Statement" as set forth on the website of the Insurance Division of the Department of Consumer and Business Services at www.insurance.oregon.gov.

(7) A carrier may treat a request by an enrollee in an individual health benefit plan to enroll in another individual plan as a new application for coverage.

(8) Unless otherwise required by law, a carrier must implement a modification of a nongrandfathered individual health benefit plan required by statute on the next anniversary or fixed renewal date of the plan that occurs on or after the operative date of the statutory provision requiring the modification.

(9) For a grandfathered individual health benefit plan:

(a) Unless otherwise required by law, a carrier must implement a modification required by statute on the first day of the calendar year that occurs on or after the operative date of the statutory provision requiring the modification.

(b) A carrier must eliminate and deem ineffective a rider or endorsement in effect for an enrollee based on the actual or expected health status of the enrollee and that excludes coverage for diseases or medical conditions otherwise covered by the plan as of the next renewal date;

(c) If an enrollee who is subject to a preexisting condition provision has a rider or endorsement eliminated in accordance with subsection (a) of this section, the enrollee's medical condition that is subject to the rider or endorsement may be subject to the preexisting conditions provision of the plan, including the prior coverage credit provisions;

(10) In accordance with applicable federal law, a carrier may not deny continuation or renewal of an individual health benefit plan based on Medicare eligibility of an individual but an individual health benefit plan may contain a Medicare non-duplication provision.

(11) Violation of this rule is an unfair trade practice under ORS 746.240.

Stat. Auth.: ORS 731.244, 743.745 & 743.769

Stats. Implemented: ORS 743.745 & 743.766 - 743.769

Hist.: ID 12-2013, f. 12-31-13, cert. ef. 1-1-14; ID 2-2014(Temp), f. & cert. ef. 2-4-14 thru 7-31-14

Rule Caption: Adoption of Annual and Supplemental Statement Blanks and Instructions for Reporting Year 2013

Adm. Order No.: ID 3-2014

Filed with Sec. of State: 2-14-2014

Certified to be Effective: 2-14-14

Notice Publication Date: 1-1-2014

Rules Amended: 836-011-0000

Subject: This rulemaking prescribes, for reporting year 2013, 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: Victor Garcia—(503) 947-7260

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 2013 reporting year on the annual statement blank approved for the 2013 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 2013 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 2013 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 rule 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 at web.inscomp@state.or.us.

(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; ID 3-2014, f. & cert. ef. 2-14-14

Rule Caption: Health Insurer Segregation of Premium Accounting Methodology

Adm. Order No.: ID 4-2014

Filed with Sec. of State: 2-14-2014

Certified to be Effective: 2-14-14

ADMINISTRATIVE RULES

Notice Publication Date: 12-1-2013

Rules Adopted: 836-011-0050

Subject: This permanent rule replaces temporary rule OAR 836-011-0050(T).

This rule brings the Insurance Division into compliance with Section 1303 of the Affordable Care Act (Pub. L. 111-148, 2010) requirements. That federal law requires health insurers to establish separate accounts that segregate federal subsidy funding for essential health benefits of a health benefit plan from other premium funds received from persons who enroll through the Oregon Health Insurance Exchange for coverage that may exceed the essential health benefits. The section also requires inclusion of notice of the fund segregation in the summary of benefits and coverage explanation. Section 1303 (b)(E)(i) places the obligation to ensure compliance with the segregation requirements on state insurance regulators. This rule is necessary for the Insurance Division to comply with the Affordable Care Act's requirements in this regard. The rule requires a health insurer to obtain the approval of the Oregon Insurance Commissioner of the accounting methodology the insurer will use to segregate the accounting. The proposed rules also requires health insurer to file certain information and imposes additional reporting requirements related to the segregated accounts with the insurer's annual financial statement.

Rules Coordinator: Victor Garcia—(503) 947-7260

836-011-0050

Requirements for Segregation of Premium Received for Coverage Not Eligible for Federal Subsidies

(1) As used in this rule, "health insurer" means any insurer, fraternal benefit society, health maintenance organization or health care service contractor authorized to transact health insurance in Oregon and offering health benefit plans through the Oregon Health Insurance Exchange.

(2) All domestic, foreign or alien health insurers must:

(a) Submit an annual assurance statement attesting that the insurer complies with the requirement of section 1303 of the Affordable Care Act; and

(b) If the health benefit plan provides coverage of services that are not eligible for federal funds furnished in the form of premium tax credits or cost-sharing reductions, the health insurer also must comply with sections (3) to (11) of this rule.

(3) In addition to submitting an annual assurance statement, a health insurer that offers a health benefit plan that provides coverage of services that are not eligible for federal funds furnished in the form of premium tax credits or cost-sharing reductions must obtain the prior written approval of the Director of the Department of Consumer and Business Services of the health insurer's accounting practice methodology for segregating premium allocated to a termination of pregnancy benefit. This requirement applies only to qualified insurers certified through the Oregon Health Insurance Exchange Corporation, for qualified health plans issued on the Oregon Health Insurance Exchange.

(4) The accounting methodology required under section (3) of this rule must:

(a) Describe the accounting practices the insurer will use to ensure segregation of federal funds for premium and claims for nonexcepted termination of pregnancy benefits from other premium received from an enrollee who receives a premium tax benefit or cost-sharing subsidy pursuant to enrollment through the Oregon Health Insurance Exchange;

(b) Allocate the two types of premium to separate accounts (allocation accounts);

(c) Ensure that claims for the nonexcepted termination of pregnancy benefit are not paid from an allocation account into which federal funds are placed; and

(d) Ensure strict separation of funds between the allocation accounts, and include at least one allocation account solely for the deposit of private premium dollars used to pay for abortion coverage, and a second allocation account to process premium dollars paid for all other covered benefits.

(5) This rule does not require an insurer to conduct two separate premium transactions with enrollees. For purposes of approval by the director, the segregation of premium may occur solely as an accounting transaction.

(6) A health insurer must submit its proposed methodology to the director in writing more than thirty days before the proposed effective date for implementing the methodology. The insurer may not implement the

methodology until the director approves the plan in writing. For good cause, the director may reduce the time period.

(7) A health insurer may not implement any changes or amendments to its accounting methodology prior to receiving the director's written approval.

(8) Instructions as to how and where an insurer must send its request for approval of its segregation of premium accounting plan may be found on the Oregon Insurance Division web site at www.insurance.or.gov.

(9) An insurer submitting a proposed accounting methodology under this rule must include the following information:

(a) The proposed effective date and the date of the first filed financial statement in which the proposed segregated account will be reported;

(b) A description of accounting systems for processing premium payments for products on the Oregon Health Insurance Exchange that includes termination of pregnancy benefits, including:

(A) The financial accounting systems, including documentation and internal controls, to ensure the appropriate segregation of payments received for coverage of nonexcepted termination of pregnancy benefits from those received for coverage of all other services, which may be supported by federal premium tax credits and cost-sharing reduction payments;

(B) The financial accounting systems, including accounting documentation and internal controls, that ensure that all expenditures for nonexcepted termination of pregnancy benefits are reimbursed from the appropriate allocation account; and

(C) An explanation of how the insurer's systems, including accounting documentation and internal controls meet the requirements for segregation accounts under the law.

(10) After an accounting methodology for segregating premium has been approved, an insurer must file with its annual statement filed with the director on or before March 1st of each year all of the following:

(a) Certification that the insurer is certified as a qualified insurer through the exchange.

(b) An annual supplemental information schedule containing a reconciliation of all segregated account activity (beginning balance + receipts - disbursements = ending balance) for the year. The annual supplemental information schedule shall be electronically filed with the director in PDF format in compliance with the form and instructions contained on the Oregon Insurance Division web site.

(c) The annual supplemental information schedule shall contain an affirmation of the insurer's chief executive officer and chief financial officer (or equivalent position and title) that the financial accounting systems, including accounting documentation and internal controls, of the segregated account covered by the annual supplemental information schedule meet the requirements for segregated accounts under the P.L. 111-148 (111th Congress, 2010).

(d) In addition to all other requirements of opinions, the annual audit of insurers conducted by independent certified public accountants and filed in accordance with OAR 836-011-0120 shall include an opinion on whether the supplementary information contained in the annual supplemental information schedule is fairly stated, and, if the segregated accounts financial accounting systems, including documentation and internal controls, comply with the requirements of the P.L. 111-148 (111th Congress, 2010). The certified public accountant's report must be filed with the insurer's annual audited financial statement filed with the director.

(e) A statement of the amount of premium segregated for each product offered on the Oregon Health Insurance Exchange, calculated as if the coverage were included for the entire population of enrollees. The amount of premium must not be less than one dollar per enrollee, per month.

(f) The number of enrollees, by plan for the benefit year, for whom premium was segregated pursuant to this rule, P.L. 111-148 (111th Congress, 2010), at Section 1303 (b)(2)(B) and (C), and 45 C.F.R. Sec. 156.280.

(11) The director may periodically audit insurers and each product subject to this rule to verify compliance. The director will retain working papers and periodic audit reports for a period of not less than three years, and may make the reports available to the Oregon Health Insurance Exchange Corporation or the U.S. Department of Health and Human Services upon request.

Stat. Auth.: ORS 731.244 & 743.758

Stats. Implemented: ORS 743.758

Hist.: ID 5-2013(Temp), f. & cert ef. 11-5-13 thru 4-30-14; ID 4-2014, f. & cert. ef. 2-14-14

ADMINISTRATIVE RULES

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

Rule Caption: Amendment of rules governing electronic data interchange for reporting medical bill data

Adm. Order No.: WCD 1-2014

Filed with Sec. of State: 2-14-2014

Certified to be Effective: 7-1-14

Notice Publication Date: 1-1-2014

Rules Amended: 436-160-0410

Subject: OAR 436-160, "Electronic Data Interchange; Medical Bill Data," Appendix A, has been revised:

The following data elements have been added to Loop ID 2010 BA, with the requirement code, "AA" (If Applicable/Available with Item Accept if Invalid).

0019 N301 EMPLOYER PHYSICAL PRIMARY ADDRESS
0020 N302 EMPLOYER PHYSICAL SECONDARY ADDRESS
0021 N401 EMPLOYER PHYSICAL CITY
0022 N402 EMPLOYER PHYSICAL STATE CODE
0023 N403 EMPLOYER PHYSICAL POSTAL CODE
0164 N404 EMPLOYER PHYSICAL COUNTRY CODE

The following data element has been added to Loop ID 2010 CA, with the requirement code "AA" for correction and replacement transactions, and "NA" for other transaction types.

0015 REF02 REPLACEMENT CLAIM ADMINISTRATOR CLAIM NUMBER

In Loop ID 2300, for data element DN 0504, "FACILITY CODE," the requirement code for an institutional SV2 cancellation has been changed from "NA," to "F" (fatal technical).

Rules Coordinator: Fred Bruyns—(503) 947-7717

436-160-0410

Electronic Medical Bill Data Transmission and Format Requirements

(1) The transmission data and format requirements are included in the IAIABC EDI Implementation Guide for Medical Bill Payment Records, Release 2.0, dated Feb 1, 2013, and Appendices A and B of these rules. Oregon-specific information can be found on the division's Electronic Data EDI webpage: <http://www.cbs.state.or.us/wcd/operations/edi/ediindex.html>.

(2) Data elements are listed in Appendices A and B:

(a) Appendix A shows all medical bill data elements accepted by EDI in Oregon, and whether the data element is "Fatal Technical" (F), "Mandatory" (M), "Mandatory Conditional" (MC), "If Applicable/Available with Item Reject if Invalid" (AR), or "If Applicable/Available with Item Accept if Invalid" (AA) for each transaction type.

(b) Appendix B lists mandatory conditional data elements that are mandatory under specific conditions.

(3) Unless otherwise provided in these rules, the data elements must have the meaning provided in the IAIABC EDI Implementation Guide for Medical Bill Payment Records, Release 2.0, dated Feb. 1, 2013, Section 2; Health Care Claim (837).

(4) Transactions will be rejected if "Fatal Technical," "Mandatory," or "Mandatory Conditional" data elements are omitted, or include invalid values.

(5) Transactions will be rejected if "If Applicable/Available with Item Reject if Invalid" data elements include invalid values.

(6) Invalid "If Applicable/Available with Item Accept if Invalid" data elements will be ignored if they are included in a transaction.

[ED. NOTE: Appendices are available from the agency.]

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.264

Hist.: WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 4-2008, f. 9-17-08, cert. ef. 7-1-09; WCD 2-2009, f. 10-5-09 cert. ef. 1-1-10; WCD 7-2010, f. 10-1-10, cert. ef. 1-1-11; WCD 6-2013, f. 10-10-13, cert. ef. 7-1-14; WCD 1-2014, f. 2-14-14, cert. ef. 7-1-14

Department of Corrections Chapter 291

Rule Caption: Inmate Grievances Regarding Allegations of Sexual Abuse

Adm. Order No.: DOC 3-2014(Temp)

Filed with Sec. of State: 1-17-2014

Certified to be Effective: 1-17-14 thru 7-16-14

Notice Publication Date:

Rules Adopted: 291-109-0200

Rules Amended: 291-109-0180

Rules Suspended: 291-109-0125

Subject: The Prison Rape Elimination Act (PREA) was passed unanimously by Congress and signed into law by President Bush in 2003. The U.S. Department of Justice finalized and published national PREA standards (28 C.F.R. Part 115) for all prisons, jails, lockups, and detention facilities in the United States in 2012. The final rule adopts national standards to prevent, detect, and respond to incidents of sexual violence, sexual coercion and sexual solicitation. These rule modifications are necessary to ensure ODOC administrative rules for processing of inmate grievances regarding allegations of sexual abuse align with the national PREA standards. Note: This is being refiled to correct a filing error.

Rules Coordinator: Janet R. Worley—(503) 945-0933

291-109-0125

Methods of Reporting Sexual Contact

(1) Inmates should immediately report incidents of information regarding sexual contact between staff and an inmate to a trusted staff or use the Inspector General's hotline number or both.

(2) Inmates with information or concerns regarding sexual contact between staff and an inmate may also use the inmate grievance review system.

(3) The Inspector General's hotline number is posted throughout Department of Corrections facilities.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 3-2011, f. 2-23-11, cert. ef. 3-1-11; Suspended by DOC 16-2013(Temp), f. & cert. ef. 12-13-13 thru 6-11-14; Suspended by DOC 3-2014(Temp), f. & cert. ef. 1-17-14 thru 7-16-14

291-109-0180

Abuse of Grievance Review System

(1) An inmate shall submit no more than two inmate grievances in any one week or six in any calendar month. This will not apply to grievances regarding allegations of sexual abuse. A week is defined as Sunday through Saturday. Grievances submitted in excess of two grievances in any one-week or six in any calendar month will be denied and returned to the inmate, noting that he/she has abused the grievance review system.

(2) If a life, health or safety situation arises whereby there is valid reason to submit more than two grievances in one week or six in a calendar month, the inmate must clearly state in writing the reason for submission of the grievance above the number allowed. If the grievance coordinator determines that these reasons are not clear, concise or valid for submission of an additional grievance, the grievance will be returned to the inmate denied.

(3) Actions taken against an inmate who has abused the grievance review system under these rules are not grievable.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 3-2003, f. 2-13-03, cert. ef. 3-1-03; Renumbered from 291-109-0140(6), DOC 13-2006, f. 10-18-06, cert. ef. 11-1-06; DOC 3-2011, f. 2-23-11, cert. ef. 3-1-11; DOC 16-2013(Temp), f. & cert. ef. 12-13-13 thru 6-11-14; DOC 3-2014(Temp), f. & cert. ef. 1-17-14 thru 7-16-14

291-109-0200

Grievance Regarding Allegations of Sexual Abuse

(1) For purposes of this rule sexual abuse is defined as sexual abuse of an inmate by another inmate and sexual abuse of an inmate by a staff member.

(a) Sexual abuse of an inmate by another inmate includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

(A) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

(B) Contact between the mouth and the penis, vulva, or anus;

(C) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object or other instrument; and

(D) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

(b) Sexual abuse of an inmate by a staff member, contractor or volunteer includes any of the following acts, with or without consent of the inmate, detainee, or resident:

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(A) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;

(B) Contact between the mouth and the penis, vulva, or anus;

(C) Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse or gratify sexual desire;

(D) Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;

(E) Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks that is unrelated to the official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse or gratify sexual desire;

(F) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described by paragraphs (A)–(E) of this section;

(G) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and

(H) Voyeurism by a staff member, contractor, or volunteer. Voyeurism by a staff member, contractor or volunteer means an invasion of privacy of an inmate by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

(2) Grievances alleging sexual abuse must be submitted to the functional unit grievance coordinator on the departments approved inmate grievance form (CD117). The grievance should have the words "sexual abuse grievance" clearly written on the top of the grievance form.

(3) There is no time limit on when an inmate may submit a grievance regarding an allegation of sexual abuse.

(4) Third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, shall be permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of inmates.

(a) If a third party files such a request on behalf of an inmate, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process.

(b) If the inmate declines to have the request processed on his or her behalf, the agency shall document the inmate's decision.

(5) The grievance coordinator may not refer a grievance alleging sexual abuse to a staff member who is the subject of the grievance. The grievance coordinator will coordinate with the appropriate manager by sending the grievance and a grievance response form (CD 117b) to the manager respondent for reply.

(6) An inmate may appeal the initial grievance response using the grievance appeal form (CD 117c). The appeal must be submitted to the grievance coordinator together with the original grievance, attachments and manager's response.

(7) The department shall issue a final decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance.

(a) Computation of the 90-day time period shall not include time consumed by inmates in preparing any administrative appeal.

(b) The department may claim an extension of time to respond, of up to 70 days, if the normal time period for response is insufficient to make an appropriate decision. The department shall notify the inmate in writing of any such extension and provide a date by which a decision will be made.

(c) At any level of the administrative process, including the final level, if the inmate does not receive a response within the time allotted for reply, including any properly noticed extension, the inmate may consider the absence of a response to be a denial of the allegations made by the inmate at that level.

(8) An inmate who alleges that he or she is subject to a substantial risk of imminent sexual abuse may provide the grievance directly to the officer-in-charge (OIC) or the OIC's designee.

(a) After receiving an emergency grievance alleging an inmate is subject to a substantial risk of imminent sexual abuse, the OIC or the OIC's designee shall immediately review and take immediate corrective action as necessary to mitigate the risk of sexual assault.

(b) The OIC or the OIC's designee shall provide the emergency grievance and the initial response to the inmate and the grievance coordinator within 48 hours of the submission of the grievance.

(c) The grievance coordinator will issue to the inmate a final response to the emergency grievance within five days of the submission of the emergency grievance,

(d) The initial and final responses shall document the department's determination whether the inmate is in substantial risk of imminent sexual abuse and any action, if necessary, taken in response to the emergency grievance.

Stat Auth: ORS 179.040, 423.020, 423.030 and 423.075

Stat Impl: ORS 179.040, 423.020, 423.030 and 423.075

Hist.: DOC 16-2013(Temp), f. & cert. ef. 12-13-13 thru 6-11-14; DOC 3-2014(Temp), f. & cert. ef. 1-17-14 thru 7-16-14

Rule Caption: Earned Time Credits for Crimes Committed on or after July 1, 2013

Adm. Order No.: DOC 4-2014(Temp)

Filed with Sec. of State: 1-17-2014

Certified to be Effective: 1-17-14 thru 7-16-14

Notice Publication Date:

Rules Adopted: 291-097-0231

Subject: This temporary rule is necessary to establish by administrative rule changes made to ORS 421.121 with regard to earned time credits from 2010 legislation (SB 1007) that went into effect on July 1, 2013. Inmates serving sentences for crimes committed on or after July 1, 2013 may earn sentence reduction credits up to 20 percent. Some inmates are not eligible for any earned time credits, including inmates serving a sentence for a Measure 11 crime (mandatory minimum). Note: This is being refiled to correct a filing error.

Rules Coordinator: Janet R. Worley—(503) 945-0933

291-097-0231

Earned Time Credits for Crimes Committed on or after July 1, 2013

(1) Pursuant to ORS 421.121, inmates with crimes committed on or after July 1, 2013, may earn sentence reduction credits up to 20 percent of the total sentencing guidelines prison term imposed for acceptable participation in case plan requirements and for maintaining appropriate institution conduct, except inmates:

(a) Serving a sentence subject to ORS 137.635;

(b) Serving presumptive sentences or required incarceration terms under ORS 161.737;

(c) Serving statutory minimum sentences under ORS 137.700 or 137.707;

(d) Serving a presumptive sentence under ORS 137.719;

(e) Subject to ORS 137.750 and whose judgment does not state that the inmate may be considered for sentence reductions;

(f) Serving time as a sanction for violation of conditions of post prison supervision;

(g) Serving a mandatory minimum incarceration term of 90 days under ORS 813.011(3) for Felony Driving under the Influence of Intoxicants under ORS 813.010(5)(a) and 813.011 committed on or after December 2, 2010; or

(h) Subject to any other Oregon statutes restricting earned time credits.

(2) In determining whether an inmate will receive earned time credits for the review period under consideration, inmate performance will be evaluated in two areas: half credit for compliance with the Case Plan and half credit for maintaining appropriate institution conduct. The only possible determination for each area is noncompliance or compliance.

Stat. Auth: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030, 423.075

Stats. Impl: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030, 423.075

Hist.: DOC 17-2013(Temp), f. & cert. ef. 12-13-13 thru 6-11-14; DOC 4-2014(Temp), f. & cert. ef. 1-17-14 thru 7-16-14

Rule Caption: Cross-gender searches and searches of transgender and intersex inmates in ODOC custody

Adm. Order No.: DOC 5-2014(Temp)

Filed with Sec. of State: 1-17-2014

Certified to be Effective: 1-17-14 thru 7-16-14

Notice Publication Date:

Rules Adopted: 291-041-0018

Rules Amended: 291-041-0020

ADMINISTRATIVE RULES

Subject: The Prison Rape Elimination Act (PREA) was passed unanimously by Congress and signed into law by President Bush in 2003. The U.S. Department of Justice finalized and published national PREA standards (28 C.F.R. Part 115) for all prisons, jails, lockups, and detention facilities in the United States in 2012. The final rule adopts national standards to prevent, detect, and respond to incidents of sexual violence, sexual coercion and sexual solicitation. These rule modifications are necessary to ensure ODOC administrative rules for conducting cross-gender searches and searches of transgender and intersex inmates align with the national PREA standards. Note: This is being refiled to correct a filing error.

Rules Coordinator: Janet R. Worley—(503) 945-0933

291-041-0018

Training

The department shall train staff assigned to supervise inmates in how to conduct cross-gender pat-down searches, and searches of transgender and intersex inmates, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

Stat. Auth.: ORS 179.040, 423.020, 423.030 and 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 5-2013(Temp), f. & cert. ef. 12-13-13 thru 6-11-14; DOC 5-2014(Temp), f. & cert. ef. 1-17-14 thru 7-16-14

291-041-0020

Inmates

(1) Search of inmates, living units, work areas, other places they inhabit or frequent, and their property will be conducted regularly on an unannounced and unscheduled basis.

(2) An inspection of each cell, room or dormitory area will occur prior to occupancy by a new inmate.

(3) In conducting searches of an inmate's living unit, place of work, or other places frequented or inhabited, the employee conducting the search will be expected to leave the search area in an orderly and neat condition. Care will be exercised to ensure that authorized property is not damaged or disposed of.

(4) Inmates may be subject to search at any time; but no more frequently than is necessary to control contraband or to recover stolen or missing property. However, all inmates will be subject to a search on each occasion before and after they leave a Department of Corrections facility, and on each occasion before and after visits, entering or exiting special housing units and before or after contact with persons outside the facility.

(5) The type of search administered will avoid unnecessary force, embarrassment, or indignity to the inmate. Non-intrusive sensors and inspection devices may be used when appropriate.

(6) Frisk Searches: Inmates may be searched only by authorized Department of Corrections personnel or a sworn police officer in the performance of his/her official duty. Cross-gender frisk searches of female inmates will not occur unless there is an emergency, and shall be documented.

(7) Skin Searches: Skin searches conducted by DOC staff will be of the same gender as the inmate, unless there is an emergency. Except in emergencies, inmates undergoing skin searches will be removed to a private area for the search.

(a) The facility shall document all strip searches to include cross-gender and cross-gender visual body cavity searches.

(b) The facility shall not search or physically examine a transgender or intersex inmate for the sole purpose of determining the inmate's genital status.

(c) If the inmate's genital status is unknown, it may be determined during conversations with the inmate, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

(8) Visual inspections for security reasons may be conducted by authorized personnel. All internal examinations must be conducted by medical personnel only upon authorization of the functional unit manager or the officer-of-the-day and only when there is reasonable suspicion as defined in OAR 291-041-0010(16) to justify the search. The inmate's written consent will not be required; however, an internal search will not be conducted if it could result in injury to the inmate or the personnel conducting the search.

(9) Hair:

(a) If staff need to conduct a hair search, it may be necessary to require the inmate to unbraided, loosen or cut the hair to complete the search.

(b) The inmate will be given an adequate amount of time to unbraided or loosen the hair.

(c) An inmate who refuses to unbraided or loosen the hair is subject to disciplinary action in accordance with the rule on Prohibited Inmate Conduct and Processing of Disciplinary Actions (OAR 291-105).

(d) If the inmate is unable to unbraided or loosen the hair so a search can be accomplished, staff shall conduct the search if possible in the least intrusive manner (e.g., hand wand, visual inspection, etc.). At no time shall staff cut an inmate's hair to complete a search WITHOUT approval of the functional unit manager or officer-of-the-day.

(e) If an inmate's hair creates a significant security or operational concern, a religious sincerity test may be conducted as outlined in DOC policy on Searching of Dreadlocks (90.2.1). Based on the results of the sincerity test, the functional unit manager or designee will determine what further action shall be taken.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 42-1978, f. 12-19-78, ef. 12-20-78; CD 3-1980(Temp), f. & ef. 3-5-80; CD 24-1980, f. & ef. 7-3-80; CD 42-1981, f. & ef. 10-30-81; CD 36-1983(Temp), f. & ef. 10-14-83; CD 11-1984, f. & ef. 4-11-84; CD 46-1985, f. & ef. 8-16-85; CD 12-1989, f. & cert. ef. 6-30-89; CD 4-1991, f. & cert. ef. 1-22-91; DOC 2-2008, f. 2-1-08, cert. ef. 2-4-08; DOC 5-2013(Temp), f. & cert. ef. 12-13-13 thru 6-11-14; DOC 5-2014(Temp), f. & cert. ef. 1-17-14 thru 7-16-14

Rule Caption: Change in Classification System for Assigning Custody Levels to Inmates in DOC Custody

Adm. Order No.: DOC 6-2014(Temp)

Filed with Sec. of State: 2-6-2014

Certified to be Effective: 2-12-14 thru 8-11-14

Notice Publication Date:

Rules Amended: 291-104-0111, 291-104-0116, 291-104-0125, 291-104-0135, 291-104-0140

Subject: These modifications are necessary to update the policy and procedures of the classification system for assigning inmates with the appropriate custody level, and to provide clarification for scoring the custody classification guide. Within the custody classification guide, the designators for escape history have been modified to more accurately assess an inmate's escape risk. Other changes are of a house-keeping nature to reflect operational changes within the agency.

Rules Coordinator: Janet R. Worley—(503) 945-0933

291-104-0111

Definitions for OAR 291-104-0106 to 291-104-0140

(1) Administrative Review: A review of classification scoring, classification level, or classification override requested by an inmate and completed by the designated institution committee, facility functional unit manager, or Classification Manager.

(2) Arrest: For the purposes of these rules, arrest means placing a person under full custody (i.e. after being fully restrained or after being placed in a law enforcement vehicle for transport) for the purpose of charging that person with an offense.

(3) Classification Action: Initiation of initial classification, classification review or classification override to determine an inmate's custody classification level.

(4) Classification Manager: A Department of Corrections employee responsible for the development, implementation, training, auditing, oversight and management of the classification function within the department.

(5) Classification Review: The process used by the department to re-evaluate an inmate's assigned custody classification level. The assigned custody classification level may be changed as a result of the review.

(6) Corrections Information System (CIS): A computer system dedicated to tracking information critical to the management of inmates and offenders under the custody, supervision or both of the Department of Corrections.

(7) Custody: As it relates to escape, a person is in custody if a peace officer has placed the person under arrest for the purpose of charging that person with an offense.

(8) Custody Classification Guide (Attachment 1): Criteria and guidelines that assist in understanding an inmate's assigned custody classification level utilizing scoring elements determined by the Department of Corrections.

(9) Custody Classification Level: One of five levels of supervision assigned to an inmate through initial and classification review procedures.

(a) Level 5: An inmate assigned at this custody classification level meets one of the following criteria:

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(A) Has demonstrated behaviors causing serious management concerns, or has demonstrated behaviors that in the judgment of the department present a threat sufficient to require special security housing on intensive management status.

(B) Has a sentence of death or is pending retrial in a case in which a sentence of death may be re-imposed.

(b) Level 4: An inmate assigned at this custody classification level presents a serious risk of escape or institutional violence, or has time remaining of 121 months to life with or without parole.

(c) Level 3: An inmate assigned at this custody classification level presents a moderate risk of escape, or has demonstrated behavior causing moderate management concern, or has time remaining of 49 to 121 months.

(d) Level 2: An inmate assigned at this custody classification level presents a limited risk of escape, or has demonstrated behavior causing limited management concern, and has time remaining of less than 49 months.

(e) Level 1: An inmate assigned at this custody classification level presents a minimal risk of escape and has demonstrated behavior causing minimal management concern and has time remaining of less than 49 months.

(10) Department of Corrections (DOC) Facility: Any institution, facility or staff office, including the grounds, operated by the Department of Corrections.

(11) Designators: Information, alerts or statutory designations important for sentence computation and crucial to determining work crew eligibility, unfenced housing assignment, and the management of inmates and offenders both in institutions and in the community.

(12) Escape: For purposes of these rules, escape means an unlawful departure of a person from custody (as defined herein); or escape, attempted escape, or conspiracy to escape from any correctional facility, including state, federal, county or juvenile facilities; or departure and failure to return to any facility in which a person was court ordered to reside. Escape includes the unauthorized department or absence from this state by a person who is under the jurisdiction of the Psychiatric Security Review Board or under the jurisdiction of the Oregon Health Authority under ORS 161.315 to 161.351; abscond while on temporary release or transitional leave from a facility; or escape, attempted escape, or conspiracy to escape from the custody of officials while in a legitimate criminal justice building for a court appearance.

(13) Initial Classification: The process used by the Department of Corrections to assign an inmate a custody level upon his/her admission to the physical custody of the department.

(14) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, probation, or post-prison supervision status.

(15) Office of Population Management: A functional unit of the department that oversees capacity and resource management, the inmate classification system, high risk inmate placement, Interstate Corrections Compact, treatment and program screening, Oregon Youth Authority/ghost caseloads, centralized Static 99R assessments, centralized transfer authority, and staff and inmate conflict review.

(16) Override: An option utilized when there is a documented issue(s) not addressed in the classification scoring elements, or a degree of seriousness in a classification factor that justifies a higher or lower custody classification level than indicated by the classification action.

(17) Peace Officer: A civil officer appointed to preserve law and order, such as a sheriff, police officer, or parole officer.

(18) Policy Elements: Areas of potential risk that determine the inmate's custody classification level: escape history, sentence remaining, detainers, and institutional behavior.

(19) Serious Management Concerns:

(a) Participation, either individually or in a group, in behavior that in the judgment of the department poses a threat to the safe and secure operation of the facility, including but not limited to, threatening or inflicting serious bodily harm on another inmate or on staff, or that poses an immediate risk of escape;

(b) Promoting or engaging in group disruptive behavior, or being involved in the planning of any activities that in the judgment of the department would significantly threaten the safe and secure operation of the facility; or

(c) Demonstration of behavior that in the judgment of the department poses a threat sufficient to require special secure housing on intensive management unit.

(20) Special Population Management (SPM) Committee: A committee composed of at least three department administrative staff to include a

representative from Institution Operations, Behavioral Health Services, and the Office of Population Management.

(21) Violence Predictor Score (VPS): A score based on a mathematical equation used to determine an inmate's potential risk for violence in an institutional setting during the first twelve months of incarceration. The equation includes calculations based on an inmate's age, gender, prior incarcerations, type of crime, aggression, drug history, and certain personality disorders.

(22) Violence Predictor Score Deactivator (VPSD): A designator that may be placed to deactivate the VPS as determined by department policy.

[ED. NOTE: Attachments 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.: DOC 4-2006, f. 5-31-06, cert. ef. 6-1-06; DOC 11-2008, f. 5-8-08, cert. ef. 5-13-08; DOC 11-2012(Temp), f. & cert. ef. 11-5-12 thru 5-4-13; DOC 4-2013, f. & cert. ef. 4-15-13; DOC 9-2013(Temp), f. & cert. ef. 10-23-13 thru 4-21-14; DOC 6-2014(Temp), f. 2-6-14, cert. ef. 2-12-14 thru 8-11-14

291-104-0116

Initial Classification

(1) The Department of Corrections shall assign inmates an initial custody level in accordance with the Custody Classification Guide (Attachment 1) or the inmate's Violence Predictor Score, whichever is higher. An inmate will generally be assigned an initial custody classification level within 30 days of admission to the physical custody of the Department of Corrections.

(2) The Violence Predictor Score is used as a classification scoring element only during the first twelve months of an inmate's incarceration in the Department of Corrections, and may be reviewed for deactivation as described in the Custody Classification Guide (Attachment 1).

(3) Upon admission to the physical custody of the Department of Corrections, the inmate's assigned counselor will determine an inmate's initial custody level and forward the classification action to the functional unit manager or designee for approval.

(4) No classification action is official until the functional unit manager or designee approves the classification action.

(5) Final approval for any override of one step will be made by Intake or institution staff and shall be documented on the classification override comment screen, describing the override reason.

(6) A custody classification override of more than a single step is not official until approved by the designated institution committee and the Classification Manager or designee.

(7) A custody classification of Level 5 is not official until approved by the designated institution committee, the SPM Committee, and the High Risk Placement Manager or designee.

(8) An inmate may request a copy of his/her official classification action.

(9) All official classification actions are historically recorded and maintained in the CIS system.

(10) The Office of Population Management may modify any classification. In such cases, the affected facility will be notified of the reason(s) for the modification.

[ED. NOTE: Attachments 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.: DOC 4-2006, f. 5-31-06, cert. ef. 6-1-06; DOC 11-2008, f. 5-8-08, cert. ef. 5-13-08; DOC 6-2014(Temp), f. 2-6-14, cert. ef. 2-12-14 thru 8-11-14

291-104-0125

Classification Review

(1) An inmate's custody classification level will be reviewed when new information is received that affects a classification scoring policy element, when an inmate's Violence Predictor Score has expired, or if a Violence Predictor Score Deactivator (VPSD) designator has been added by the assigned counselor.

(2) Custody Classification Levels 1- 4: When new information is received that affects the inmate's custody classification level, the inmate's assigned counselor will review the classification action for accuracy and forward it to the functional unit manager for approval.

(a) No classification action is official until the functional unit manager or designee approves the classification action.

(b) Final approval for any override of one step will be made at the institutional level and shall be documented on the classification override comment screen describing the override reason.

(c) Overrides of more than a single step are not official until approved by the designated institution committee and the Classification Manager or designee.

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(d) An inmate may request a copy of his/her official classification action.

(e) All official classification actions are historically recorded and maintained in the CIS.

(f) The Office of Population Management may modify any classification action. In such cases, the affected facility will be formally notified of the reason(s) for the modification.

(3) Custody Classification Level 5:

(a) When an inmate's institutional behavior is determined to create serious management concerns, the classification action will be reviewed by the designated institution committee and forwarded to the Special Population Management (SPM) Committee for review.

(A) If the SPM committee approves an inmate's classification at Level 5, the Office of Population Management will officially assign a custody classification score of 5.

(B) Inmates not approved at Level 5 will be scored at custody classification Level 4, and remain at Level 4 for a period of one year from the date of the assignment.

(b) Once an inmate is assigned to custody classification Level 5, the automated classification program will maintain the inmate's Level 5 custody classification status until the inmate is manually scored to a lower custody classification level by the assigned institution counselor of the Office of Population Management.

(4) The VPS may be reviewed for deactivation based on the institution counselor's discretion, within timeframes established in department policy.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 4-2006, f. 5-31-06, cert. ef. 6-1-06; DOC 11-2008, f. 5-8-08, cert. ef. 5-13-08; DOC 6-2014(Temp), f. 2-6-14, cert. ef. 2-12-14 thru 8-11-14

291-104-0135

Administrative Review

(1) An inmate may request an administrative review of his/her classification action. Administrative review is available to an inmate to contest three aspects of his/her classification action:

(a) The accuracy of custody classification levels 1-4 scoring;

(b) An override of a scored custody classification level; or

(c) A Level 5 custody classification.

(2) Custody Classification Levels 1-4 Accuracy of Scoring:

(a) To obtain an administrative review of a Level 1-4 custody classification score, an inmate must complete the top portion of a Request for Administrative Review form (CD1120aD) and send the completed form, together with any supporting documentation, to the designated institution committee at the facility where the inmate is currently housed.

(b) The institution committee must receive the request within 30 calendar days of the classification approval date. The institution committee should complete its review within 30 days after receiving an inmate's review request.

(c) If, after receiving the review decision of the designated institution committee, an inmate is not satisfied with the decision, the inmate may obtain further review of the custody classification Level 1-4 score by sending another completed Request for Administrative Review (CD1120aD) form, together with any supporting documentation, and a copy of the institution committee's decision, to the functional unit manager or designee of the facility where the inmate is currently housed.

(d) The functional unit manager or designee must receive the review request within 30 calendar days of the institution committee's review decision. The functional unit manager or designee should complete his/her review within 30 days after receiving the inmate's review request.

(e) There shall be no further administrative review of a custody classification Level 1-4 score.

(f) Inmates engaged in the intake process may not submit a request for review of their custody classification score until they are removed from intake status.

(3) Override of a Scored Custody Classification Level 1-4:

(a) To obtain an administrative review of classification that has been overridden at the institution level, an inmate must complete the bottom portion of a Request for Administrative Review (CD1120aD) form and send the completed form to the Classification Manager, together with any supporting documentation.

(b) The Classification Manager must receive the review request within 30 calendar days of the classification action approval date. The Classification Manager should complete the review within 30 days after receiving an inmate's review request.

(c) There shall be no further administrative review of an override decision.

(4) Level Five:

(a) To obtain an administrative review of a Level 5 custody classification, an inmate must complete the bottom portion of a Request for Administrative Review (CD1120aD) form and send the completed form to the Classification Manager. The request for review by the inmate shall include any supporting documentation to be considered in reviewing the appropriateness of the Level 5 custody classification.

(b) If an inmate has been assigned to the Intensive Management Unit (IMU), the matter shall be reviewed only once while the inmate is completing IMU programming.

(c) If an inmate has been assigned to Long-Term IMU placement due to serious management concerns, the inmate will be provided a packet containing a Request for Administrative Review of Custody Classification Level 5/Long Term IMU Placement (CD1120aE). An inmate may request further review of the Level 5 custody classification/long term IMU placement once annually.

(3) A copy of administrative review decisions will be provided to the inmate and retained in the inmate's institution file.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 4-2006, f. 5-31-06, cert. ef. 6-1-06; DOC 11-2008, f. 5-8-08, cert. ef. 5-13-08; DOC 6-2014(Temp), f. 2-6-14, cert. ef. 2-12-14 thru 8-11-14

291-104-0140

Classification Quality Assurance Review

(1) The Classification Manager is responsible for auditing facility classification procedures and decisions.

(2) Auditing shall consist of routine review of custody Level 1 and 2 placements and review of individual classification actions at each facility. Such reviews shall be conducted to ensure:

(a) The policies and procedures set forth in this rule are followed; and

(b) The actions taken by the facility are adequately documented.

(3) Findings inconsistent with rule and established procedures shall be documented and reported to the appropriate functional unit manager or to the Institution Administrators for corrective action.

(4) The Classification Manager is responsible to review the last classification action for any inmate who is involved in an escape or escape attempt from a Department of Corrections facility and to submit a report to the Operations Division Institution Administrators.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 11-2008, f. 5-8-08, cert. ef. 5-13-08; DOC 6-2014(Temp), f. 2-6-14, cert. ef. 2-12-14 thru 8-11-14

Department of Energy

Chapter 330

Rule Caption: Adds facility eligibility, application, and review requirements for specified facilities under Oregon's Renewable Portfolio Standard

Adm. Order No.: DOE 1-2014

Filed with Sec. of State: 2-10-2014

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Rules Adopted: 330-160-0035, 330-160-0037, 330-160-0038, 330-160-0060, 330-160-0070

Rules Amended: 330-160-0015, 330-160-0020, 330-160-0025, 330-160-0030, 330-160-0040, 330-160-0050

Subject: These permanent rule amendments streamline and increase transparency of the requirements for facilities that generate electricity eligible for the Oregon Renewable Portfolio Standard. Existing rules are amended to describe renewal requirements for low-impact hydro facilities, requirements for periodic review of multiple-fuel facilities, and a one-time review of the performance of certain hydro efficiency upgrades. Amendments also include updated references to the Western Renewable Energy Generation Information System Operating Rules and updated language regarding the tracking of stranded electricity. New rules are adopted to describe the application process for RPS certification, notification requirements for facilities that undergo changes, confidential treatment of information, and clarify that facilities generating electricity from other eligible resources are not subject to review or renewal.

Rules Coordinator: Kathy Stuttaford—(503) 373-2127

ADMINISTRATIVE RULES

330-160-0015

Definitions

For the purposes of Oregon Administrative Rules, chapter 330, division 160, the following definitions apply unless the context requires otherwise:

- (1) "Banked Renewable Energy Certificate" has the meaning in ORS 469A.005.
- (2) "Bundled Renewable Energy Certificate" has the meaning in ORS 469A.005.
- (3) "Compliance Year" has the meaning in ORS 469A.005.
- (4) "Department" means the Oregon Department of Energy.
- (5) "Director" means the Director of the Oregon Department of Energy.
- (6) "Electricity Service Supplier" has the meaning in ORS 469A.005.
- (7) "Electric Utility" has the meaning in ORS 469A.005.
- (8) "Federal Columbia River Power System" (FCRPS) means the transmission system constructed and operated by Bonneville Power Administration (BPA) and the hydroelectric dams constructed and operated by the U.S. Army Corps of Engineers and the Bureau of Reclamation in Oregon, Washington, Montana and Idaho.
- (9) "Generator representative" means an electricity generating facility's owner, operator or WREGIS account holder.
- (10) "High Water Mark Contract" means a power sales contract between a consumer-owned utility and BPA that contains a contract high water mark, and under which the utility purchases power from BPA at rates established by BPA in accordance with the tiered rate methodology.
- (11) "Joint Operating Entity" means an entity that was lawfully organized under State law as a public body or cooperative prior to September 22, 2000, and is formed by and whose members or participants are two or more public bodies or cooperatives, each of which was a customer of BPA on or before January 1, 1999.
- (12) "Multiple-fuel facility" means a facility that is capable of generating electricity using more than one type of fuel. A facility that uses fossil fuel for generator start-up but otherwise uses a single eligible resource and is not required to register in WREGIS as a multi-fuel generating unit, as defined by WREGIS, is not a multiple-fuel facility.
- (13) "Oregon's share" as used in ORS 469A.020(3), means the portion of Federal Columbia River Power System generation attributable to the Oregon load of hydroelectric efficiency upgrades that BPA provides to:
 - (a) Each consumer-owned utility serving load located in Oregon, pursuant to a High Water Mark Contract;
 - (b) Each Joint Operating Entity with retail utility members serving load located in Oregon, pursuant to a High Water Mark Contract; and
 - (c) Each investor-owned utility participating in the Residential Exchange Program that serves load located in Oregon.
- (14) "Qualifying Electricity" has the meaning in ORS 469A.005.
- (15) "Renewable Energy Certificate" (REC or Certificate) means a unique representation of the environmental, economic, and social benefits associated with the generation of electricity from renewable energy sources that produce Qualifying Electricity. One Certificate is created in association with the generation of one Megawatt-hour (MWh) of Qualifying Electricity. While a Certificate is always directly associated with the generation of one MWh of electricity, transactions for Certificates may be conducted independently of transactions for the associated electricity.
- (16) "Renewable Energy Source" has the meaning in ORS 469A.005.
- (17) "Residential Exchange Program" means the arrangement, based on section 5(c) of the Pacific Northwest Electric Power Planning and Conservation Act, whereby regional utilities sell BPA an amount of power equal to their residential and small-farm load at their average system cost in exchange for federal electric power, and pass on the benefits to their residential and small-farm customers in the form of a bill credit.
- (18) "RPS" means the Oregon renewable portfolio standard as established in ORS 469A.
- (19) "Stranded electricity" means qualifying electricity that:
 - (a) Was generated between January 1, 2007, and March 4, 2011, by a generating unit that was registered in WREGIS on or before March 4, 2011; and
 - (b) Was reported to the Department on or before March 11, 2011.
- (20) "Unbundled Renewable Energy Certificate" has the meaning in ORS 469A.005.
- (21) "Vintage" means the month and year that qualifying electricity was created in accordance with WREGIS protocol.
- (22) "WREGIS" means the Western Renewable Energy Generation Information System, which is the renewable energy certificate tracking and reporting system established by the California Energy Commission and the

Western Governors' Association and governed by the Western Electricity Coordinating Council for use by states and provinces throughout the western power interconnection.

Stat. Auth.: ORS 469A.130

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

Hist.: DOE 6-2008, f. & cert. ef. 9-3-08; DOE 11-2010(Temp), f. & cert. ef. 8-31-10 thru 2-26-11; DOE 1-2011, f. & cert. ef. 2-22-11; DOE 2-2011, f. & cert. ef. 3-4-11; DOE 11-2012, f. & cert. ef. 11-14-12; DOE 1-2014, f. & cert. ef. 2-10-14

330-160-0020

Establishment of Renewable Energy Certificate System

(1) Renewable energy certificates that are issued, monitored, accounted for and transferred by or through the regional renewable energy certificate system and trading mechanism known as the Western Renewable Energy Generation Information System (WREGIS) shall be the only renewable energy certificates that can be used by an electric utility or electricity service supplier to establish compliance with the Oregon Renewable Portfolio Standard (RPS).

(2) All entities that wish to demonstrate compliance or participate in the renewable energy certificate system associated with the Oregon RPS must establish and maintain accounts in good standing with the WREGIS renewable energy certificate system. These entities must comply with all information, data reporting and verification requirements of the WREGIS Operating Rules dated July 15, 2013, including costs required for compliance. These accounts must be established before January 1, 2009 or before the earliest vintage of Certificate to be used to comply with the Oregon RPS, whichever is later.

(3) All entities that wish to demonstrate compliance or participate in the renewable energy certificate system associated with the Oregon RPS must participate in the system in accordance with the WREGIS Operating Rules dated July 15, 2013. The Operating Rules for WREGIS are publicly available from the WREGIS web site at www.wregis.org.

Stat. Auth.: ORS 469A.130

Stats. Implemented: ORS 469A.130

Hist.: DOE 6-2008, f. & cert. ef. 9-3-08; DOE 2-2011, f. & cert. ef. 3-4-11; DOE 1-2014, f. & cert. ef. 2-10-14

330-160-0025

Types of Renewable Energy Certificates

(1) A bundled or unbundled renewable energy certificate may be used to comply with the RPS when it is issued through the WREGIS renewable energy certificate system, and is otherwise consistent with the rules and requirements of the Oregon RPS. The Department will identify those generating facilities eligible for creation of Certificates that can be used to satisfy the Oregon RPS.

(2) Each bundled renewable energy certificate used to comply with the RPS must be supported by documentation demonstrating that one megawatt-hour of electricity that was associated with the bundled renewable energy certificate was delivered to the Bonneville Power Administration, to the transmission system of an electric utility or to another delivery point designated by an electric utility for the purpose of subsequent delivery to the electric utility.

(3) To demonstrate that a renewable energy certificate is bundled under Subsection (2) of this rule, an electric utility must either:

(a) Electronically affix to the certificate a valid North American Electric Reliability Corporation (NERC) electronic tagging number ("e-Tag") or another unique identifier adopted by WREGIS or the Department, which demonstrates that one megawatt hour of electricity was delivered to a point described in Subsection (2) of this rule; or

(b) In a manner prescribed by the Department, submit documentation to the Department demonstrating that:

(A) The renewable energy certificate for the qualifying electricity was acquired by an electric utility or electricity service supplier by a trade, purchase or other transfer of electricity that includes the certificate that was issued for the electricity; or by an electric utility by generation of the electricity for which the certificate was issued; and

(B) The qualifying electricity associated with the bundled renewable energy certificate was initially delivered to a point described in Subsection (2) of this rule.

(4) An electric utility required to demonstrate compliance with the RPS through the use of bundled renewable energy certificates, and which demonstrates that a renewable energy certificate is bundled pursuant to 330-160-0025(3)(b), may be required to electronically affix to that certificate a unique identifier adopted by WREGIS or the Department.

(5) The Department may conduct verification audits or may designate a third party for verification services to review any documentation submitted under Subsection (3) of this rule for purposes of verifying compliance with the RPS.

ADMINISTRATIVE RULES

(6) A bundled renewable energy certificate does not need to demonstrate that the electricity identified by the NERC e-Tag is qualifying electricity or that the originating source identified by the NERC e-Tag is a renewable energy source.

Stat. Auth.: ORS 469A.130
Stats. Implemented: ORS 469A.135 - 469A.145
Hist.: DOE 6-2008, f. & cert. ef. 9-3-08; DOE 2-2011, f. & cert. ef. 3-4-11; DOE 1-2014, f. & cert. ef. 2-10-14

330-160-0030

Allowed Vintage of Renewable Energy Certificates

(1) The system of renewable energy certificates established through this rule may be used to comply with or participate in the Oregon RPS through the use of Certificates with a vintage of January 2007 or later.

(2) No renewable energy certificate that derives from the WREGIS renewable energy certificate system with a vintage before January 2007 will be eligible for compliance with the Oregon RPS.

(3) Banked renewable energy certificates with a vintage of January 2007 or later, both bundled and unbundled, may be held for future use within the WREGIS renewable energy certificate system to comply with the Oregon RPS.

(4) Generating facilities that produce qualifying electricity shall be eligible to receive certificates associated with generation beginning on January 1, 2007.

(5) Renewable energy certificates created by WREGIS that are associated with stranded electricity may be used to comply with the Oregon RPS.

Stat. Auth.: ORS 469A.130
Stats. Implemented: ORS 469A.130
Hist.: DOE 6-2008, f. & cert. ef. 9-3-08; DOE 2-2011, f. & cert. ef. 3-4-11; DOE 1-2014, f. & cert. ef. 2-10-14

330-160-0035

Application Process

(1) To apply for certification by the Department that electricity from a generating facility qualifies for the Oregon RPS, the generator representative must submit to the Department a completed general application form and, for hydroelectric, hydro efficiency, hydrogen, biomass, and multiple-fuel facilities, the applicable supplemental form available on the Department's website.

(2) The Department may require from the applicant supporting documentation such as photographs of the facility, records of generating equipment purchases, records of installation or service work orders, and an explanation of the relationship between the applicant and the WREGIS account holder.

(3) The Department will determine whether the facility meets the requirements in ORS 469A.010 to 469A.025 and these rules for generating qualifying electricity and will provide written notification of its determination to the applicant.

(a) If the Department determines that the facility meets the requirements for generating qualifying electricity, it will certify the facility as Oregon RPS-eligible in WREGIS and provide the Oregon RPS certification number and the first eligible REC vintage date in writing to the applicant.

(b) If the Department determines that the facility does not meet the requirements for generating qualifying electricity, it will provide the reasons for its determination in writing to the applicant.

(c) If the Department lacks information necessary to make a determination, it will not certify the facility in WREGIS and will provide the reasons it is unable to make a determination in writing to the applicant.

Stat. Auth.: ORS 469A.130
Stats. Implemented: ORS 469A.130 - 469A.145
Hist.: DOE 1-2014, f. & cert. ef. 2-10-14

330-160-0037

Confidential Treatment of Information

A generator representative may request confidential treatment of information provided to the Department pursuant to OAR 330-010-0005 through 330-010-0030.

Stat. Auth.: ORS 469A.130
Stats. Implemented: ORS 469A.130 - 469A.145
Hist.: DOE 1-2014, f. & cert. ef. 2-10-14

330-160-0038

Expiration of Oregon RPS Certification

Except as otherwise indicated in these rules, a facility's Oregon RPS certification will not have an expiration date.

Stat. Auth.: ORS 469A.130
Stats. Implemented: ORS 469A.130 - 469A.145
Hist.: DOE 1-2014, f. & cert. ef. 2-10-14

330-160-0040

Low-impact Hydro Electric Facilities

(1) The Department recognizes the Low Impact Hydropower Institute (LIHI) as the national agency to certify hydroelectric facilities as low impact for purposes of the Oregon RPS. A hydroelectric generation facility with current certification from LIHI and that complies with other requirements of ORS 469A and these rules is eligible for the Oregon RPS.

(2) For a low impact hydroelectric facility to remain eligible for the Oregon RPS, the generator representative must maintain a current LIHI certificate and provide the Department a copy of its LIHI certificate upon renewal.

(3) The Department will enter into WREGIS an expiration date for a low impact hydroelectric facility's Oregon RPS certification that matches the facility's LIHI certificate expiration date.

(4) The Department will provide written notice to a generator representative at least 60 days before its low impact hydroelectric facility's Oregon RPS certification is scheduled to expire.

(5) Upon receiving a copy of the renewed LIHI certificate from the generator representative, the Department will update the facility's Oregon RPS certification expiration date in WREGIS with the new LIHI certificate expiration date.

Stat. Auth.: ORS 469A.025, OL 2010, Ch. 71(SS)
Stats. Implemented: ORS 469A.025
Hist.: DOE 11-2010(Temp), f. & cert. ef. 8-31-10 thru 2-26-11; DOE 1-2011, f. & cert. ef. 2-22-11; DOE 1-2014, f. & cert. ef. 2-10-14

330-160-0050

Hydroelectric Facility Upgrades

(1) Efficiency upgrades from an Oregon RPS qualifying hydroelectric facility refers to additional incremental qualifying electricity production at an existing hydroelectric facility due to upgrades to existing generators, turbines and other Department-approved equipment changes. Efficiency upgrades do not include increased generation achieved through increased impoundments or increased appropriation or diversions of water.

(2) The generator representative must estimate the percentage increase in efficiency of the facility's hydroelectric power production due to an efficiency upgrade and provide that estimate to the Department via the supplemental application form provided by the Department for hydroelectric efficiency upgrades, with supporting documentation substantiating the estimate.

(3) The Department will determine the eligibility of incremental hydroelectric power production at an existing hydroelectric facility for purposes of Oregon RPS compliance.

(a) Eligibility is based solely on any operational changes at the facility that are directly associated with efficiency upgrades as defined in subsection (1) of this section.

(b) The determination of the percentage increase in the efficiency of hydroelectric power production as described in subsection (1) of this section shall be based on the best available evidence, including but not limited to, representations by the Federal Energy Regulatory Commission or, for federal projects, by the authorized power marketing agency or agencies with jurisdiction over the federal project.

(c) The annual electricity production eligible for RPS-eligible renewable energy certificates is the annual hydroelectric power production at the facility multiplied by the percentage increase in efficiency from paragraph (b) of this subsection.

(d) The Department will provide to WREGIS the increment of percentage increase in hydroelectric power production attributable to the facility efficiency upgrades that is RPS-eligible.

(4) Capacity upgrades to a hydroelectric project are not eligible under ORS 469A.025(4)(b) for the Oregon RPS. Capacity upgrades to a hydroelectric project include any increase in generating capacity other than an increase from an efficiency upgrade.

(5) For hydroelectric efficiency upgrades made to a Federal Columbia River Power System facility consistent with this section, only the incremental generation attributable to Oregon's share, per ORS 469A.020(3), is eligible for the Oregon RPS.

(a) Utilities or Joint Operating Entities that make sales of electricity to retail customers or members in more than one state may receive Oregon's share only for their Oregon load.

(b) The Department will certify in WREGIS as eligible for compliance with the Oregon RPS those RECs associated with Oregon's share, as may be adjusted by the Department.

(6) Effective January 1, 2013, annually and no later than December 31, the Department will publish a list of electric utilities that make sales of electricity to retail customers in more than one state. The list will indicate

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the most recent proportion of retail load that is located in Oregon, or, for investor-owned utilities, the most recent proportion of eligible Residential Exchange Load located in Oregon.

(a) Annually and no later than October 1, the Department may request that a consumer owned utility that serves retail customers in more than one state provide its total retail load and state-by-state retail load percentages to the Department. Upon such request, the consumer owned utility must provide such retail load information by November 15.

(b) Annually and no later than October 1, the Department may request an investor-owned utility that serves retail customers in more than one state provide its total eligible Residential Exchange Load and state-by-state Residential Exchange Load percentages and values to the Department. Upon such request, the investor-owned utility must provide such retail load information by November 15. After the Department receives percentages and values, there may be a period of reconciliation.

(c) If no submission is received or no reasonably current information is available, the Department will not publish load information for that utility.

(7) Annually, on or around April 1, the Department may request that BPA provide the Department with a copy of the certificate transfer directions that BPA provides to WREGIS.

(8) After the fifth anniversary of the date the Department determines that a hydroelectric efficiency upgrade is eligible for the Oregon RPS, the Department will request from the generator representative a review of the performance of the efficiency upgrade. Except as provided in subsection (9) of this section, within six months of the Department's request, the generator representative must provide to the Department a new estimate of the facility's percentage increase in efficiency attributable to the efficiency upgrade with supporting documentation.

(9) The Department may grant an exemption from the review described in subsection (8) of this section to any facility for which the generator representative, within six months of the Department's request:

(a) Demonstrates to the Department's satisfaction that the customer generator's estimated percentage increase in efficiency is supported by historical data such that it represents the long term average; and

(b) Signs a form, provided by the Department, attesting that the physical equipment and operation of the facility has not changed in a manner that would affect the percentage increase in efficiency attributable to the efficiency upgrade since that efficiency increment was established.

(10) If the Department determines that the percentage increase in efficiency attributable to the efficiency upgrade has changed from the facility's current RPS certification, it will revise the increment in WREGIS accordingly and notify the generator representative of the revised increment in writing. The revised increment in WREGIS will apply to all electricity generated on or after the date WREGIS is updated with the revised increment.

Stat. Auth.: ORS 469A.005 - 469A.210 & 469.040

Stats. Implemented: ORS 469A.005 - 469A.210

Hist.: DOE 2-2011, f. & cert. ef. 3-4-11; DOE 11-2012, f. & cert. ef. 11-14-12; DOE 1-2014, f. & cert. ef. 2-10-14

330-160-0060

Periodic Review of Multiple-fuel facilities

(1) Multiple-fuel facilities are subject every three years to a review of the percentage of the facility's electricity generation that is allocated to RPS-eligible fuels.

(2) The Department will enter into WREGIS an expiration date for a multiple-fuel facility's Oregon RPS certification that is three years from the date the Department completes its review of the percentage of the facility's electricity generation that is allocated to RPS-eligible fuels.

(3) The Department will provide written notice to a generator representative at least 6 months before its multiple-fuel facility's Oregon RPS certification is scheduled to expire.

(4) For a facility to remain RPS-eligible, the generator representative must complete one of the following actions prior to the facility's Oregon RPS certification expiration date:

(a) Sign a form provided by the Department attesting that the physical equipment and operation of the facility has not changed in a manner that would affect the facility's RPS-eligible fuel allocation since that RPS-eligible fuel allocation was established; or

(b) Provide to the Department an updated calculation of the facility's RPS-eligible fuel allocation with supporting documentation requested by the Department.

(5) Within 30 days of receiving the information provided by the generator representative pursuant to subsection (4) of this section, the Department will update WREGIS to extend the multiple-fuel facility's Oregon RPS certification expiration date by three years.

(6) If the Department determines that the percentage of the facility's electricity generation allocated to RPS-eligible fuels has changed from the facility's current RPS certification, the Department will revise the facility's RPS-eligible fuel allocation in WREGIS accordingly and notify the generator representative of the revised fuel allocation in writing.

Stat. Auth.: ORS 469A.130

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

Hist.: DOE 1-2014, f. & cert. ef. 2-10-14

330-160-0070

Required Notice of Facility Changes

For a facility to remain RPS-eligible, the generator representative must notify the Department of any change to its generating facility that constitutes a change to any of the following fields in the facility's static data, as defined by WREGIS: multi-fuel generator indicator, generation technology, fuel type, fuel source. The generator representative must notify the Department of any such change within 30 days of updating the facility's static data in WREGIS by providing a copy of the facility's updated WREGIS static data to the Department. If the Department determines that a change in a facility's static data affects the facility's RPS eligibility, the Department will revise the facility's RPS eligibility in WREGIS accordingly and notify the generator representative of the revision in writing.

Stat. Auth.: ORS 469A.130

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

Hist.: DOE 1-2014, f. & cert. ef. 2-10-14

Department of Environmental Quality

Chapter 340

Rule Caption: Clean Water State Revolving Fund Longer-term Financing

Adm. Order No.: DEQ 2-2014

Filed with Sec. of State: 1-28-2014

Certified to be Effective: 2-3-14

Notice Publication Date: 11-1-2013

Rules Adopted: 340-054-0071, 340-054-0072

Rules Amended: 340-054-0010, 340-054-0011

Subject: DEQ proposes new and amended rules for the Clean Water State Revolving Fund to allow public agencies a longer-term option for financing treatment works projects. The new option would allow for a bond purchase agreement with repayment terms up to 30 years for treatment works projects such as wastewater treatment facility construction and upgrades, stormwater controls, and sewer improvements and replacement. Non-wastewater and non-stormwater treatment works projects such as stream restoration and irrigation improvements would not be eligible for the 30-year, longer-term financing under this proposal but would still be eligible for the 20-year loan option.

The proposed option would benefit smaller and lower-income communities by spreading the debt repayment over a longer period, thereby decreasing the financial burden on residents.

All new borrowers for new treatment works projects would have the option of the traditional Clean Water State Revolving Fund loan with terms up to 20 years or the new financing option of a bond purchase agreement with terms up to 30 years. Combining the two types of financing for new projects is not an option.

The proposed rules would limit refinancing of existing Clean Water State Revolving Fund treatment works loans to the most disadvantaged borrowers in the program. Economic status and loan characteristic criteria would determine the borrower's eligibility and refinancing is a one-time, limited-period offer.

For both new and existing eligible borrowers, the proposed rules would add interest rate premiums to the current base rates for the longer-term financing option to protect the fund's sustainability. The proposed three-tiered interest rate premium ranges from zero percent for the most disadvantaged communities to 0.5 percent for the least disadvantaged communities.

The proposed rules would not limit the amount of funds allocated for longer-term financing. Prioritization for general longer-term financing allocation and for incentives and reserves such as green

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projects, small communities and principal forgiveness would remain the same as in existing rule.

Rules Coordinator: Maggie Vandehey—(503) 229-6878

340-054-0010

Definitions

The following definitions apply to this division of rules:

(1) “Act” means the American Recovery and Reinvestment Act of 2009, Public Law 111-5, signed into law on February 17, 2009.

(2) “Applicant” means a public agency that has applied for a CWSRF loan under this division.

(3) “Borrower” means a public agency that has signed a CWSRF loan agreement with the department.

(4) “Change order” means a written order and supporting information from a borrower to a borrower’s contractor authorizing an addition, deletion or revision in the work within the scope of the contract documents, including any required adjustment in contract price or time.

(5) “Checklist of application requirements” means a list, provided by the department, of all documents that must be submitted with an application to the department under this division.

(6) “Clean Water Act” or “CWA” means the federal Water Pollution Control Act, 33 U.S.C. §1251 - §1387.

(7) “Clean Water State Revolving Fund” or “CWSRF” means the Water Pollution Control Revolving Fund established under ORS 468.427.

(8) “Collector sewer” means the portion of a public wastewater system installed primarily to receive wastewater directly from individual residences and other individual public or private structures.

(9) “Construction” means the erection, installation, expansion or improvement of a wastewater or stormwater facility, nonpoint source control activity or estuary management project, and includes the demolition of an obsolete facility.

(10) “Cross-cutting authorities” means requirements of federal laws and Executive Orders that apply to projects and activities funded under the CWSRF program.

(11) “Default” means the failure to pay principal, interest or annual fees, or to comply with other CWSRF loan terms or provisions, and includes the filing of bankruptcy or other written admission of an inability to satisfy a borrower’s obligations under a CWSRF loan.

(12) “Department” means the Oregon Department of Environmental Quality.

(13) “Design” means the preparation of engineering drawings and specifications for the proposed construction, and may include pre-design activities.

(14) “EPA” means the U.S. Environmental Protection Agency.

(15) “Estuary management” means the implementation of actions identified in a Comprehensive Conservation Management Plan developed for a designated national estuary.

(16) “Local community loan” means a loan used by a public agency to establish a local financial program that will fund an eligible nonpoint source control or estuary management activity.

(17) “Maintenance” means regularly scheduled work performed to repair, replace or upgrade equipment in a facility, or to prevent or correct a failure or a malfunction of a wastewater or stormwater facility, nonpoint source control or estuary management project.

(18) “Natural infrastructure” means the use of natural form and ecosystem function to restore or augment the intended water quality benefits of a project.

(19) “Nonpoint source” has the meaning given in ORS 468B.005.

(20) “Nonpoint source control” means implementation of a nonpoint source control activity under section 319 of the Clean Water Act and 40 CFR §35.3115(b) that is included in the department’s current Oregon Nonpoint Source Control Program Plan.

(21) “Operation” means the control of wastewater collection system pumping stations and wastewater facility treatment unit processes, the control of equipment and processes of stormwater facilities, nonpoint source control and estuary management projects, and the financial and personnel management, records, laboratory control, process control, safety, and emergency planning for these facilities and projects.

(22) Planning.

(a) “Planning” means monitoring, data collection and measurement, evaluation, analysis, security evaluations, report preparation, environmental review, public education and review process and any other activity leading to a written plan for the provision of a wastewater or stormwater facility, nonpoint source control or estuary management project intended to remediate an existing or anticipated water pollution problem.

(b) “Planning” does not mean the preparation of detailed bid documents for construction.

(23) “Point source” has the meaning given in ORS 468B.005.

(24) “Principal forgiveness” means additional subsidization that allows a borrower to repay only a specified portion of the loan principal.

(25) “Project” means the activities or tasks identified in a loan application or a loan agreement for which a borrower may expend or obligate funds.

(26) “Public agency” has the meaning given in ORS 468.423.

(27) Replacement.

(a) “Replacement” means expenditures for obtaining and installing equipment, accessories or appurtenances necessary for the ongoing operation during the design or useful life, if longer, of a wastewater or stormwater facility, nonpoint source control or estuary management project to maintain a facility or project for the purpose it was designed and constructed.

(b) “Replacement” does not mean the replacement of a facility or project at the end of its useful life.

(28) “Small community” means a public agency serving a population of 10,000 or less.

(29) “Sponsorship option” means the department’s financing mechanism that allows a public agency with the authority to finance and implement a wastewater facility project and an eligible nonpoint source control or estuary management activity to be financed through one CWSRF loan.

(30) “Stormwater” means water runoff from a precipitation event, snowmelt runoff, and surface runoff and drainage.

(31) “Sustainability” means the long term reliability and viability of finance, operations, environmental performance or technology, or the use of natural infrastructure.

(32) “Treatment works” has the meaning given in ORS 468.423.

(33) “Wastewater” has the meaning given for “sewage” in ORS 468B.005.

(34) “Wastewater collection system” means publicly owned pipelines, conduits, pumping stations, force mains and any other related structures, devices or equipment used to convey wastewater to a wastewater treatment facility.

(35) “Wastewater facility” means a wastewater collection system or wastewater treatment facility.

(36) “Wastewater reuse” means a project that uses recycled water, as defined in OAR 340-055-0010, or effluent from a commercial or industrial process that is suitable for a direct beneficial purpose or a controlled use.

(37) “Wastewater treatment facility” means a publicly owned device, structure or equipment used to treat, neutralize, stabilize, reuse or dispose of wastewater and treatment residuals.

(38) “Water quality standards” means the surface water standards established in OAR 340-041 and the minimum groundwater protection requirements established in OAR 340-040.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 468.020 & 468.440

Stats. Implemented: ORS 468.423 – 468.440

Hist.: DEQ 2-1989, f. & cert. ef. 3-10-89; DEQ 30-1990, f. & cert. ef. 8-1-90; DEQ 1-1993, f. & cert. ef. 1-22-93; DEQ 3-1995, f. & cert. ef. 1-23-95; DEQ 10-2003, f. & cert. ef. 5-27-03; DEQ 3-2010(Temp), f. & cert. ef. 5-4-10 thru 10-29-10; DEQ 13-2010, f. & cert. ef. 10-27-10; DEQ 11-2012, f. & cert. ef. 12-14-12; DEQ 2-2014, f. 1-28-14, cert. ef. 2-3-14

340-054-0011

Authorized Fund Uses

The department will use the CWSRF only to:

(1) Offer loans to eligible borrowers identified in the Intended Use Plan developed pursuant to OAR 340-054-0025.

(2) Fund loan reserves specified in OAR 340-054-0036.

(3) Purchase bonds or acquire other debt obligations incurred after March 7, 1985 as provided in OAR 340-054-0071.

(4) Pay CWSRF program administration costs to the extent allowed by federal law and state statute.

(5) Earn interest on fund accounts.

(6) Establish reserves for bonds issued by the state for use by the fund.

(7) Pay principal and interest of bond obligations sold to benefit the fund.

Stat. Auth.: ORS 468.020 & 468.440

Stats. Implemented: ORS 468.423–468.440

Hist.: DEQ 11-2012, f. & cert. ef. 12-14-12; DEQ 2-2014, f. 1-28-14, cert. ef. 2-3-14

340-054-0071

Debt Obligation Purchase

The department may use the CWSRF to buy a public agency’s debt obligation for treatment works subject to the following limitations:

(1) The debt was incurred after March 7, 1985.

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(2) The debt obligation does not exceed 20 years except for a bond purchase for treatment works as specified in OAR 340-054-0072.

(3) The department will not use the purchase of a debt obligation to refinance a pre-existing CWSRF loan or other debt obligation except as specified in OAR 340-054-0072(5)(b).

Stat. Auth.: ORS 468.020 & 468.440
Stats. Implemented: ORS 468.423 - 468.440
Hist.: DEQ 2-2014, f. 1-28-14, cert. ef. 2-3-14

340-054-0072

Bond Purchase for Treatment Works

(1) Application requirements. All application requirements for a CWSRF loan as specified in OAR 340-054-0022(1), (2), (3), (5) and (6) apply to a bond purchase for treatment works under this rule.

(2) Intended Use Plan and project priority list. All applications for a bond purchase for treatment works are subject to IUP and project priority list development in the same manner as specified in OAR 340-054-0025.

(3) Project ranking criteria. All applicants for a bond purchase for treatment works will be ranked based on the point sum from the criteria specified in Table 1 under OAR 340-054-0026.

(4) Reserves, CWSRF general fund and project funding. Reserves and CWSRF general funds will be allocated for a bond purchase for treatment works in the same manner as specified in OAR 340-054-0036.

(5) Requirements for a bond purchase for treatment works.

(a) Clean Water Act plans. The department will only purchase a bond for treatment works whose proceeds are used to finance a project that is consistent with plans developed under section 303(e) of the Clean Water Act.

(b) The refunding of an existing CWSRF loan or debt obligation is not an eligible use of the proceeds of a bond purchase for treatment works except as follows:

(A) The following conditions must be met on February 1, 2014:

(i) The public agency's existing CWSRF loan or debt obligation for treatment works is not in default.

(ii) The median household income in the area served by the treatment works of the public agency is less than 70 percent of the statewide median household income.

(iii) The public agency's existing CWSRF loan or debt obligation for treatment works has a remaining term of 10 years or greater.

(iv) The public agency's existing CWSRF loan or debt obligation for treatment works does not include any American Recovery and Reinvestment Act funds or provide for principal forgiveness.

(B) The public agency must:

(i) Submit written confirmation to the department by May 1, 2014 that it intends to refinance its existing CWSRF loan or debt obligation for treatment works with the proceeds of a bond for treatment works issued by the public agency and purchased by the department.

(ii) Complete the issuance and sale of such bond for treatment works by February 1, 2016.

(C) When the department purchases a debt obligation to replace an existing CWSRF loan or debt obligation, the amortization period of the debt obligation purchased by the department may not exceed the lesser of:

(i) The useful life of the asset, or

(ii) Thirty years minus the number of years that the existing CWSRF loan or debt obligation has been in repayment.

(D) The interest rate for the bond for treatment works purchased by the department as described in section (5)(b) of this rule is determined in accordance with section (7)(b) of this rule.

(c) Refinancing an interim loan. A public agency may sell a bond for treatment works to the department to refinance an interim loan or reimburse itself for self-generated funds used to pay department approved project costs for treatment works if the public agency meets the conditions in OAR 340-054-0056(3).

(6) Conditions for bond purchase for treatment works. Conditions for the bond purchase for treatment works are as specified in OAR 340-054-0060.

(7) Bond purchase for treatment works, terms and interest rates.

(a) Bonds for treatment works. A bond for treatment works that is purchased by the department under this rule must be a revenue bond for a term not to exceed 30 years and meet the requirements specified in OAR 340-054-0065(2).

(b) Interest rates. The base rate is as specified in OAR 340-054-0065(4)(b). The department will provide the following interest rates for bond purchase agreements for bonds for treatment works executed on or after February 1, 2014:

(A) 40 percent of the base rate for small communities with less than the statewide median household income.

(B) 55 percent of the base rate plus 0.25 percent for communities other than small communities with less than the statewide median household income.

(C) 55 percent of the base rate plus 0.5 percent for communities with equal to or more than the statewide median household income.

(c) Interest accrual and payment. Interest accrual and payment for a bond for treatment works purchased by the department under this rule is as specified in OAR 340-054-0065(5).

(d) Annual fee. The annual fee on a bond purchase for treatment works is as specified in OAR 340-054-0065(6).

(e) Commencement of bond repayment. A public agency must begin principal and interest repayment for a bond for treatment works purchased by the department under this rule as specified in OAR 340-054-0065(7).

(f) Term. A public agency must fully repay a bond for treatment works purchased by the department under this rule in accordance with a schedule determined by the department. The term of a bond for treatment works purchased by the department under this rule will not exceed 30 years after project completion or the useful life of the asset financed by the bond, whichever is less.

(g) Minor variations in bond terms. The department may, as specified in OAR 340-054-0065(9), authorize minor variations in financial terms of a bond for treatment works purchased under this rule to facilitate administration and repayment of the bond.

(h) Additional subsidization. The department can provide additional subsidization for a bond purchase for treatment works in the same manner as specified in OAR 340-054-0065(11).

Stat. Auth.: ORS 468.020 & 468.440
Stats. Implemented: ORS 468.423 - 468.440
Hist.: DEQ 2-2014, f. 1-28-14, cert. ef. 2-3-14

Department of Fish and Wildlife Chapter 635

Rule Caption: Establishes 2014 Seasons and Regulations for Game Mammals

Adm. Order No.: DFW 3-2014

Filed with Sec. of State: 1-22-2014

Certified to be Effective: 1-22-14

Notice Publication Date: 9-1-2013

Rules Amended: 635-069-0000, 635-073-0000

Subject: Establishes the 2014 hunting regulations for game mammals, including season dates, open areas, location of cooperative travel management areas, wildlife areas and other rules including general hunting and controlled hunt regulations.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-069-0000

Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting eastern Oregon deer pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2013 are listed in Tables 1 and 2 and are adopted and incorporated into OAR chapter 635, division 69 by reference.

(3) OAR chapter 635, division 69 incorporates, by reference, the requirements for hunting eastern Oregon deer set out in the document entitled "2014 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2014 Oregon Big Game Regulations" in addition to OAR chapter 635, to determine all applicable requirements for hunting eastern Oregon deer. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices and website of the Oregon Department of Fish and Wildlife.

[Publications: Publications referenced are available from the agency.]

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

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

Hist.: FWC 40-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 32-1999(Temp), f. & cert. ef. 5-4-99 thru 10-31-99; DFW 34-1999(Temp), f. & cert. ef. 5-12-99 thru 10-31-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 20-2000(Temp), f. 4-12-00, cert. ef. 4-12-00 thru 6-30-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 7-2003, f. 1-17-03, cert. ef. 2-1-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 122-2003, f. 12-4-03, cert. ef. 2-2-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 123-2004, f. 12-21-04.

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cert. ef. 2-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 130-2005, f. 12-1-05, cert. ef. 2-1-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 124-2006, f. 12-7-06, cert. ef. 2-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 117-2007, f. 10-31-07, cert. ef. 2-1-08; DFW 60-2008, f. & cert. ef. 6-12-08; DFW 8-2009, f. & cert. ef. 2-3-09; DFW 66-2009, f. & cert. ef. 6-10-09; DFW 4-2010, f. 1-12-10, cert. ef. 2-1-10; DFW 83-2010, f. & cert. ef. 6-15-10; DFW 7-2011, f. 1-31-11, cert. ef. 2-1-11; DFW 62-2011, f. & cert. ef. 6-3-11; DFW 3-2012, f. 1-13-12, cert. ef. 2-1-12; DFW 58-2012, f. & cert. ef. 6-11-12; DFW 4-2013, f. 1-15-13, cert. ef. 2-1-13; DFW 53-2013, f. & cert. ef. 6-10-13; DFW 3-2014, f. & cert. ef. 1-22-14

635-073-0000

Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas and other restrictions for bow and muzzleloader hunting and controlled deer and elk youth hunts; pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2013 for deer and elk bow and muzzleloader hunting and deer and elk youth hunts are listed in Tables 1 and 2 and are adopted and incorporated into OAR chapter 635, division 073 by reference.

(3) OAR chapter 073 incorporates, by reference, the requirements for bow and muzzleloader hunting and controlled deer and elk youth hunts set out in the document entitled "2014 Oregon Big Game Regulations", into Oregon Administrative Rules. Therefore, persons must consult the "2014 Oregon Big Game Regulations", in addition to OAR chapter 635, to determine all applicable requirements for bow and muzzleloader hunting and controlled deer and elk youth hunts. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices and website of the Oregon Department of Fish and Wildlife.

[Publications: Publications referenced are available from the agency.]

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

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

Hist.: FWC 44-1988, f. & cert. ef. 6-13-88; FWC 18-1994, f. 3-30-94, cert. ef. 5-1-94; FWC 17-1996, f. 4-10-96, cert. ef. 4-15-96; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 21-2000(Temp), f. 4-12-00, cert. ef. 4-12-00 thru 6-30-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 3-2003, f. 1-17-03, cert. ef. 1-20-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 122-2003, f. 12-4-03, cert. ef. 2-2-04; DFW 130-2003(Temp), f. & cert. ef. 12-24-03 thru 3-1-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 123-2004, f. 12-21-04, cert. ef. 2-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 130-2005, f. 12-1-05, cert. ef. 2-1-06; DFW 22-2006(Temp), f. & cert. ef. 4-7-06 thru 10-4-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 124-2006, f. 12-7-06, cert. ef. 2-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 117-2007, f. 10-31-07, cert. ef. 2-1-08; DFW 60-2008, f. & cert. ef. 6-12-08; DFW 8-2009, f. & cert. ef. 2-3-09; DFW 66-2009, f. & cert. ef. 6-10-09; DFW 4-2010, f. 1-12-10, cert. ef. 2-1-10; DFW 83-2010, f. & cert. ef. 6-15-10; DFW 7-2011, f. 1-31-11, cert. ef. 2-1-11; DFW 62-2011, f. & cert. ef. 6-3-11; DFW 3-2012, f. 1-13-12, cert. ef. 2-1-12; DFW 58-2012, f. & cert. ef. 6-11-12; DFW 4-2013, f. 1-15-13, cert. ef. 2-1-13; DFW 53-2013, f. & cert. ef. 6-10-13; DFW 3-2014, f. & cert. ef. 1-22-14

Rule Caption: Youngs Bay Recreational Fisheries Control Zone Established in the Columbia River

Adm. Order No.: DFW 4-2014(Temp)

Filed with Sec. of State: 1-23-2014

Certified to be Effective: 2-1-14 thru 7-30-14

Notice Publication Date:

Rules Adopted: 635-023-0140

Subject: This temporary rule establishes a recreational fisheries control zone in the Youngs Bay area of the lower Columbia River as directed by SB 830 (2013). SB 830 requires establishment of the control zone by February 1, 2014. A permanent version of this rule is proposed for adoption by the Oregon Fish and Wildlife Commission at its February 7, 2014 hearing. This temporary rule will be repealed upon filing of its permanent counterpart.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-023-0140

Youngs Bay Control Zone

(1) The 2014 Oregon Sport Fishing Regulations provide requirements for the Columbia 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 2014 Oregon Sport Fishing Regulations.

(2) The Youngs Bay Control Zone is closed to recreational angling from August 1 through September 15.

(a) The Youngs Bay Control Zone is defined as those waters southerly of a line originating on the Oregon shore at the east end of the seawall at the Warrenton Fiber log yard (approximately river mile 10.1) northeasterly through green navigation buoys 29, 31, 33, and 35A to the Astoria-Megler

Bridge abutment adjacent to, and north of the ship channel, and continuing southerly in line with the center of the Megler Bridge span to the Oregon shore.

(b) The Youngs Bay Control Zone includes all waters from the line defined in section (2)(a) above south to the Highway 101 Bridge.

Stat. Auth.: ORS 496.138, 496.146, 506.119

Stats. Implemented: ORS 496.162, 506.129, SB 830 (2013)

Hist.: DFW 4-2014(Temp), f. 1-23-14, cert. ef. 2-1-14 thru 7-30-14

Rule Caption: Columbia River Recreational Sturgeon Season In the Bonneville Pool

Adm. Order No.: DFW 5-2014(Temp)

Filed with Sec. of State: 1-30-2014

Certified to be Effective: 2-1-14 thru 7-30-14

Notice Publication Date:

Rules Amended: 635-023-0095

Rules Suspended: 635-023-0095(T)

Subject: This amended rule establishes a white sturgeon retention fishery in the Bonneville Pool beginning February 1, 2014. Revisions are consistent with action taken January 29, 2014 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 2014 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 2014 Oregon Sport Fishing Regulations.

(2) Effective February 1 through February 17, retention of white sturgeon between 38–54 inches in fork length is allowed 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. 7-9-08 thru 12-31-08; DFW 78-2008(Temp), f. 7-9-08, cert. ef. 7-12-08 thru 12-31-08; DFW 86-2008(Temp), f. & cert. ef. 7-25-08 thru 12-31-08; DFW 148-2008(Temp), f. 12-19-08, cert. ef. 1-1-09 thru 6-29-09; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 18-2009, f. & cert. ef. 2-26-09; DFW 33-2009(Temp), f. 4-2-09, cert. ef. 4-13-09 thru 10-9-09; DFW 63-2009(Temp), f. 6-3-09, cert. ef. 6-6-09 thru 10-9-09; DFW 83-2009(Temp), f. 7-8-09, cert. ef. 7-9-09 thru 12-31-09; DFW 86-2009(Temp), f. 7-22-09, cert. ef. 7-24-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 13-2010(Temp), f. 2-16-10, cert. ef. 2-21-10 thru 7-31-10; DFW 19-2010(Temp), f. 2-26-10, cert. ef. 3-1-10 thru 8-27-10; DFW 34-2010, f. 3-16-10, cert. ef. 4-1-10; DFW 49-2010(Temp), f. 4-27-10, cert. ef. 4-29-10 thru 7-31-10; DFW 50-2010(Temp), f. 4-29-10, cert. ef. 5-6-10 thru 11-1-10; DFW 88-2010(Temp), f. 6-25-10, cert. ef. 6-26-10 thru 7-31-10; DFW 91-2010(Temp), f. 6-29-10, cert. ef. 8-1-10 thru 12-31-10; DFW 99-2010(Temp), f. 7-13-10, cert. ef. 7-15-10 thru 12-31-10; DFW 165-2010(Temp), f. 12-28-10, cert. ef. 1-1-11 thru 6-29-11; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 11-2011(Temp), f. 2-10-11, cert. ef. 2-11-11 thru 7-31-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 26-2011(Temp), f. 4-5-11, cert. ef. 4-10-11 thru 9-30-11; DFW 74-2011(Temp), f. 6-24-11, cert. ef. 6-27-11 thru 7-31-11; DFW 87-2011(Temp), f. 7-8-11, cert. ef. 7-9-11 thru 7-31-11; DFW 96-2011(Temp), f. 7-20-11, cert. ef. 7-30-11 thru 12-31-11; DFW 129-2011(Temp), f. 9-15-11, cert. ef. 9-30-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 1-2012(Temp), f. & cert. ef. 1-5-12 thru 7-2-12; DFW 10-2012, f. & cert. ef. 2-7-12; DFW 16-2012(Temp), f. 2-14-12, cert. ef. 2-18-12 thru 7-31-12; DFW 44-2012(Temp), f. 5-1-12, cert. ef. 5-20-12 thru 7-31-12; 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; DFW 23-2013(Temp), f. 3-20-13, cert. ef. 4-1-13 thru 9-27-13; DFW 47-2013(Temp), f. 5-30-13, cert. ef. 6-14-13 thru 9-30-13; DFW 59-2013(Temp), f. 6-19-13, cert. ef. 6-21-13 thru 10-31-13; DFW 64-2013(Temp), f. 6-27-13, cert. ef. 6-29-13 thru 10-31-13; DFW 104-2013(Temp), f. 9-13-13, cert. ef. 10-19-13 thru 12-31-13; DFW 126-2013(Temp), f. 10-31-13, cert. ef. 11-12-13 thru 12-31-13; DFW 135-2013(Temp), f. 12-12-13, cert. ef. 1-1-14 thru 1-31-14; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 5-2014(Temp), f. 1-30-14, cert. ef. 2-1-14 thru 7-30-14

ADMINISTRATIVE RULES

Rule Caption: Legal Size for White Sturgeon Landed in Bonneville Pool Treaty Fisheries Modified

Adm. Order No.: DFW 6-2014(Temp)

Filed with Sec. of State: 1-30-2014

Certified to be Effective: 2-1-14 thru 7-30-14

Notice Publication Date:

Rules Amended: 635-041-0061, 635-041-0065

Subject: These amended rules change the fork length for white sturgeon which may be legally retained in Treaty tribe fisheries in the Columbia River between Bonneville Dam and The Dalles Dam effective February 1, 2014. This modification changes the legal slot length from 38–54 inches fork length to 43–54 inches fork length. White sturgeon of legal size may be sold or kept for subsistence use. Modifications are consistent with action taken January 29, 2014 by the Columbia River Compact agencies of the states of Oregon and Washington in cooperation with the Columbia River Treaty Tribes.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-041-0061

Sturgeon Size

(1) White sturgeon may be taken for commercial purposes by treaty Indian fishers during commercial fishing seasons in which sales of sturgeon are authorized.

(2) Sales are limited to white sturgeon with a fork length of 43–54 inches taken from Zone 6 of the Columbia River between Bonneville Dam and McNary Dam.

(3) It is *unlawful* to mutilate or disfigure a sturgeon in any manner which extends or shortens its length to the legal limit, or to possess such sturgeon.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 2-1985, f. & ef. 1-30-85; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 15-1995, f. & cert. ef. 2-15-95; FWC 12-1997(Temp), f. 2-27-97, cert. ef. 3-1-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 130-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 4-1-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 19-2009, f. & cert. ef. 2-26-09; DFW 6-2014(Temp), f. 1-30-14, cert. ef. 2-1-14 thru 7-30-14

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 Bonneville, The Dalles, and John Day pools 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. 1-30-85; FWC 4-1986(Temp), f. & ef. 1-28-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 3-1988(Temp), f. & cert. ef. 1-29-88; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 5-1989, f. 2-6-89, cert. ef. 2-7-89; FWC 13-1989(Temp), f. & cert. ef. 3-21-89; FWC 15-1990(Temp), f. 2-8-90, cert. ef. 2-9-90; FWC 20-1990, f. 3-6-90, cert. ef. 3-15-90; FWC 13-1992(Temp), f. & cert. ef. 3-5-92; FWC 7-1993, f. & cert. ef. 2-1-93; FWC 12-1993(Temp), f. & cert. ef. 2-22-93; FWC 18-1993(Temp), f. & cert. ef. 3-2-93; FWC 7-1994, f. & cert. ef. 2-1-94; FWC 11-1994(Temp), f. & cert. ef. 2-28-94; FWC 9-1995, f. & cert. ef. 2-1-95; FWC 19-1995(Temp), f. & cert. ef. 3-3-95; FWC 5-1996, f. & cert. ef. 2-7-96; FWC 4-1997, f. & cert. ef. 1-30-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 20-1998(Temp), f. & cert. ef. 3-13-98 thru 3-20-98; DFW 23-1998(Temp), f. & cert. ef. 3-20-98 thru 6-30-98; DFW 2-1999(Temp), f. & cert. ef. 2-1-99 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; DFW 15-2013(Temp), f. 2-22-13, cert. ef. 2-27-13 thru 6-15-13; DFW 18-2013(Temp), f. 3-5-13, cert. ef. 3-6-13 thru 6-15-13; DFW 35-2013(Temp), f. & cert. ef. 5-21-13 thru 6-30-13; DFW 48-2013(Temp), f. 6-7-13, cert. ef. 6-8-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 6-2014(Temp), f. 1-30-14, cert. ef. 2-1-14 thru 7-30-14

Rule Caption: 2014 Smelt Season Set for the Columbia River Mainstem Below Bonneville Dam

Adm. Order No.: DFW 7-2014(Temp)

Filed with Sec. of State: 2-5-2014

Certified to be Effective: 2-10-14 thru 3-31-14

Notice Publication Date:

Rules Amended: 635-042-0130

Subject: Amended rule sets a 2014 commercial fishing season for smelt in the Columbia River below Bonneville Dam. The fishery consists of 7-hour fishing periods, 7:00 a.m. to 2:00 p.m., Mondays and Thursdays of each week beginning February 10 through March 6, 2014. Revisions are consistent with the action taken February 5, 2014 by the Columbia River Compact agencies of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-042-0130

Smelt Season

(1) Smelt may be taken for commercial purposes from the Columbia River in Zones 1 through 3, Mondays and Thursdays from 7:00 a.m. to 2:00 p.m. (7 hrs.) during the period from February 10 through March 6, 2014.

(2) It is *unlawful* to use any gear other than gill nets for the taking of smelt in the Columbia River. Mesh size may not exceed two inches stretched. Nets may consist of, but are not limited to, monofilament webbing.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 2-1985, f. & ef. 1-30-85; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 9-1994, f. 2-14-94, cert. ef. 2-15-94; FWC 15-1995, f. & cert. ef. 2-15-95; DFW 82-1998(Temp), f. 10-6-98, cert. ef. 10-7-98 thru 10-23-98; 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 8-2000(Temp), f. 2-18-00, cert. ef. 2-20-00 thru 2-29-00; Administrative correction 3-17-00; DFW 80-2000(Temp), f. 12-22-00, cert. ef. 1-1-01 thru 3-31-01; DFW 10-2001(Temp), f. & cert. ef. 3-6-01 thru 3-31-01; Administrative correction 6-21-01; 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 131-2003(Temp), f. 12-26-03, cert. ef. 1-1-04 thru 4-1-04; DFW 21-2004(Temp), f. & cert. ef. 3-18-04 thru 7-31-04; Administrative correction 8-19-04; DFW 130-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 4-1-05; DFW 8-2005(Temp), f. & cert. ef. 2-24-05 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 11-2006(Temp), f. & cert. ef. 3-9-06 thru 7-31-06; Administrative correction 8-22-06; DFW 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; Administrative correction 9-16-07; DFW 125-2007(Temp), f. 11-29-07, cert. ef. 12-1-07 thru 5-28-08; DFW 135-2007(Temp), f. 12-28-07, cert. ef. 1-1-08 thru 6-28-08; DFW 10-2008, f. & cert. ef. 2-11-08; DFW 148-2008(Temp), f. 12-19-08, cert. ef. 1-1-09 thru 6-29-09; DFW 20-2009, f. & cert. ef. 2-26-09; DFW 151-2009(Temp), f. 12-22-09, cert. ef. 1-1-10 thru 3-31-10; DFW 10-2010(Temp), f. 2-4-10, cert. ef. 2-8-10 thru 3-31-10; DFW 28-2010(Temp), f. 3-9-10, cert. ef. 3-11-10 thru 3-31-10; Administrative correction 4-21-10; DFW 156-2010(Temp), f. 11-23-10, cert. ef. 12-1-10 thru 3-31-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 7-2014(Temp), f. 2-5-14, cert. ef. 2-10-14 thru 3-31-14

Rule Caption: 2014 Commercial Winter, Spring, and Summer Fisheries for Columbia River Select Areas

Adm. Order No.: DFW 8-2014(Temp)

Filed with Sec. of State: 2-10-2014

Certified to be Effective: 2-10-14 thru 7-31-14

Notice Publication Date:

ADMINISTRATIVE RULES

Rules Amended: 635-042-0145, 635-042-0160, 635-042-0170, 635-042-0180

Subject: The 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 29, 2014 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 and shad may be taken for commercial purposes in waters of Youngs Bay as described below.

(a) The 2014 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: Mondays, Wednesdays, and Thursdays from February 10 through March 7 (12 days) open hours are from 6:00 a.m. to midnight (18 hours) on Mondays and Thursdays, and 6:00 a.m. to 6:00 p.m. (12 hours) on Wednesdays. Beginning March 10 the following open periods apply:

Monday, March 10 3:30 p.m.–7:30 p.m. (4 hrs.);
Wednesday, March 12 5:00 p.m.–9:00 p.m. (4 hrs.);
Thursday, March 13 6:00 p.m.–10:00 p.m. (4 hrs.);
Monday, March 17 8:00 p.m.–midnight (4 hrs.);
Wednesday, March 19 9:00 a.m.–1:00 p.m. (4 hrs.);
Thursday, March 20 9:00 p.m.–1:00 a.m. Friday, March 21 (4 hrs.);
Monday, March 24 2:00 p.m.–6:00 p.m. (4 hrs.);
Wednesday, March 26 4:00 p.m.–8:00 p.m. (4 hrs.).

(B) Spring Season: Entire Youngs Bay from April 17 through Friday, June 13 (14 days total) during the following periods:

Thursday, April 17 6:00 p.m.–midnight (6 hrs.);
Tuesday, April 22 9:00 a.m.–9:00 p.m. (12 hrs.);
Thursday, April 24 7:00 p.m.–7:00 a.m. Friday, April 25 (12 hrs.);
Monday, April 28 9:00 a.m.–9:00 p.m. (12 hrs.);
Wednesday, April 30 9:00 a.m.–9:00 p.m. (12 hrs.);
Thursday, May 1 9:00 a.m.–9:00 p.m. (12 hrs.);
Monday, May 5 9:00 a.m.–3:00 a.m. Tuesday May 6 (18 hrs.);
Wednesday, May 7 9:00 a.m.–9:00 p.m. (12 hrs.);
Thursday, May 8 9:00 a.m.–3:00 a.m. Friday May 9 (18 hrs.); and
Noon Monday through Noon Friday (4 days/week) from May 12 through June 13 (20 days).

(C) Summer Season: Beginning June 16 the following open periods apply:

Noon Monday through Noon Friday (4 days/week) from June 16 through July 4 (12 days);
Noon Monday July 7 through Noon Thursday July 10 (3 days); and
Noon Tuesday through Noon Thursday (48 hrs/week) from July 15 through July 31 (6 days).

(b) For the winter fisheries, 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 including the lower Walluski River upstream to the Highway 202 Bridge are open. Those waters southerly of the alternate Highway 101 Bridge (Lewis and Clark River) are closed. For the 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 and includes the lower Lewis and Clark River upstream to the overhead power lines immediately upstream of Barrett Slough.

(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) Non-resident commercial fishing and boat licenses are not required for Washington fishers participating in Youngs Bay commercial fisheries. A valid fishing and boat license issued by the state of Washington

is considered adequate for participation in this fishery. The open area for non-resident commercial fishers includes all areas open for commercial fishing.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 32-1979, f. & cert. 8-22-79; FWC 28-1980, f. & cert. 6-23-80; FWC 42-1980(Temp), f. & cert. 8-22-80; FWC 30-1981, f. & cert. 8-14-81; FWC 42-1981(Temp), f. & cert. 11-5-81; FWC 54-1982, f. & cert. 8-17-82; FWC 37-1983, f. & cert. 8-18-83; FWC 61-1983(Temp), f. & cert. 10-19-83; FWC 42-1984, f. & cert. 8-20-84; FWC 39-1985, f. & cert. 8-15-85; FWC 37-1986, f. & cert. 8-11-86; FWC 72-1986(Temp), f. & cert. 10-31-86; FWC 64-1987, f. & cert. 8-7-87; FWC 73-1988, f. & cert. 8-19-88; FWC 55-1989(Temp), f. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. 8-7-91, cert. ef. 8-18-91; FWC 123-1991(Temp), f. & cert. ef. 10-21-91; FWC 30-1992(Temp), f. & cert. ef. 4-27-92; FWC 35-1992(Temp), f. 5-22-92, cert. ef. 5-25-92; FWC 74-1992(Temp), f. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. 6-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 47-1997, f. & cert. ef. 8-15-97; FWC 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; FWC 14-1998, f. & cert. ef. 3-3-98; FWC 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; FWC 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; FWC 67-1998, f. & cert. ef. 8-24-98; FWC 10-1999, f. & cert. ef. 2-26-99; FWC 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; FWC 55-1999, f. & cert. ef. 8-12-99; FWC 9-2000, f. & cert. ef. 2-25-00; FWC 42-2000, f. & cert. ef. 8-3-00; FWC 3-2001, f. & cert. ef. 2-6-01; FWC 66-2001(Temp), f. 8-20-01, cert. ef. 8-6-01 thru 8-14-01; FWC 76-2001(Temp), f. & cert. ef. 8-2-01 thru 10-31-01; FWC 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; FWC 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; FWC 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; FWC 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; FWC 12-2003, f. & cert. ef. 2-14-03; FWC 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; FWC 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; FWC 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; FWC 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; FWC 37-2003(Temp), f. & cert. ef. 5-7-03 thru 10-1-03; FWC 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; FWC 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; FWC 11-2004, f. & cert. ef. 2-13-04; FWC 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; FWC 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; FWC 28-2004(Temp), f. 4-8-04 cert. ef. 4-12-04 thru 4-15-04; FWC 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; FWC 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; FWC 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; FWC 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; FWC 6-2005, f. & cert. ef. 2-14-05; FWC 15-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; FWC 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; FWC 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; FWC 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; FWC 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; FWC 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; FWC 46-2005(Temp), f. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; FWC 73-2005(Temp), f. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; FWC 77-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; FWC 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; FWC 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; FWC 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; FWC 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; FWC 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; FWC 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; FWC 5-2006, f. & cert. ef. 2-15-06; FWC 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; FWC 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; FWC 17-2006(Temp), f. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; FWC 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; FWC 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; FWC 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; FWC 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06; FWC 73-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; FWC 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; FWC 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; FWC 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; FWC 9-2007, f. & cert. ef. 2-14-07; FWC 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; FWC 16-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; FWC 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; FWC 45-2007(Temp), f. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; FWC 50-2007(Temp), f. 6-29-07, cert. ef. 7-4-07 thru 7-31-07; FWC 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; FWC 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; FWC 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; FWC 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; FWC 30-2008(Temp), f. 3-27-08, cert. ef. 3-30-08 thru 8-28-08; FWC 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; FWC 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; FWC 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; FWC 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; FWC 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; FWC 24-2009(Temp), f. 3-10-09, cert. ef. 3-11-09 thru 7-31-09; FWC 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; FWC 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; FWC 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; FWC 17-2010(Temp), f. & cert. ef. 2-22-10 thru 7-31-10; FWC 20-2010(Temp), f. & cert. ef. 2-26-10 thru 7-31-10; FWC 30-2010(Temp), f. 3-11-10, cert. ef. 3-14-10 thru 7-31-10; FWC 35-2010(Temp), f. 3-23-10, cert. ef. 3-24-10 thru 7-31-10; FWC 40-2010(Temp), f. & cert. ef. 4-1-10 thru 7-31-10; FWC 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; FWC 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; FWC 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; FWC 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; FWC 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; FWC 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; FWC 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; FWC 23-2011, f. & cert. ef. 3-21-11; FWC 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; FWC 35-2011(Temp), f. & cert. ef. 4-28-11 thru 7-29-11; FWC 46-2011(Temp), f. & cert. ef. 5-12-11 thru 7-29-11; FWC 52-2011(Temp), f. & cert. ef. 5-18-11 thru 7-29-11; FWC 76-2011(Temp), f. 6-24-11, cert. ef. 6-27-11 thru 7-29-11; FWC 106-2011(Temp), f. 8-2-11, cert. ef. 8-3-11 thru 10-31-11; FWC 121-2011(Temp), f. 8-29-11, cert. ef. 9-5-11 thru 10-31-11; Administrative correction 11-18-11; FWC 12-2012(Temp), f. 2-8-12, cert. ef. 2-12-12 thru 7-31-12; FWC 24-2012(Temp), f. 3-15-12, cert. ef. 3-18-12 thru 7-31-12; FWC 26-2012(Temp), f. 3-20-12, cert. ef. 3-21-12 thru 7-31-12; FWC 27-2012(Temp), f. 3-27-12, cert. ef. 3-29-12 thru 7-31-12; FWC 28-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 7-31-12; FWC 30-2012(Temp), f. 4-4-12, cert. ef. 4-5-12 thru 7-31-12; FWC 36-2012(Temp), f. 4-16-12, cert. ef. 4-19-12 thru 7-31-12; FWC 82-2012(Temp), f. 6-29-12, cert. ef. 7-2-12 thru 7-31-12; FWC 96-2012(Temp), f. 7-

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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; DFW 22-2013(Temp), f. 3-12-13, cert. ef. 3-13-13 thru 7-31-13; DFW 34-2013(Temp), f. 5-14-13, cert. ef. 5-15-13 thru 7-31-13; DFW 36-2013(Temp), f. & cert. ef. 5-22-13 thru 7-31-13; DFW 44-2013(Temp), f. & cert. ef. 5-29-13 thru 7-31-13; DFW 82-2013(Temp), f. 7-29-13, cert. ef. 7-31-13 thru 10-31-13; DFW 87-2013(Temp), f. & cert. ef. 8-9-13 thru 10-31-13; DFW 109-2013(Temp), f. 9-27-13, cert. ef. 9-30-13 thru 10-31-13; Administrative correction, 11-22-13; DFW 8-2014(Temp), f. & cert. ef. 2-10-14 thru 7-31-14

635-042-0160

Blind Slough and Knappa Slough Select Area Salmon Season

(1) Salmon and shad may be taken for commercial purposes during open 2014 fishing periods described as the winter fishery and the spring fishery in subsections (1)(a)(A) and (1)(a)(B) respectively, 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 10 through Friday, March 14 (10 nights);

(B) Blind Slough Only: Monday and Thursday nights beginning Monday, March 17 through Tuesday, April 1 (5 nights).

(C) Blind Slough and Knappa Slough during the following periods: Thursday, April 17; Tuesday, April 22; and Monday and Thursday nights from April 24 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 1 through June 13, 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) Oregon licenses are required in the open waters upstream from the railroad bridge.

(3) As a condition of fishing, owners or operators of commercial fishing vessels must cooperate with Department observers or observers collecting data for the Department, when notified by the observer of his or her intent to board the commercial vessel for observation and sampling during an open fishery. Additionally, cooperation with Department personal or observers prior to an open fishery is expected.

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; DFW 24-2013(Temp), f. & cert. ef. 3-21-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 91-2013(Temp), f. 8-22-13, cert. ef. 8-26-13 thru 10-31-13; DFW 110-2013(Temp), f. 9-27-13, cert. ef. 9-30-13 thru 10-31-13; Administrative correction, 11-22-13; DFW 8-2014(Temp), f. & cert. ef. 2-10-14 thru 7-31-14

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 (new spring lower dead-line), a line from a marker at the southeast end of Mott Island northeasterly to a marker on the northwest tip of Lois Island, and a line from a marker on the southwest end of Lois Island 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" to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to the flashing red USCG marker #10, northwesterly to a marker on Burnside Island defining the upstream terminus of South Channel.

(3) Salmon and shad 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 2014 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 10 through Friday, March 14 (10 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 24 through Friday, 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 250 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.

ADMINISTRATIVE RULES

(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) As a condition of fishing, owners or operators of commercial fishing vessels must cooperate with Department observers or observers collecting data for the Department, when notified by the observer of his or her intent to board the commercial vessel for observation and sampling during an open fishery. Additionally, cooperation with Department personal or observers prior to an open fishery is expected.

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. & 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; DFW 34-2013(Temp), f. 5-14-13, cert. ef. 5-15-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 91-2013(Temp), f. 8-22-13, cert. ef. 8-26-13 thru 10-31-13; DFW 110-2013(Temp), f. 9-27-13, cert. ef. 9-30-13 thru 10-31-13; Administrative correction, 11-22-13; DFW 8-2014(Temp), f. & cert. ef. 2-10-14 thru 7-31-14

635-042-0180

Deep River Select Area Salmon Season

(1) Salmon and shad may be taken for commercial purposes from the US Coast Guard navigation marker #16 upstream to the Highway 4 Bridge.

(2) The 2014 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 10 through April 1 (15 nights).

(b) Spring season: Thursday, April 17 from 7:00 p.m. to 7:00 a.m. the following morning (12 hours); Tuesday, April 22 from 7:00 p.m. to 7:00 a.m. the following morning (12 hours); and Monday and Thursday nights from 7:00 p.m. to 7:00 a.m. the following morning (12 hours) beginning April 24 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) 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 to confirm 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 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 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; DFW 34-2013(Temp), f. 5-14-13, cert. ef. 5-15-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 91-2013(Temp), f. 8-22-13, cert. ef. 8-26-13 thru 10-31-13; DFW 110-2013(Temp), f. 9-27-13, cert. ef. 9-30-13 thru 10-31-13; Administrative correction, 11-22-13; DFW 8-2014(Temp), f. & cert. ef. 2-10-14 thru 7-31-14

Rule Caption: Regulations to Establish a Recreational Control Zone at Youngs Bay in the Lower Columbia River.

Adm. Order No.: DFW 9-2014

Filed with Sec. of State: 2-10-2014

Certified to be Effective: 2-10-14

Notice Publication Date: 1-1-2014

Rules Adopted: 635-023-0140

Rules Repealed: 635-023-0140(T)

ADMINISTRATIVE RULES

Subject: This newly adopted rule establishes a recreational control zone prohibiting angling adjacent to the mouth of Youngs Bay in the lower Columbia River as required in Senate Bill 830. The rule includes a description of the geographic boundaries of the control zone and dates that the control zone is closed to recreational angling.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-023-0140

Youngs Bay Control Zone

(1) The **2014 Oregon Sport Fishing Regulations** provide requirements for the Columbia 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 **2014 Oregon Sport Fishing Regulations**.

(2) The Youngs Bay Control Zone is closed to recreational angling from August 1 through September 15.

(a) The Youngs Bay Control Zone is defined as those waters southerly of a line originating on the Oregon shore at the east end of the seawall at the Warrenton Fiber log yard (approximately river mile 10.1) northeasterly through green navigation buoys 29, 31, 33, and 35A to the center of the Astoria-Megler Bridge abutment adjacent to, and north of the ship channel, and continuing southerly in line with the center of the Megler Bridge span to the Oregon shore.

(b) The Youngs Bay Control Zone includes all waters from the line defined in section (2)(a) above south to the Highway 101 Bridge.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & SB 830 (2013)

Hist.: DFW 4-2014(Temp), f. 1-23-14, cert. ef. 2-1-14 thru 7-30-14; DFW 9-2014, f. & cert. ef. 2-10-14

Rule Caption: 2014 Recreational Smelt Season Set for the Sandy River

Adm. Order No.: DFW 10-2014(Temp)

Filed with Sec. of State: 2-12-2014

Certified to be Effective: 3-1-14 thru 3-31-14

Notice Publication Date:

Rules Amended: 635-023-0090

Subject: Amended rule sets a 2014 recreational fishing season for smelt in the Sandy River. The fishery consists of one 6-hour fishing periods, 6:00 a.m. to noon, Saturdays of each week beginning March 1 through March 22, 2014 (4 days). Fishers are allowed daily and possession limits of 10 pounds. Revisions are consistent with the action taken February 5, 2014 by the Columbia River Compact agencies of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-023-0090

Inclusions and Modifications

The **2014 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 **2014 Oregon Sport Fishing Regulations**.

(1) Effective January 1, 2013, the use of barbless hooks is required when angling for salmon, steelhead, or trout in the following areas:

(a) The mainstem Columbia River from Buoy 10 upstream to the Oregon-Washington border located upstream of McNary Dam (river mile 309.5).

(b) Within the Youngs Bay Select Area (Clatsop County) from the Highway 101 Bridge upstream to markers at the confluence of the Youngs and Klaskanine rivers including the lower Lewis and Clark River upstream to the Alternat Highway 101 Bridge, and the Walluski River upstream to the Highway 202 Bridge.

(c) Within the Knappa/Blind Slough Select Area (Clatsop County) from markers at the west end of Minaker Island upstream to markers at the mouth of Blind Slough, continuing upstream to the railroad bridge in Blind Slough.

(2) A reduced Level One smelt fishery, consisting of one 6-hour fishing period per week from 6:00 a.m. to noon, is authorized beginning March 1 and extending through March 22, 2014.

(a) Fishing area is the Sandy River;

(b) Daily catch limit is first 10 pounds per person;

(c) Possession limit is 10 pounds per person;

(d) Gear authorized is Dip Net (bank only). A separate container must be used for each dipper; and

(e) An angling license is not required.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 19-1994(Temp), f. 3-31-94, cert. ef. 4-1-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 46-1994(Temp), f. 7-29-94, cert. ef. 8-1-94; FWC 52-1994(Temp), f. 8-24-94, cert. ef. 8-27-94; FWC 62-1994(Temp), f. 9-12-94, cert. ef. 9-16-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 72-1994(Temp), f. 10-7-94, cert. ef. 10-8-94; FWC 8-1995, f. 2-1-95, cert. ef. 2-6-95; FWC 11-1995, f. & cert. ef. 2-9-95; FWC 14-1995(Temp), f. 2-15-95, cert. ef. 2-16-95; FWC 31-1995(Temp), f. 4-21-95, cert. ef. 4-24-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 61-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 67-1995(Temp), f. 8-25-95, cert. ef. 8-27-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 12-1996(Temp), f. 3-26-96, cert. ef. 4-1-96; FWC 14-1996, f. 3-29-96, cert. ef. 4-1-96; FWC 49-1996(Temp), f. & cert. ef. 8-30-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 7-1997(Temp), f. 2-6-97, cert. ef. 3-11-97; FWC 10-1997, f. & cert. ef. 2-28-97; FWC 11-1997(Temp), f. 2-27-97, cert. ef. 3-1-97; FWC 22-1997(Temp), f. 4-2-97, cert. ef. 4-5-97; FWC 28-1997(Temp), f. 5-2-97, cert. ef. 5-5-97; FWC 50-1997(Temp), f. 8-26-97, cert. ef. 9-2-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 12-1998(Temp), f. & cert. ef. 2-24-98 thru 4-24-98; DFW 29-1998(Temp), f. 4-16-98, cert. ef. 4-20-98 thru 4-24-98; DFW 32-1998(Temp), f. & cert. ef. 4-24-98 thru 10-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 46-1998, f. & cert. ef. 6-9-98; DFW 78-1998(Temp), f. 9-18-98, cert. ef. 9-21-98 thru 9-25-98; DFW 81-1998(Temp), f. 10-6-98, cert. ef. 10-7-98 thru 10-23-98; DFW 85-1998(Temp), f. & cert. ef. 10-26-98 thru 12-31-98; DFW 88-1998(Temp), f. & cert. ef. 11-23-98 thru 12-31-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 13-1999(Temp), f. 3-2-99, cert. ef. 3-11-99 thru 6-15-99; DFW 23-1999(Temp), f. 4-9-99, cert. ef. 4-17-99 thru 4-23-99; DFW 25-1999, f. & cert. ef. 4-16-99 thru 4-23-99; DFW 29-1999(Temp), f. & cert. ef. 4-23-99 thru 10-20-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 42-1999(Temp), f. 6-9-99, cert. ef. 6-12-99 thru 10-20-99; DFW 50-1999(Temp), f. & cert. ef. 7-16-99 thru 12-9-99; DFW 60-1999(Temp), f. 8-27-99, cert. ef. 8-30-99 thru 9-17-99; DFW 64-1999(Temp), f. 9-13-99, cert. ef. 9-14-99 thru 9-17-99; DFW 67-1999(Temp), f. & cert. ef. 9-17-99 thru 12-31-99; DFW 73-1999(Temp), f. 9-28-99 & cert. ef. 9-29-99 thru 10-22-99; DFW 77-1999(Temp), f. & cert. ef. 10-1-99 thru 12-31-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 11-2000(Temp), f. 3-14-00, cert. ef. 3-16-00 thru 3-31-00; DFW 13-2000, f. & cert. ef. 3-20-00; DFW 18-2000(Temp), f. 4-6-00, cert. ef. 4-8-00 thru 10-5-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 32-2000(Temp), f. 6-14-00, cert. ef. 6-19-00 thru 10-5-00; DFW 35-2000(Temp), f. 6-27-27, cert. ef. 6-28-00 thru 7-31-00; DFW 53-2000(Temp), f. 8-25-00, cert. ef. 8-28-00 thru 12-31-00; DFW 57-2000(Temp), f. 8-31-00, cert. ef. 9-1-00 thru 10-5-00; DFW 58-2000(Temp), f. & cert. ef. 9-1-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 7-2001(Temp), f. & cert. ef. 2-26-01 thru 4-30-01; DFW 17-2001(Temp), f. 4-4-01, cert. ef. 4-9-01 thru 10-6-01; DFW 18-2001(Temp), f. & cert. ef. 4-12-01 thru 4-30-01; DFW 19-2001(Temp), f. 4-17-01, cert. ef. 4-21-01 thru 8-5-01; DFW 25-2001(Temp), f. 4-24-01, cert. ef. 4-25-01 thru 4-29-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 35-2001(Temp), f. & cert. ef. 5-4-01 thru 5-8-01; DFW 37-2001(Temp), f. & cert. ef. 5-11-01 thru 7-31-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 64-2001(Temp), f. & cert. ef. 7-24-01 thru 12-31-01; DFW 71-2001(Temp), f. 8-10-01, cert. ef. 9-1-01 thru 12-31-01; DFW 82-2001(Temp), f. 8-29-01, cert. ef. 8-30-01 thru 12-31-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 88-2001(Temp), f. 9-15-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 16-2002(Temp), f. 3-1-02 thru 8-28-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 29-2002(Temp), f. 4-4-02, cert. ef. 4-6-02 thru 10-3-02; DFW 40-2002(Temp), f. 4-25-02, cert. ef. 4-28-02 thru 10-3-02; DFW 43-2002(Temp), f. & cert. ef. 5-3-02 thru 10-3-02; DFW 45-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 10-3-02; DFW 46-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 10-3-02; DFW 64-2002(Temp), f. 6-27-02, cert. ef. 6-28-02 thru 12-20-02; DFW 69-2002(Temp), f. 7-10-02 cert. ef. 7-11-02 thru 12-31-02; DFW 71-2002(Temp), f. 7-10-02 cert. ef. 7-13-02 thru 12-31-02; DFW 79-2002(Temp), f. 7-29-02, cert. ef. 8-5-02 thru 12-31-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 94-2002(Temp), f. 8-22-02, cert. ef. 8-24-02 thru 12-31-02; DFW 105-2002(Temp), f. 9-20-02, cert. ef. 9-23-02 thru 12-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 16-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 7-1-03; DFW 28-2003(Temp), f. & cert. ef. 4-3-03 thru 7-1-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 36-2003, f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 46-2003(Temp), f. 5-29-03, cert. ef. 5-30-03 thru 10-1-03; DFW 52-2003(Temp), f. 6-13-03, cert. ef. 6-21-03 thru 12-15-03; DFW 54-2003(Temp), f. 6-23-03, cert. ef. 6-28-03 thru 12-24-03; DFW 55-2003(Temp), f. 6-27-03, cert. ef. 6-30-03 thru 12-26-03; DFW 72-2003(Temp), f. 7-25-03, cert. ef. 7-28-03 thru 12-31-03; DFW 99-2003(Temp), f. 9-24-03, cert. ef. 10-1-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 4-2004(Temp), f. 1-22-04, cert. ef. 2-1-04 thru 7-29-04; DFW 35-2004(Temp), f. 4-29-04, cert. ef. 5-1-04 thru 10-26-04; DFW 52-2004(Temp), f. 6-11-04, cert. ef. 6-25-04 thru 12-21-04; DFW 58-2004(Temp), f. 6-24-04, cert. ef. 6-27-04 thru 12-23-04; DFW 64-2004(Temp), f. 6-30-04, cert. ef. 7-3-04 thru 12-30-04; DFW 65-2004(Temp), f. 7-6-04, cert. ef. 7-11-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 118-2004(Temp), f. 12-13-04, cert. ef. 1-1-05 thru 5-31-05; DFW 128-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 5-31-05; Administrative correction 6-17-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 64-2007(Temp), f. 8-6-07, cert. ef. 8-11-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 151-2009(Temp), f. 12-22-09, cert. ef. 1-1-10 thru 3-31-10; DFW 28-2010(Temp), f. 3-9-10, cert. ef. 3-11-10 thru 3-31-10; Administrative correction 4-21-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 152-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 10-2014(Temp), f. 2-12-14, cert. ef. 3-1-14 thru 3-31-14

Rule Caption: Amendment to extend dates and areas of W Trask and NE Trask controlled elk hunts

Adm. Order No.: DFW 11-2014(Temp)

Filed with Sec. of State: 2-12-2014

Certified to be Effective: 2-12-14 thru 3-31-14

Notice Publication Date:

ADMINISTRATIVE RULES

Rules Amended: 635-070-0020

Rules Suspended: 635-070-0020(T)

Subject: The current season for the W Trask (214A) controlled elk hunt is from December 1, 2013 to March 15, 2014. This rule amendment would extend the season to March 31, 2014 and expand the open areas of the W Trask (214A), NE Trask No. 1 (214E1), and NE Trask No. 2 (214E2) elk hunts.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-070-0020

Controlled Western Oregon Elk Rifle Hunts

Tags shall be issued by a controlled hunt drawing following the procedures established in OAR chapter 635, division 60. 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 90, 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. Notwithstanding the provisions of the 2014 Oregon Big Game Regulations:

(1) The season date listed on page 64 for the W Trask (214A), Controlled Elk Hunt is extended to March 31, 2014.

(2) The open area described on page 69 for the W Trask (214A) elk hunt is expanded to the east, the entire hunt area is described by the following boundary: That part of Unit 14 beginning at Tillamook; west on Netarts Hwy to Bayocean Rd (Three Capes Scenic Loop); north and west on Bayocean Rd to Cape Meares Loop Rd; south on Cape Meares Loop Rd to the coast at Oceanside; south on coast to Proposal Rock; east from Proposal Rock to Hwy 101; southeast on Hwy 101 to the T5S/6S boundary; due east on the T5S/6S boundary to the corner of S34 and 35; northeast in a straight line to Castle Rock campground; north in a straight line to Hebo Lake campground; northeast in a straight line to Square Top Mtn; northeast from Square Top Mtn to Trask Summit; north from Trask Summit to Boundary Rd; east on Boundary Rd to Headquarters Grade; north on Headquarters Grade to Murphys Camp; north and east on the 2-6-3 Rd (Flora Mainline) to N Fork Trask River Rd at Neverstill; north and west on N Fork Trask River Rd to Williams Rd; north on Williams Rd to 2500 Line Rd; north and west on 2500 Line Rd to Seven Cedars cross-over; north and east on Seven Cedars cross-over to C-Line Rd; north and east on C-Line Rd to Beaver Dam Rd; north on Beaver Dam Rd to Hwy 6; west on Hwy 6 to Tillamook, point of beginning.

(3) The open area described on page 69 for the NE Trask No. 1 (214E1), and NE Trask No. 2 (214E2) elk hunts are expanded to the west, the entire hunt area is described by the following boundary: That part of Unit 14 beginning at the junction of Hwy 8 and Hwy 47 (Forest Grove); south on Hwy 47 to Pike Rd (Yamhill); north and west on Pike Rd to Rockyford Rd; south on Rockyford Rd to Old Railroad Grade; west on Old Railroad Grade to 2-5-29.0 Rd (CCC Rd and Toll Rd); west and north on 2-5-29.0 Rd to 2-6-3 Rd at Murphys Camp; south on Headquarters Grade to Boundary Rd; west on Boundary Rd to Trask Summit; west in a straight line to High Peak; north in a straight line to Edwards Butte; northeast in a straight line to Gold Peak; northwest in a straight line through Peninsula Co Park to Hwy 6; east on Hwy 6 to junction with Hwy 8; south and east on Hwy 8 to Hwy 47, point of beginning.

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; DFW 123-2013(Temp), f. 10-29-13, cert. ef. 11-1-13 thru 2-15-14; DFW 11-2014(Temp), f. & cert. ef. 2-12-14 thru 3-31-14

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Rule Caption: Columbia River Recreational Spring Chinook and Steelhead Seasons Set.

Adm. Order No.: DFW 12-2014(Temp)

Filed with Sec. of State: 2-13-2014

Certified to be Effective: 3-1-14 thru 6-15-14

Notice Publication Date:

Rules Amended: 635-023-0125

Subject: This amended rule sets 2014 regulations for Columbia River recreational spring Chinook and steelhead seasons with descriptions of areas, dates, and bag limits for harvest of adipose fin-clipped Chinook salmon and adipose fin-clipped steelhead. Revisions are consistent with action taken January 29, 2014 by Columbia River Compact agencies of the states of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-023-0125

Spring Sport Fishery

(1) The **2014 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 **2014 Oregon Sport Fishing Regulations**.

(2) The Columbia River is open from March 1 through April 7, 2014 except closed Tuesday March 25 and Tuesday April 1 (36 retention days) from the mouth at Buoy 10 upstream to the Beacon Rock (boat and bank) plus bank angling only from Beacon Rock upstream to the Bonneville Dam deadline with the following restrictions:

(a) Only 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) Only two adult adipose fin-clipped salmonids, of which only one may be a Chinook may be retained per day. Catch limits for jacks remain in effect as per the **2014 Oregon Sport Fishing Regulations**.

(d) The upstream boundary at Beacon Rock is defined as a line from a deadline marker on the Oregon bank (approximately four miles downstream from Bonneville Dam Powerhouse 1) through the western tip of Pierce Island to a deadline marker on the Washington bank at Beacon Rock.

(3) The mainstem Columbia River salmon and steelhead fishery upstream of the Tower Island power lines (approximately 6 miles below The Dalles Dam) upstream to the Oregon/Washington border, plus the Oregon and Washington banks between Bonneville Dam and the Tower Island power lines is open from March 16 through May 9, 2014 (55 retention days).

(a) Only 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) Only two adult adipose fin-clipped salmonids, of which only one may be a Chinook, may be retained per day. Catch limits for jacks remain in effect as per the **2014 Oregon Sport Fishing Regulations**.

(4) From March 1 through May 15, 2014, the mainstem Columbia River will be 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.

(5) From March 1 through June 15, 2014 in the Select Areas of the Columbia River:

(a) On days when the recreational fishery below Bonneville Dam is open to retention of Chinook, the salmonid daily bag limit in Select Areas will be the same as mainstem Columbia River bag limits; and

(b) On days when the mainstem Columbia River fishery is closed to Chinook retention, the permanent salmonid bag limit regulations for Select Areas apply.

[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-

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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; DFW 26-2013(Temp), f. 4-4-13, cert. ef. 4-5-13 thru 7-1-13; DFW 38-2013(Temp), f. 5-22-13, cert. ef. 5-25-13 thru 7-1-13; DFW 49-2013(Temp), f. 6-7-13, cert. ef. 6-8-13 thru 6-30-13; Administrative correction, 7-18-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 12-2014(Temp), f. 2-13-14, cert. ef. 3-1-14 thru 6-15-14

Department of Human Services, Administrative Services Division and Director's Office Chapter 407

Rule Caption: Adoption of Integrated Employment Services to Individuals with Intellectual and Developmental Disabilities

Adm. Order No.: DHSD 1-2014

Filed with Sec. of State: 2-14-2014

Certified to be Effective: 2-14-14

Notice Publication Date: 9-1-2013

Rules Adopted: 407-025-0010, 407-025-0050

Subject: On April 16, 2013, Governor Kitzhaber issued Executive Order No. 13-04 (EO 13-04), Providing Employment Services to Individuals with Intellectual and Developmental Disabilities (I/DD). Executive Order 13-04 prescribes an array of strategies and desired outcomes related to improving employment services for individuals with I/DD. These rules (OAR 407-025-0000 to 407-025-0120) effectuate the Executive Order and describe the strategies the Department shall implement to support achieving desired outcomes related to improving employment services for individuals with I/DD. OAR 407-025-0010 and 407-025-0050 are being re-permed to correct the definition and references to "person-centered" planning as it was intended in the original filing based on comments received during the public comment period.

Rules Coordinator: Jennifer Bittel—(503) 947-5250

407-025-0010

Definitions

As used in OAR 407-025-0000 through 407-025-0120 the following definitions apply:

(1) "Career development plan" means part of an Individual Support Plan (ISP) regarding Office of Developmental Disability Services' (ODDS) services and an Individual Plan for Employment (IPE) regarding Office of Vocational Rehabilitation Services' (OVRs) services. A career development plan identifies the individual's employment goals and objectives, the services and supports needed to achieve those goals, the individuals, agencies, and providers assigned to assist the individual to attain those goals, the obstacles to the individual working in an individualized job in an integrated employment setting, and the services and supports necessary to overcome those obstacles.

(2) "Department" means the Department of Human Services.

(3) "Department integrated employment rules" means this rule and any ODDS rule or OVRs rule that expressly describes itself as falling under this definition.

(4) "Discovery" means the time-limited process (up to six months) by which an individual's planning team assists an individual to identify his or her interests, strengths, and abilities relating to employment, with the goal of attaining and maintaining employment in an integrated employment setting, including self-employment.

(5) "Employment services" provided by ODDS or OVRs mean services that are intended to assist an individual with an intellectual or developmental disability (I/DD) to choose, get, learn, and keep work in an integrated employment setting.

(6) "Evidence-based practices" means well-defined best practices, which have been demonstrated to be effective with the I/DD population or the relevant subset of that population, such as youth 16 or older, by multiple peer-reviewed research studies that are specific to the I/DD population or subset of that population.

(7) "I/DD" means intellectual or developmental disability.

(8) "Individuals with I/DD" are individuals found eligible for publicly-funded I/DD services provided by ODDS.

(9) "Integrated employment setting" means an employment setting that allows an individual to interact with non-disabled persons in a typical community work environment, including self-employment or small business models. An integrated employment setting may include a group enclave or mobile crew but must allow an individual to interact with non-disabled persons in the employment setting. An integrated employment setting does not mean facility-based work in a sheltered workshop or non-work activities, such as Alternatives to Employment (ATE).

(10) "Intellectual disability" and "developmental disability" have the meaning given those terms in OAR chapter 411, division 320.

(11) "ODDS" means the Department's Office of Developmental Disability Services.

(12) "OVRs" means the Department's Office of Vocational Rehabilitation Services.

(13) "Person-centered planning" for employment services means:

(a) A timely and formal or informal process that is driven by the individual with an intellectual or developmental disability that gathers and organizes information that helps an individual:

(A) Determine and describe choices about personal employment goals, activities, services, provides, and lifestyle preferences;

(B) Design strategies and networks of support to achieve goals and a preferred lifestyle using individual strengths, relationships, and resources; and

(C) Identify, use, and strengthen naturally occurring opportunities for support at home and in the community.

(b) The methods for gathering information vary, but all are consistent with the individual's cultural considerations, needs, and preferences.

(14) "Policy group" means a group consisting of representatives of the Oregon Department of Education (ODE) and the Department, legislators, and stakeholders formed to make recommendations to the Department's Director and the Deputy Superintendent of Public Instruction regarding design and implementation on issues including but not limited to education, outreach, development of provider capacity, training, and processes for assessment and discovery.

(15) "Qualified employment services provider" means a provider of employment services that meets the qualification requirements to deliver employment services consistent with OAR 411-323-0010 through 411-323-0070 and 411-345-030.

(16) "Sheltered workshop" means a facility-based service that congregates more than eight adults with I/DD. Sheltered workshops are operated by service provider entities. In general, a sheltered workshop employs only individuals with I/DD or other disabilities except for service support staff. However, assessments, instruction, and activities that typically occur in public schools and that are provided either directly or by contract by the public school districts, public charter schools, educational service districts, or ODE in a school setting are not considered sheltered workshops.

(17) "Situational assessment" means an assessment that maintains the qualities of a vocational assessment but is administered on-site in an integrated employment setting, where an individual is evaluated in the performance of work activities that are typical to the setting where the assessment is administered.

(18) "Transition age" means individuals at least 16 years of age for OVRs services and at least 18 years of age for ODDS services, and no older than two years after an individual has ceased receiving public school services in the Oregon secondary schools.

(19) "Transition age target population" means transition age individuals with I/DD who receive employment services on or after July 1, 2013.

(20) "Target populations" means the transition age target population and the working age target population.

(21) "Vocational assessment" means an assessment administered to provide employment-related information essential to the development of, or revision of, an individual's employment-related planning documents, including the IPE and ISP, where applicable.

(22) "Working age individuals" means adults with I/DD between the ages of 21 and 60, individuals with I/DD younger than 21 and no longer receive public school services, and those with I/DD over 60 who choose to continue employment.

(23) "Working age target population" means working age individuals with I/DD who receive sheltered workshop services on or after July 1, 2013.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.050

Hist.: DHSD 4-2013, f. & cert. ef. 10-1-13; DHSD 1-2014, f. & cert. ef. 2-14-14

ADMINISTRATIVE RULES

407-025-0050

Career Development Planning

(1) No later than January 1, 2014, ODDS shall adopt and implement policies and procedures for developing career development plans. The policies must include a presumption that all individuals in the target populations are capable of working in an integrated employment setting.

(2) Career development plans shall be based on person-centered planning principles. Career development plans are created through various strategies and tools, must include vocational assessments, and may also include situational assessments, discovery, and other strategies and tools.

(3) The career development plan shall prioritize employment in integrated settings. The career development process shall focus on the strengths of the individual and be conducted with the goal of maximizing the number of hours spent working, consistent with an individual's abilities and choices. The primary purpose of all vocational assessments shall be to determine an individual's interests, strengths, and abilities, in order to identify a suitable match between the person and an integrated employment setting. If an individual has an existing vocational assessment that is current, accurate and relevant to establishing individual goals and services, it need not be redone or revised.

(4) Working age individuals in sheltered workshops in the target population shall receive a career development plan as part of the employment services they receive under OAR 407-025-0030. The transition-age target population should have a career development plan no later than the date of their anticipated departure from the Oregon public schools, but no later than one year after their departure. The provision of employment services by ODDS may not be delayed or denied due to the lack of a career development plan.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.050

Hist.: DHSD 4-2013, f. & cert. ef. 10-1-13; DHSD 1-2014, f. & cert. ef. 2-14-14

Department of Human Services, Aging and People with Disabilities and Developmental Disabilities Chapter 411

Rule Caption: Disability Determination Services Rates of Payment — Medical

Adm. Order No.: APD 1-2014

Filed with Sec. of State: 1-27-2014

Certified to be Effective: 2-1-14

Notice Publication Date: 1-1-2014

Rules Amended: 411-200-0010, 411-200-0020, 411-200-0030, 411-200-0035, 411-200-0040

Subject: The Department of Human Services (Department) is permanently amending the rules for Disability Determination Services (DDS) rates of payment in OAR chapter 411, division 200 to comply with the Code of Federal Regulations.

The permanent rules:

Remove DDS from the Workers' Compensation fee schedule;

Link DDS to the United States Department of Health and Human Services fee schedule for consultative examinations;

Remove entities that no longer fit the intent of the rule;

Reflect current practice and Department terminology; and

Correct formatting and punctuation.

Rules Coordinator: Christina Hartman—(503) 945-6398

411-200-0010

General Policy

(1) The Department of Human Services (Department) reimburses a vendor or consultant, for the costs of goods and services only if the Department has authorized payment before the provision of goods and services. The Department rejects all invoices for goods and services without the required prior authorization.

(2) Except as provided in OAR 411-200-0030 and 411-200-0035, the amount that the Department pays the vendor or consultant for previously authorized goods and services is:

(a) For a vendor: The rates set forth in OAR 411-200-0030; and

(b) For a consultant: No more than the maximum fee for the service prescribed in the United States Department of Health and Human Services' fee schedule.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SDDS 4-2002, f. & cert. ef. 6-12-02; SPD 13-2003, f. & cert. ef. 7-1-03; SPD 7-2004, f. 3-23-04 cert. ef. 3-24-04; SPD 19-2004, f. & cert. ef. 6-23-04; SPD 12-2005, f. & cert. ef. 9-26-05; SPD 12-2006, f. 3-23-06, cert. ef. 4-1-06; SPD 9-2011, f. 4-29-11, cert. ef. 5-1-11; APD 1-2014, f. 1-27-14, cert. ef. 2-1-14

411-200-0020

Definitions

Unless the context indicates otherwise, the following definitions apply to the rules in OAR chapter 411, division 200.

(1) "Brief Narrative" means a document that summarizes claimant treatment to date and current status, briefly addresses three to five specific topics posed by the Department, if any, and is usually one or two pages.

(2) "Comprehensive Narrative" means a document that describes an extended claimant history, addresses six or more specific topics, and is usually three or more pages.

(3) "Consultant" means an individual whose professional credentials per the policy of the Social Security Administration identify the individual either as an acceptable medical source or qualified medical source.

(4) "Department" means the Department of Human Services.

(5) "DDS" means the Disability Determination Services program within the Department funded by, and subject to, the disability rating rules of the Social Security Administration.

(6) "Fee Schedule" means a complete listing of fees used by the United States Department of Health and Human Services to pay for goods and services. The fee schedule is maintained at: <https://www.cms.gov/apps/physician-fee-schedule/license-agreement.aspx>. Printed copies may be obtained by contacting the Centers for Medicare & Medicaid Services, 7500 Security Blvd., Baltimore, MD 21244.

(7) "HHS" means the United States Department of Health and Human Services.

(8) "These Rules" mean the rules in OAR chapter 411, division 200.

(9) "Vendor" means an individual or entity (such as hospitals, clinics, private practices) that provide medical evidence of record or other services at the Department's request and may, at the Department's request and with the Department's prior authorization, provide a brief or comprehensive narrative of medical treatment for the Department's review.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SDDS 4-2002, f. & cert. ef. 6-12-02; SPD 12-2005, f. & cert. ef. 9-26-05; SPD 12-2006, f. 3-23-06, cert. ef. 4-1-06; SPD 9-2011, f. 4-29-11, cert. ef. 5-1-11; APD 1-2014, f. 1-27-14, cert. ef. 2-1-14

411-200-0030

Medical Evidence of Record (MER) and Narrative Charges for Vendors

(1) Except as provided by section (4) of this rule, the Department pays the lesser of the following fees for existing medical records requested by the Department:

(a) The lowest fee for the records that the vendor charges the general public or other state or federal agencies for the records; or

(b) When the invoice itemizes the number of pages provided:

(A) For 10 or fewer pages, \$18.00;

(B) For 11–20 pages, \$18.00 for the first 10 pages plus \$0.25 per page for each additional page;

(C) For 21–40 pages, \$20.50 for the first 20 pages plus \$0.10 per page for each additional page; and

(D) For more than 40 pages, a maximum payment of \$22.50.

(c) If the invoice does not itemize the number of pages provided, the Department pays a total maximum payment of \$18.00.

(2) Additional payment is not made to a vendor for second or subsequent requests when the information to be provided was available at the time the original request was processed.

(3) Records provided by a vendor, whether held in multiple locations or by multiple sources, are paid as a single record request regardless of whether the records are electronic or paper form, or both.

(4) The Department pays a vendor an additional \$5.00 when the Department receives the requested records within seven days from the date of the Department's record request. Time is measured from the date indicated on the Department's written request until the date that the Department receipts the copies.

(5) The Department pays the vendor the amount billed up to a maximum payment of \$35.00 for a brief narrative summarizing the medical treatment when requested by the Department.

(6) The Department pays the vendor the amount billed up to a maximum payment of \$75.00 for a comprehensive narrative summarizing the medical treatment when requested by the Department.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

ADMINISTRATIVE RULES

Hist.: SDDS 4-2002, f. & cert. ef. 6-12-02; SPD 12-2005, f. & cert. ef. 9-26-05; SPD 12-2006, f. 3-23-06, cert. ef. 4-1-06; SPD 9-2011, f. 4-29-11, cert. ef. 5-1-11; APD 1-2014, f. 1-27-14, cert. ef. 2-1-14

411-200-0035

Consultative Examination (CE) and Related Charges for Consultants

(1) Except as provided in section (2) of this rule, the Department pays the lesser of the following fees for examinations and lab work when requested and pre-authorized by the Department:

(a) The lowest fee for services that the consultant charges the general public or other state or federal agencies; or

(b) The rate prescribed by HHS in the fee schedule.

(2) With prior written approval by a DDS manager, the Department may exceed the fee described in section (1) of this rule when financial or human considerations outweigh the difference in cost. Such considerations may include examinations in a remote geographic area or logistical concerns.

(3) No additional fees are reimbursed for certain scheduled services (e.g., blood work only, x-rays, lab tests, PFT's, treadmills) where no preparation time is required.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SPD 9-2011, f. 4-29-11, cert. ef. 5-1-11; APD 1-2014, f. 1-27-14, cert. ef. 2-1-14

411-200-0040

Limitations of Payments

(1) A vendor or consultant who has entered into a price agreement or contract with one part of the Department to provide identified services must provide the same services at the same price to the Department if requested.

(2) The vendor must accept the fees prescribed by these rules as payment in full. If a vendor's usual and customary fee for a service exceeds the fee prescribed by these rules, a client or the client's family may not be liable to the vendor for any portion of a vendor's usual and customary fee unless the client or the client's family agrees in writing to assume the additional charges. Without such explicit agreement, the vendor must accept the Department's payment as payment in full.

(3) No fee is paid to a consultant if DDS cancels an appointment more than 24 hours in advance of the appointed time.

(4) A consultant is not reimbursed for the time to travel to or from an authorized consultative examination.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SDDS 4-2002, f. & cert. ef. 6-12-02; SPD 12-2005, f. & cert. ef. 9-26-05; SPD 12-2006, f. 3-23-06, cert. ef. 4-1-06; SPD 9-2011, f. 4-29-11, cert. ef. 5-1-11; APD 1-2014, f. 1-27-14, cert. ef. 2-1-14

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**Department of Human Services,
Child Welfare Programs
Chapter 413**

Rule Caption: Changing OARs affecting Child Welfare programs (I-E.3.6.2)

Adm. Order No.: CWP 1-2014

Filed with Sec. of State: 1-31-2014

Certified to be Effective: 2-1-14

Notice Publication Date: 1-1-2014

Rules Amended: 413-070-0900, 413-070-0905, 413-070-0909, 413-070-0917, 413-070-0919, 413-070-0925, 413-070-0934, 413-070-0939, 413-070-0949, 413-070-0959, 413-070-0964, 413-070-0969, 413-070-0974

Subject: These rules (OAR 413-070-0900 to 413-070-0974) about guardianship assistance are being amended to update and clarify various requirements and processes related to guardianship assistance. These rules are being amended to include cases in which the child is in the care or custody of a tribe rather than the Department, and to clarify that certain timeframes are to be counted in calendar days. OAR 413-070-0905 is also being amended to update the circumstances in which a foster parent may be considered a relative for purposes of guardianship assistance. OAR 413-070-0909 is also being amended to remove language that no longer applies regarding non-relative guardianship assistance. OAR 413-070-0917 is also being amended to clarify the documentation requirements and timeframes for requests for extensions of guardianship assistance for young adults. OAR 413-070-0934 is also being amended to add a timeframe when negotiation of the guardianship assistance agreement is

delayed. OAR 413-070-0939 is also being amended to update and streamline the review process when there is disagreement about the base rate payment. OAR 413-070-0964 is also being amended to remove the requirement to submit a copy of the annual report to the Department; to add language allowing the Department to provide information to the guardian, court, or tribe; to request information from guardians, and to establish a timeframe for guardians to respond to inquiries from the Adoption Assistance and Guardianship Assistance Unit. OAR 413-070-0974 is also being amended to state that a child receiving guardianship assistance who is subsequently adopted by the guardian may be eligible for adoption assistance.

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

Rules Coordinator: Annette Tesch—(503) 945-6067

413-070-0900

Purpose

(1) The purpose of these rules, OAR 413-070-0900 to 413-070-0974, is to describe Department criteria for eligibility and receipt of guardianship assistance for:

(a) A child in the care or custody of the Department or a participating tribe;

(b) A young adult on whose behalf an initial guardianship assistance agreement was entered into when the young adult was a child of age 16 or 17; or

(c) A young adult who qualifies for disability services and on whose behalf an initial guardianship assistance agreement was entered into when the young adult was a child.

(2) The State of Oregon is not responsible for guardianship assistance for a child or young adult placed for guardianship in Oregon by a public child welfare agency other than the Department.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 411.141 & 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14

413-070-0905

Definitions

The following definitions apply to OAR 413-070-0900 to 413-070-0974:

(1) "Base rate payment" means a payment to the foster parent or relative caregiver for the costs of providing the child or young adult with the following:

(a) Food — including the cost to cover a child or young adult's special or unique nutritional needs;

(b) Clothing — including purchase and replacement;

(c) Housing — including maintenance of household utilities, furnishings, and equipment;

(d) Daily supervision — including teaching and directing to ensure safety and well-being at a level which is appropriate based on the child or young adult's chronological age;

(e) Personal incidentals — including personal care items, entertainment, reading materials, and miscellaneous items; and

(f) The cost of providing transportation — including local travel associated with expenditure for gas and oil, and vehicle maintenance and repair associated with transportation to and from extracurricular, child care, recreational, and cultural activities.

(2) "CANS screening" means Child and Adolescent Needs and Strengths screening, a process of gathering information on a child or young adult's needs and strengths used for one or more of the following purposes:

(a) Identifying case planning, service planning, and supervision needs of the child or young adult in substitute care with a certified family;

(b) Determining the level of care payment while in substitute care with a certified family; and

(c) Determining the level of care payment included in an adoption assistance agreement or guardianship assistance agreement.

(3) "Child" means a person under 18 years of age.

(4) "Department" means the Department of Human Services, Child Welfare.

ADMINISTRATIVE RULES

(5) "Enhanced supervision" means the additional support, direction, observation, and guidance necessary to promote and ensure the safety and well-being of the child or young adult when the child or young adult qualifies for a level of care payment.

(6) "Guardian" means an individual who has been granted guardianship of a child through a judgment of the court.

(7) "Guardianship assistance" means assistance on behalf of an eligible child or young adult to offset the costs associated with establishing the guardianship and meeting the ongoing needs of the child or young adult. Guardianship assistance may be in the form of a payment, medical coverage, or reimbursement of guardianship expenses.

(8) "Guardianship assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the potential guardian or guardian setting forth the assistance the Department is to provide on behalf of the child or young adult, the responsibilities of the guardian and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.

(9) "Guardianship assistance agreement only" means a written agreement, binding on the parties to the agreement, between the Department and the potential guardian or guardian of an eligible child or young adult, when the potential guardian or guardian is not receiving a guardianship assistance payment or medical coverage at the time of the agreement but may request it at a later date.

(10) "Guardianship assistance base rate" means the portion of the guardianship assistance payment that is negotiated with the potential guardian or guardian and cannot exceed the amount of the Oregon foster care base rate payment for the child or young adult's age.

(11) "Guardianship assistance payment" means a monthly payment made by the Department to the guardian on behalf of the eligible child or young adult.

(12) "Guardianship Assistance Review Committee" means a committee composed of local and central office Department staff who have expertise in the area of guardianship.

(13) "Level of care payment" means the payment provided to an approved or certified family, a guardian, a pre-adoptive family, or an adoptive family based on the child or young adult's need for enhanced supervision as determined by applying the CANS algorithm to the results of the CANS screening.

(14) "Nonrecurring guardianship assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the potential guardian of an eligible child for a one-time payment to reimburse the guardian for the reasonable and necessary expenses incurred in legally finalizing the guardianship.

(15) "Nonrecurring guardianship expenses" means a one-time payment of up to \$2,000 per child that the Department will make to a guardian to assist with the reasonable and necessary expenses associated with obtaining legal guardianship of an eligible child.

(16) "Parent" means the biological or adoptive mother or the legal father of the child. A legal father is a man who has adopted the child or whose paternity has been established or declared under ORS 109.070, ORS 416.400 to 416.465, or by a juvenile court. In cases involving an Indian child under the Indian Child Welfare Act (ICWA), a legal father includes a man who is a father under applicable tribal law. "Parent" also includes a putative father who has demonstrated a direct and significant commitment to the child by assuming or attempting to assume responsibilities normally associated with parenthood unless a court finds that the putative father is not the legal father.

(17) "Participating tribe" means a federally recognized Indian tribe in Oregon with a Title IV E agreement with the Department.

(18) "Permanency committee" means a group of individuals who are responsible for making a recommendation regarding a permanency plan or potential permanency resource when the child or young adult likely is not returning to his or her parent.

(19) "Potential guardian" means an individual who:

(a) Has been approved by the Department or participating tribe to be a child's guardian; and

(b) Is in the process of legalizing the relationship to the child through the judgment of the court.

(20) "Registered domestic partner" means an individual joined in a domestic partnership that is registered with a county clerk in accordance with ORS 106.300 to 106.340.

(21) "Relative" means:

(a) An individual with one of the following relationships to the child or young adult through the child or young adult's parent:

(A) Any blood relative of preceding generations denoted by the prefixes of grand, great, or great-great.

(B) Any half-blood relative of preceding generations denoted by the prefixes of grand, great, or great-great (individuals with one common biological parent are half-blood relatives).

(C) A sibling, also to include an individual with a sibling relationship to the child through a putative father.

(D) An aunt, uncle, nephew, niece, first cousin, and first cousin once removed.

(E) A spouse of anyone listed in paragraphs (A) to (D) of this subsection, even if a petition for annulment, dissolution, or separation has been filed or the marriage is terminated by death or divorce. To be considered a relative under this paragraph, the child or young adult must have had a relationship with the spouse prior to the child or young adult entering substitute care.

(F) For the purposes of an international adoption, relative means an individual described in paragraphs (A) to (D) of this subsection.

(b) An individual with one of the following relationships to the child or young adult:

(A) An individual defined as a relative by the law or customs of the child or young adult's tribe if the child or young adult is an Indian child under the Indian Child Welfare Act or in the legal custody of a tribe.

(B) An individual defined as a relative of a refugee child or young adult under Child Welfare Policy I-E.2.2, "Placement of Refugee Children," (OAR 413-070-0300 to OAR 413-070-0380).

(C) A stepparent described in OAR 413-100-0020(25)(e) or a former stepparent if the child or young adult had a relationship with the former stepparent prior to the child or young adult entering substitute care; a stepbrother, or a stepsister.

(D) The registered domestic partner of the child or young adult's parent or former registered domestic partner of the child or young adult's parent if the child or young adult had a relationship with the former domestic partner prior to the child or young adult entering substitute care.

(E) The adoptive parent of a child or young adult's sibling.

(F) The unrelated legal or biological father or mother of a child's half-sibling when the child's half-sibling is living with the unrelated legal or biological father or mother.

(c) An individual identified by the child or young adult or the child or young adult's family, or an individual who self-identifies, related to the child or young adult through the child or young adult's parent by blood, adoption, or marriage to a degree other than an individual specified as a child or young adult's relative in paragraphs (A) to (D) of subsection (a) of this section.

(d) An individual, although not related by blood, adoption, or marriage, identified as:

(A) A member of the family by the child or young adult or the child or young adult's family; and

(B) Who had an emotionally significant relationship with the child or young adult or the child or young adult's family prior to the time the Department placed the child in substitute care.

(e) For the purposes of these rules, OAR 413-070-0900 to 413-070-0974:

(A) A stepparent is considered a parent and is not a relative under these rules unless a petition for annulment, dissolution, or separation has been filed, or the marriage to the child's adoptive or biological parent has been terminated by divorce or death.

(B) A foster parent may only be considered a relative under these rules when:

(i) There is a compelling reason why adoption is not an achievable permanency plan;

(ii) The foster parent is currently caring for a child in the care or custody of the Department or a participating tribe who has a permanency plan or concurrent permanency plan of guardianship;

(iii) The foster parent has cared for the child for at least 12 of the past 24 months; and

(iv) The Department or tribe has approved the foster parent for consideration as a guardian.

(22) "Sibling" means one of two or more children or young adults related:

(a) By blood or adoption through a common legal parent;

(b) Through the marriage of the children or young adults' legal or biological parents; or

(c) Through a legal or biological parent who is the registered domestic partner of the children or young adults' legal or biological parent.

ADMINISTRATIVE RULES

(23) “Substitute care” means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

(24) “Substitute caregiver” means a relative caregiver, foster parent, or provider authorized to provide care to a child or young adult in the legal or physical custody of the Department.

(25) “Young adult” means a person aged 18 through 20 years.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14

413-070-0909

Funding of Guardianship Assistance

(1) When grandparents or other approved relatives make a permanent commitment to and assume legal guardianship of a child for whom they have cared as a substitute caregiver, the Department provides guardianship assistance as described in these rules (OAR 413-070-0900 to 413-070-0974).

(2) Guardianship assistance for Title IV-E children or young adults is funded in part with Title IV-E funds as authorized by the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351).

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: CWP 12-2009, f. & cert. ef. 9-28-09; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14

413-070-0917

Eligibility

(1) Eligibility: Child

(a) Guardianship assistance will not be established for a child placed outside of the United States or a territory or possession thereof.

(b) A guardianship assistance agreement must be signed by the potential guardian and a Department representative before guardianship has been legally established by a state or participating tribal court.

(c) To be eligible for guardianship assistance, a child must meet all of the following:

(A) Be a United States citizen or qualified alien as described in Child Welfare Policy I-E.6.1, “Title IV-E Foster Care, Adoption Assistance, and Guardianship Assistance Eligibility”, OAR 413-100-0210(2), and in 8 USC 1641(b) or (c).

(B) Be removed from his or her home pursuant to a voluntary placement or as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child.

(C) The Department or participating tribe has determined that neither return home nor adoption is an appropriate permanency option for the child.

(D) Be eligible for Title IV-E foster care maintenance payments during a six consecutive month period during which the child resided in the home of the potential guardian who was fully licensed, certified, or approved by the state or a participating tribe as meeting the licensure or certification requirements for a foster family home in the state where the home is located. The Department determines a child’s eligibility for a Title IV-E maintenance payment under Child Welfare Policy I-E.6.1, “Title IV-E Foster Care, Adoption Assistance and Guardianship Assistance Eligibility”, OAR 413-100-0000 to 413-100-0345.

(E) Be in the Department’s or participating tribe’s care or custody for a minimum of:

(i) Six months, if the potential guardian is the child’s relative as defined by OAR 413-070-0905(21)(a) through (d); or

(ii) Twelve months, if the potential guardian is a substitute caregiver who meets the definition of a relative under OAR 413-070-0905(21)(c)(B).

(F) Demonstrate a strong attachment to the potential guardian.

(G) Be consulted regarding the guardianship arrangement when the child has attained 14 years of age.

(2) In order for a child to be determined eligible for guardianship assistance, the following must be documented in the child’s case plan:

(a) How the child meets the eligibility requirements;

(b) The steps the Department or participating tribe has taken to determine that return to the home or adoption is not appropriate;

(c) The efforts the Department or participating tribe has made to discuss adoption with the child’s relative caregiver and the reasons why adoption is not an option;

(d) The efforts the Department or participating tribe has made to discuss kinship guardianship with the child’s parent or parents or the reasons why efforts were not made;

(e) The reason why a permanent placement with a potential relative guardian and receipt of a kinship guardian assistance payment is in the child’s best interests; and

(f) The reasons for any separation of siblings during placement. If the child’s placement with the potential relative guardian does not include siblings, the case plan must also include a description of the reasons why the child is separated from siblings during placement.

(3) Siblings. Each sibling of a child or young adult eligible for guardianship assistance is also eligible for guardianship assistance without meeting the eligibility requirements set forth in paragraphs (1)(c)(B) to (F) of this rule when:

(a) The sibling is placed in a guardianship with the same potential guardian or guardian, whether the siblings are placed at the same time or not; and

(b) The potential guardian or guardian and the Department or participating tribe agree that both of the following are appropriate:

(A) Placing the child’s sibling in the home of the potential guardian or guardian; and

(B) Guardianship as a permanency plan for the sibling.

(4) Extension of Guardianship Assistance for a Young Adult

(a) The Department may approve an extension of a guardianship assistance agreement for an individual under the age of 21 when the individual meets paragraph (A) or (B) of this subsection.

(A) An initial guardianship assistance agreement was entered into on behalf of the child and at the time of the child’s 18th birthday, the child:

(i) Qualifies as an individual with a developmental disability as determined by the Oregon Department of Human Services, Developmental Disabilities Services;

(ii) Qualifies as an individual with a developmental disability as determined by the equivalent developmental disability program if living in a state other than Oregon; or

(iii) Qualifies for Supplemental Security Income (SSI) as determined by the Social Security Administration.

(B) An initial guardianship assistance agreement was entered into on behalf of the child who is age 16 or 17, and upon reaching the age of 18, the child is:

(i) Completing secondary school (or equivalent);

(ii) Enrolled in post-secondary or vocational school;

(iii) Participating in a program or activity that promotes or removes barriers to employment;

(iv) Employed for at least 80 hours a month; or

(v) Determined incapable of any of the above due to a documented medical condition, physical disability, or mental disability.

(b) In order for the extension of guardianship assistance under paragraph (a)(A) of this section to be approved on behalf of a young adult, the guardian must submit to the Department documentation from the agency making the determination described in subparagraphs (a)(A)(i) to (iii) of this section.

(c) In order for the extension of guardianship assistance under paragraph (a)(B) of this section to be approved on behalf of a young adult, the guardian must submit to the Department documentation verifying the circumstances described in subparagraphs (a)(B)(i) through (v) of this section. Documentation of circumstances described in subparagraph (a)(B)(v) of this section must be from a medical or mental health professional.

(d) The Department must receive the request for extension of the guardianship assistance agreement and the documentation described in subsections (b) and (c) of this section:

(A) At least 30 calendar days before the individual’s 18th birthday; or

(B) Before a date determined by the Department when the Department approves a request from the guardian to submit the documentation after the individual’s 18th birthday. The Department must receive the request before the individual’s 18th birthday.

(e) If the Department does not receive the documentation as required by subsections (b) through (d) of this section, the Department may not approve an extension of a guardianship assistance agreement.

(f) When an extension of guardianship assistance has been approved under paragraph (a)(A) of this section, guardianship assistance will continue until the young adult turns 21 years old.

ADMINISTRATIVE RULES

(g) When an extension of guardianship assistance has been approved under paragraph (a)(B) of this section, the Department will review the eligibility of the young adult for continued guardianship assistance:

(A) At least annually; or

(B) When information is received that indicates the young adult may no longer be eligible for guardianship assistance or may be eligible for guardianship assistance in a different amount.

(h) The guardian must notify the Department, orally or in writing, of any changes in circumstances that may make the young adult:

(A) Ineligible for guardianship assistance; or

(B) Eligible for guardianship assistance in a different amount.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14

413-070-0919

Eligibility and Requirements for a Child or Young Adult in the Care or Custody of a Participating Tribe

(1) In addition to guardianship assistance program criteria under these rules, OAR 413-070-0900 to 413-070-0974, the following requirements apply to a child in the care or custody of a participating tribe:

(a) The child must be placed in a foster home approved by the participating tribe that meets the certification and licensing standards of the participating tribe; and

(b) The participating tribe must document how continued placement with the potential guardian is in the best interests of the child and meets the child's needs for safety and permanency.

(2) The participating tribe must:

(a) Conduct and prepare a written home study of the guardian;

(b) Have a current Title IV-E agreement with the Department which includes participation in the guardianship assistance program;

(c) Notify the Adoption Assistance and Guardianship Assistance Unit within 30 calendar days after reestablishing custody of a child or young adult in a guardianship placement established under these rules, OAR 413-070-0900 to 413-070-0974; and

(d) Provide the Adoption Assistance and Guardianship Assistance Unit with a copy of the court order terminating the guardianship within 30 calendar days of the termination, when applicable.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14

413-070-0925

Eligibility: Prospective Guardian

The Department may approve a potential guardian for guardianship assistance when the potential guardian:

(1) Meets the requirements of Child Welfare Policy I-E.3.6.1, "Guardianship as a Permanency Plan", OAR 413-070-0665(2); and

(2) Agrees to ensure that, if the child has attained the minimum age for compulsory attendance under the law of the state of residence but has not completed secondary school, the child is:

(a) Enrolled in an elementary or secondary school as determined by the law of the state of residence;

(b) Home schooled in accordance with the law of the state of residence;

(c) Enrolled in an independent study program in accordance with the law of the state of residence; or

(d) Incapable of attending school due to a documented medical condition.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14

413-070-0934

Application Requirements

(1) Except as described in subsections (a) and (b) of this section, the Adoption Assistance and Guardianship Assistance Unit must begin negotiation of the guardianship assistance agreement no later than 60 calendar days after receipt of the completed guardianship assistance application.

(a) The Adoption Assistance and Guardianship Assistance Unit may delay negotiation of the guardianship assistance base rate when the child is due for an updated CANS screening, a new CANS screening is warranted, or a CANS screening is in process or completed but a decision is pending regarding the level of care payment under Child Welfare Policy I-B.1.6, "CANS Screening and Enhanced Supervision", OAR 413-020-0230. The unit must begin negotiation no later than 30 calendar days from receipt of the final decision regarding the level of care payment.

(b) The Adoption Assistance and Guardianship Assistance Unit may delay negotiation following a request by the caseworker, guardian, or potential guardian when there are extenuating circumstances regarding the child or family. The unit must begin negotiation no later than 30 calendar days from notification that the extenuating circumstance causing the delay has been resolved.

(2) A guardianship assistance application is considered complete when the Adoption Assistance and Guardianship Assistance Unit has received a signed application and all supporting documentation.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; Suspended by CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0965, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14

413-070-0939

Guardianship Assistance Payments, Medical Assistance, and Nonrecurring Guardianship Expenses

(1) When a guardianship assistance payment or medical assistance is not being provided, a potential guardian or guardian may enter into a guardianship assistance agreement only.

(2) The monthly guardianship assistance payment may not exceed the total of:

(a) The guardianship assistance base rate; and

(b) When applicable, the level of care payment determined by the CANS screening conducted under Child Welfare Policy I-B.1.6, "CANS Screening and Enhanced Supervision", OAR 413-020-0230.

(3) The monthly guardianship assistance base rate:

(a) Is determined through discussion and negotiation between the Department and the potential guardian or guardian.

(b) May not exceed the current foster care base rate payment the child or young adult would be eligible to receive in foster care as determined under Child Welfare Policy I-E.5.1, "Foster Care Payments for a Child or Young Adult Living With a Certified Family or Living Independently", OAR 413-090-0010(1)(b).

(c) Is negotiated between the potential guardian of a child or guardian of a child or young adult and the Department, taking into consideration relevant factors which include, but are not limited to:

(A) The ordinary and special needs of the child or young adult.

(B) The services and goods required to meet the needs of the child or young adult.

(C) The cost of the services and goods required to meet the needs of the child or young adult.

(D) The circumstances of the potential guardian or guardian and their ability to provide the required services and goods for the child or young adult.

(E) The resources available to the potential guardian or guardian such as medical coverage, private health insurance, public education, other income sources, and community resources.

(F) A guardianship assistance payment may be reduced when other sources of income are received by the potential guardian or guardian or the child or young adult.

(d) Is intended to combine with the resources of the potential guardian or guardian to provide for the needs of the child or young adult.

(4) When, during negotiation of the guardianship assistance base rate payment, the Adoption Assistance and Guardianship Assistance Coordinator and the potential guardian or the guardian are unable to reach agreement, the Adoption Assistance and Guardianship Assistance Coordinator, the potential guardian, or the guardian may request a review

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by the Guardianship Assistance Review Committee. When a review is requested:

(a) An Adoption Assistance and Guardianship Assistance Coordinator must:

(A) Prepare documentation for the scheduled Guardianship Assistance Review Committee;

(B) Notify the potential guardian or guardian and the assigned caseworkers of the date of the committee; and

(C) Attend and participate in the Guardianship Assistance Review Committee.

(b) The potential guardian or guardian may provide written documentation to the Adoption Assistance and Guardianship Assistance Coordinator for review and consideration by the Guardianship Assistance Review Committee.

(c) The certification worker for the potential guardian and the caseworker for the child may participate in a Guardianship Assistance Review Committee meeting and may present information and respond to questions. The workers may not participate in the deliberations of the Guardianship Assistance Review Committee.

(d) The Guardianship Assistance Review Committee members must:

(A) Consider written documentation provided by the potential guardian or guardian, caseworkers, and the Adoption Assistance and Guardianship Assistance Coordinator.

(B) Review materials submitted to the Guardianship Assistance Review Committee, deliberate, and make one or more recommendations regarding the guardianship assistance base rate.

(e) At the conclusion of the Guardianship Assistance Review Committee, the Adoption Assistance and Guardianship Assistance Coordinator must:

(A) Document the recommendations of the Guardianship Assistance Review Committee; and

(B) Submit the documentation to the Post Adoption Services Program Manager or designee within one business day of the Guardianship Assistance Review Committee meeting.

(f) The Post Adoption Services Program Manager or designee must complete each of the following actions:

(A) Attend the Guardianship Assistance Review Committee and ask any clarifying questions, but not participate in the deliberation or recommendation of the Guardianship Assistance Review Committee;

(B) Review and consider:

(i) The materials submitted to the Guardianship Assistance Review Committee;

(ii) The recommendations of the committee; and

(iii) The information presented by the potential guardian or guardian under subsection (4)(b) of this rule.

(C) Make a decision within 30 calendar days of the date of the request for review; and

(D) Provide written notification to the potential guardian or guardian and the Adoption Assistance and Guardianship Assistance Coordinator within ten business days of the decision.

(5) The monthly level of care payment:

(a) Is determined based on the results of a CANS screening conducted under Child Welfare Policy I-B.1.6, "CANS Screening and Enhanced Supervision", OAR 413-020-0230.

(b) Cannot exceed the amount of the level of care payment set forth in Child Welfare Policy I-E.5.1, "Foster Care Payments for a Child or Young Adult Living with a Certified Family or Living Independently", OAR 413-090-0010(2)(g).

(c) Is included in the guardianship assistance payment when the child or young adult qualifies for a level of care payment and when requested by the potential guardian or guardian.

(6) When a potential guardian or guardian is not satisfied with the final guardianship assistance offer from the Department, consisting of the guardianship assistance base rate and, when applicable, a level of care payment, the potential guardian or guardian has the right to a contested case hearing under Child Welfare Policy I-A.5.2, "Contested Case Hearings", OAR 413-010-0500 to 413-010-0535.

(7) An initial guardianship assistance payment begins on the date the state or tribal court legally establishes the guardianship provided there is a written guardianship assistance agreement signed by all parties.

(8) A guardianship assistance payment to a guardian for the child or young adult is inalienable, not assignable or transferable, and exempt from execution, levy, attachment, garnishment, and other legal process under the laws of Oregon, as long as the payment can be identified as a guardianship

assistance payment and is kept separate from other money in the guardian's possession.

(9) The guardian may apply to be the designated payee for any benefit the child or young adult receives if the benefit program allows such application.

(10) Medical assistance and social services.

(a) A child or young adult who is the subject of a guardianship assistance agreement funded by Title IV-E funds as authorized by the Fostering Connection to Success and Increasing Adoptions Act of 2008 (Public Law 110-351) is categorically eligible for medical assistance through Title XIX and social services under Title XX when:

(A) The guardianship is in effect; and

(B) A guardianship assistance payment is being made to the guardian.

(b) A child or young adult who is not eligible for Title XIX medical assistance is eligible for medical assistance under Child Welfare Policy I-E.6.2, "Title XIX and General Assistance Medical Eligibility", OAR 413-100-0400 to 413-100-0610, when:

(A) The child or young adult resides in Oregon; or

(B) The child or young adult resides outside of Oregon but in the United States or a territory or possession thereof and is not able to obtain medical assistance in his or her place of residence.

(c) Medical assistance is not provided for a child or young adult who resides outside of the United States or a territory or possession thereof.

(11) Nonrecurring guardianship expenses.

(a) The Department will reimburse a guardian up to \$2,000 per eligible child for approved nonrecurring guardianship expenses, including but not limited to:

(A) The cost of a home study;

(B) Court costs;

(C) Attorney fees;

(D) Physical and psychological examinations required for the guardianship; and

(E) Travel to visit with the child prior to placement.

(b) Payment for nonrecurring guardianship expenses may not duplicate expenses covered by the Interstate Compact on Placement of Children (ORS 417.200-417.260) or another resource available to the potential guardian.

(c) Documentation of nonrecurring guardianship expenses is required and must be submitted prior to execution of the nonrecurring guardianship assistance agreement. The nonrecurring guardianship assistance agreement, indicating the nature and amount of the nonrecurring guardianship expenses, must be signed by the potential guardian and a Department representative prior to the establishment of the guardianship.

(d) Payment for nonrecurring guardianship expenses is made when the Department receives the court order establishing the guardianship.

(12) Overpayment.

(a) If the Department issues a guardianship assistance payment on behalf of a child or young adult after the date the guardianship assistance agreement automatically expires, the Department may seek reimbursement of the overpayment and the guardian must repay the Department.

(b) If the guardian fails to comply with any provisions of the guardianship assistance agreement, including failing to notify the Department of any of the events or circumstances described in OAR 413-070-0964 and 413-070-0974(6) and (8), the Department may collect any guardianship assistance payment or medical assistance which the Department would not have provided had the guardian complied with the provisions of the guardianship assistance agreement.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0930, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14

413-070-0949

Guardianship Assistance Agreement Requirements

(1) Before a guardian may receive guardianship assistance, there must be a negotiated written guardianship assistance agreement between the Department and the potential guardian or guardian signed by all parties prior to the court order establishing the legal guardianship.

(2) The guardianship assistance agreement must include each of the following:

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(a) A statement indicating that a guardianship assistance agreement remains in effect without regard to the state of residency of the guardian.

(b) The effective date of the initial guardianship assistance agreement is the date of the court order of guardianship.

(c) That the Department will pay the nonrecurring guardianship expenses associated with obtaining legal guardianship of the child, to the extent the nonrecurring guardianship expenses do not exceed \$2,000 per child.

(d) That the child or young adult for whom the Department is providing a guardianship assistance payment remains eligible for medical assistance provided:

(A) The guardianship remains in effect;

(B) A payment is being made; and

(C) The child or young adult is placed in the United States, a territory or possession thereof.

(e) Information regarding garnishment of guardianship assistance payments as set forth in OAR 413-070-0939(8).

(f) That the guardian agrees to comply with the reporting requirements under OAR 413-070-0964.

(g) That the guardian understands that a guardianship assistance agreement may be reviewed and the guardianship assistance may be adjusted, suspended, or terminated under OAR 413-070-0974.

(h) A statement indicating that the guardian understands that the provisions of ORS 192.558 allow the Oregon Health Plan (OHP) and the OHP managed care plans without the authorization of the guardian, child, or young adult to exchange the following protected health information for the purpose of treatment activities related to the behavioral or physical health of the child or young adult when the child or young adult is the recipient of OHP services:

(A) The name and Medicaid recipient number of the child or young adult;

(B) The name of the hospital or medical provider of the child or young adult;

(C) The Medicaid number of the hospital or medical provider;

(D) Each diagnosis for the child or young adult;

(E) Each treatment activity's date of service;

(F) Each treatment activity's procedure or revenue code;

(G) The quantity of units or services provided; and

(H) Information about medication prescription and monitoring.

(i) The amount of the guardianship assistance and the manner in which it is to be provided.

(j) The basis and requirements for periodic changes in the guardianship assistance payment, in consultation with the guardian, based on the circumstances of the guardian and the needs of the child or young adult.

(k) The additional services and assistance for which the child or young adult and guardian are eligible under the agreement and the procedure by which the guardian may apply for such services.

(l) When the Department has agreed to include such language, that the Department may continue to provide guardianship assistance for a child or young adult when child or young adult moves out of the home of the guardian to attend college or live independently.

(3) The Department must provide the guardian with a copy of the guardianship assistance agreement.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 49-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 4-28-04; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0935, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14

413-070-0959

Court Order of Guardianship

(1) Guardianship assistance may only be provided for a legal guardianship established under ORS 419B.365 or ORS 419B.366, as provided under ORS 419B.367 to 419B.369, or as provided by the statutory code or laws of a participating tribe.

(2) The Department or participating tribe may not pursue a court order establishing an assisted guardianship until a guardianship assistance agreement between the Department and the potential guardian has been signed by all parties.

(3) The Department or participating tribe, through counsel if the child is in the care or custody of the Department, must move the court for an

order establishing the guardianship and, when the child is in the care or custody of the Department or participating tribe, directing one of the following:

(a) Termination of Department or participating tribe's care or custody and dismissal of the Department or participating tribe as a party to the case; or

(b) If the child has been committed permanently to the Department, an order setting aside the order of permanent commitment and relieving the Department of responsibility for the care, placement, and supervision of the child.

(4) The Department may not provide guardianship assistance if the court establishes guardianship but orders the Department or participating tribe to continue supervision of the child or guardian.

(5) The guardian is not eligible for payments provided under Child Welfare Policies I-E.5.1, "Foster Care Payments for a Child or Young Adult Living with a Certified Family or Living Independently", OAR 413-090-0000 to 413-090-0050 and I-E.5.1.2, "Personal Care Services", OAR 413-090-0100 to 413-090-0210 once the guardianship is effective and the Department's or participating tribe's custody of the child is dismissed by court order.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 49-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 4-28-04; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0937, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14

413-070-0964

Changes That Must be Reported and Annual Report

(1) A guardian receiving guardianship assistance must immediately report, orally or in writing, to the Adoption Assistance and Guardianship Assistance Unit any changes in circumstances of the child, young adult, or guardian that makes the child or young adult ineligible for guardianship assistance including when:

(a) The child or young adult:

(A) Is emancipated;

(B) Dies;

(C) Marries; or

(D) Is adopted.

(b) The court:

(A) Vacates the guardianship; or

(B) Terminates wardship over the child or young adult, unless the guardianship is a tribal court guardianship and the guardianship remains in effect under tribal law.

(2) A guardian receiving guardianship assistance must immediately report, orally or in writing, to the Department's Adoption Assistance and Guardianship Assistance Unit any changes in circumstances of the child, young adult, or guardian that may make the child or young adult ineligible for guardianship assistance including when:

(a) The child or young adult:

(A) Is out of the home of a guardian for more than a thirty-day period or, if more than one guardian, is out of the home of both guardians for more than a thirty-day period;

(B) Has a change in needs including but not limited to eligibility for a change in the level of care payment based on a new CANS screening;

(C) Is placed in substitute care;

(D) Is no longer receiving financial support from a guardian or, if there is more than one guardian, both guardians;

(E) Is incarcerated for more than three consecutive months; or

(F) Has a change in any benefit received other than tribal dividend payments.

(b) A guardian is, or if more than one guardian, both guardians are:

(A) No longer legally responsible for the financial support of the child or young adult;

(B) No longer responsible for the child or young adult; or

(C) No longer providing support to the child or young adult.

(c) A guardian seeks to terminate or modify the guardianship.

(d) The court:

(A) Modifies the guardianship, or

(B) Awards child custody or guardianship to another individual.

(3) A guardian receiving a guardianship assistance payment must immediately report, orally or in writing, to the Adoption Assistance and Guardianship Assistance Unit the following:

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(a) When there are two guardians and one guardian dies, the surviving guardian must notify the Department.

(b) When there is a change in address.

(c) When a guardian, child, or young adult is planning to move from his or her state of residency.

(4) Guardians appointed under ORS 419B.367 are required to file an annual report with the court within 30 calendar days after each annual anniversary of the court appointment of guardianship. Guardianships established under a Tribal Court may also have a requirement to send written reports to the court.

(5) The Department may:

(a) Send notification to a guardian of any court reports required under section (4) of this rule;

(b) Request a guardian to submit a copy of the court report to the Department;

(c) Notify the court or participating tribe of circumstances that may affect a child's eligibility for guardianship assistance; and

(d) Send inquiries to a guardian to ensure the child continues to be eligible for guardianship assistance.

(6) Guardians must respond to inquiries from the Adoption Assistance and Guardianship Assistance Unit within 30 calendar days or as required by the unit.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 19-2003(Temp), f. & cert. ef. 1-23-03 thru 6-20-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0945 & 413-070-0955, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14

413-070-0969

Renegotiation of a Guardianship Assistance Agreement

(1) A guardian receiving guardianship assistance must immediately report, orally or in writing, to the Adoption Assistance and Guardianship Assistance Unit any changes in circumstances of the child, young adult, or guardian that makes the child or young adult ineligible for guardianship assistance including when:

(a) The child or young adult:

(A) Is emancipated;

(B) Dies;

(C) Marries; or

(D) Is adopted.

(b) The court:

(A) Vacates the guardianship; or

(B) Terminates wardship over the child or young adult, unless the guardianship is a tribal court guardianship and the guardianship remains in effect under tribal law.

(2) A guardian receiving guardianship assistance must immediately report, orally or in writing, to the Department's Adoption Assistance and Guardianship Assistance Unit any changes in circumstances of the child, young adult, or guardian that may make the child or young adult ineligible for guardianship assistance including when —

(a) The child or young adult:

(A) Is out of the home of a guardian for more than a thirty-day period or, if more than one guardian, is out of the home of both guardians for more than a thirty-day period;

(B) Has a change in needs including but not limited to eligibility for a change in the level of care payment based on a new CANS screening;

(C) Is placed in substitute care;

(D) Is no longer receiving financial support from a guardian or, if there is more than one guardian, both guardians;

(E) Is incarcerated for more than three consecutive months; or

(F) Has a change in any benefit received other than tribal dividend payments.

(b) A guardian is, or if more than one guardian, both guardians are:

(A) No longer legally responsible for the financial support of the child or young adult;

(B) No longer responsible for the child or young adult; or

(C) No longer providing support to the child or young adult.

(c) A guardian seeks to terminate or modify the guardianship.

(d) The court:

(A) Modifies the guardianship, or

(B) Awards child custody or guardianship to another individual.

(3) A guardian receiving a guardianship assistance payment must immediately report, orally or in writing, to the Adoption Assistance and Guardianship Assistance Unit the following:

(a) When there are two guardians and one guardian dies, the surviving guardian must notify the Department.

(b) When there is a change in address.

(c) When a guardian, child, or young adult is planning to move from his or her state of residency.

(4) Guardians appointed under ORS 419B.367 are required to file an annual report with the court within 30 calendar days after each annual anniversary of the court appointment of guardianship. Guardianships established under a Tribal Court may also have a requirement to send written reports to the court.

(5) The Department may:

(a) Send notification to a guardian of any court reports required under section (4) of this rule;

(b) Request a guardian to submit a copy of the court report to the Department;

(c) Notify the court or participating tribe of circumstances that may affect a child's eligibility for guardianship assistance; and

(d) Send inquiries to a guardian to ensure the child continues to be eligible for guardianship assistance.

(6) Guardians must respond to inquiries from the Adoption Assistance and Guardianship Assistance Unit within 30 calendar days or as required by the unit.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14

413-070-0974

Review, Adjustment, Suspension, Expiration, and Termination of Guardianship Assistance

(1) The Department may review a guardianship assistance agreement when the Department:

(a) Receives information indicating that the child or young adult may no longer be eligible for guardianship assistance or may be eligible for guardianship assistance in a different amount, including when the Department receives information regarding any of the circumstances described in OAR 413-070-0964;

(b) Determines, when the child or young adult is not residing in the home of the guardian, that a periodic review of the guardianship assistance agreement is required;

(c) Receives information that indicates a review is necessary based on a change in the needs of the child or young adult or circumstances of the family;

(d) Receives information that the young adult no longer meets the requirements for continued assistance, if the Department has agreed to extend guardianship assistance under OAR 413-070-0917(4); or

(e) Determines that the guardian has not complied with the requirements of the guardianship assistance agreement.

(2) Department review of a guardianship assistance agreement may result in a renegotiation, suspension, adjustment, or termination of the guardianship assistance agreement or guardianship assistance payments.

(3) Guardianship assistance may be adjusted at any time by mutual agreement between the guardian and the Department.

(4) When there is an across-the-board reduction or increase in the base rate payment or level of care payment that the child or young adult would be eligible to receive if the child or young adult were in foster care, the Department may, after a case-by-case review and without concurrence of the guardian, adjust the monthly guardianship assistance payment to an amount that does not exceed the new foster care payment the child or young adult would be eligible to receive if currently in foster care, as follows:

(a) In the case of a reduction, only those payments that exceed the amount the child or young adult would be eligible for if currently in foster care would be reduced, and the reduction would only be to the amount that the child or young adult would be eligible to receive if currently in foster care.

(b) In the case of an increase, the Department, considering the needs of the child or young adult and the circumstances of the guardian, may increase the guardianship assistance payment to an amount that does not exceed the new foster care payment the child or young adult would receive if currently in foster care.

(5) If, upon review under section (1) of this rule or an adjustment under section (4) of this rule, the Department intends to adjust guardianship assistance without the concurrence of the guardian, the Department will

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provide the guardian and the child or young adult with written notice as described in Child Welfare Policy I-A.5.2, "Contested Case Hearings", OAR 413-010-0500 to 413-010-0535.

(6) Unless terminated under sections (7) or (8) of this rule, the guardianship assistance agreement and the Department's obligation to provide guardianship assistance expires automatically on the date any of the following events occur:

(a) When the child:

(A) Reaches the age of 18 or, when an extension has been granted under OAR 413-070-0917(4), no later than the date identified in the guardianship assistance agreement;

(B) Is emancipated;

(C) Dies;

(D) Marries;

(E) Is adopted; or

(F) No longer meets the requirements for continued guardianship assistance if the Department has agreed to continue guardianship assistance under OAR 413-070-0917(4).

(b) A guardian dies, or if more than one guardian, both die.

(c) The court:

(A) Vacates the guardianship order or otherwise terminates the guardianship;

(B) Terminates wardship over the child or young adult, unless the guardianship is a tribal court guardianship and the guardianship remains in effect under tribal law; or

(C) Appoints another individual as guardian of the child or young adult.

(7) Guardianship assistance may be suspended at any time by mutual agreement between the Department and the guardian.

(8) After a review and on a case-by-case basis, the Department may terminate a guardianship assistance agreement upon ten calendar days written notice to the potential guardian or guardian when the Department determines that:

(a) The potential guardian or guardian is no longer responsible for the child or young adult;

(b) The potential guardian or guardian is no longer providing support to the child or young adult; or

(c) The child or young adult is no longer eligible for guardianship assistance or is eligible for guardianship assistance in a different amount.

(9) If a child receiving guardianship assistance is subsequently adopted by the guardian, the child may be eligible for adoption assistance under Child Welfare Policy I-G.3.1, "Adoption Assistance", OAR 413-130-0000 to 413-010-0130.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0940, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14

Rule Caption: Changing OARs affecting Child Welfare programs (I-G.3.1)

Adm. Order No.: CWP 2-2014

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Rules Amended: 413-130-0000, 413-130-0010, 413-130-0015, 413-130-0020, 413-130-0040, 413-130-0050, 413-130-0055, 413-130-0070, 413-130-0075, 413-130-0077, 413-130-0080, 413-130-0110, 413-130-0125, 413-130-0130

Subject: These rules (OAR 413-130-0000 to 413-130-0130) about adoption assistance are being amended to update and clarify various requirements, processes, and cross-references related to adoption assistance. Several rules are being amended to clarify that certain timeframes are to be counted in calendar days. OAR 413-130-0010 and 413-130-0080 are also being amended to raise the cap on non-recurring adoption expenses that the Department may reimburse. OAR 413-130-0050 is also being amended to add a timeframe when negotiation of the adoption assistance agreement is delayed. OAR 413-130-0055 is also being amended to clarify the documentation

requirements and timeframes for requests for extensions of adoption assistance for young adults. OAR 413-130-0070 is also being amended to update and streamline the review process when there is disagreement about the base rate payment. OAR 413-130-0130 is also being amended to clarify the circumstances in which historic information about the child can be reviewed.

In addition, the above rules may also be changed to reflect new Department terminology and to correct formatting and punctuation.
Rules Coordinator: Annette Tesch—(503) 945-6067

413-130-0000

Purpose

(1) The purpose of these rules (OAR 413-130-0000 to 413-130-0130) is to describe the criteria for eligibility and the types of adoption assistance that may be established for:

(a) A child in the legal custody of:

(A) The Department;

(B) A participating tribe; or

(C) A licensed adoption agency in Oregon.

(b) A child relinquished by a parent directly to a pre-adoptive family residing in Oregon.

(2) These rules do not include criteria for program eligibility for adoption assistance for a child placed for adoption in Oregon by another public child welfare agency, as adoption assistance is the responsibility of the sending state.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef. 5-17-99; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 35-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 2-2014, f. 1-31-14, cert. ef. 2-1-14

413-130-0010

Definitions

The following definitions apply to OAR 413-130-0000 to 413-130-0130:

(1) "Adoption assistance" means assistance provided on behalf of an eligible child or young adult to offset the costs associated with adopting and meeting the on-going needs of the child or young adult. Adoption assistance may be in the form of payments, medical coverage, reimbursement of non-recurring expenses, or special payments.

(2) "Adoption assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the pre-adoptive family or adoptive family of an eligible child or young adult, setting forth the assistance the Department is to provide on behalf of the child or young adult, the responsibilities of the pre-adoptive family or adoptive family and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.

(3) "Adoption assistance agreement only" means a written agreement, binding on the parties to the agreement, between the Department and the pre-adoptive family or adoptive family of an eligible child or young adult, when the pre-adoptive family or adoptive family is not receiving an adoption assistance payment or medical coverage at the time of the agreement but may request it at a later date.

(4) "Adoption assistance base rate" means the portion of the adoption assistance payment that is negotiated with a pre-adoptive family or an adoptive family and cannot exceed the amount of the Oregon foster care base rate payment for the child's or young adult's age.

(5) "Adoption assistance payment" means a monthly payment made by the Department to the pre-adoptive family or adoptive family on behalf of an eligible child or young adult.

(6) "Adoption Assistance Review Committee" means a committee composed of local and central office Department staff with expertise in the area of adoption.

(7) "Adoptive family" means an individual or individuals who have legalized a parental relationship to the child who joined the family through a judgment of the court.

(8) "Applicable child" has the same meaning as in Child Welfare Policy I-E.6.1, "Title IV-E Foster Care, Adoption Assistance, and Guardianship Assistance Eligibility", OAR 413-100-0335.

(9) "Base rate payment" means a payment to the foster parent or relative caregiver for the costs of providing the child or young adult with the following:

(a) Food — including the cost to cover a child's or young adult's special or unique nutritional needs;

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- (b) Clothing — including purchase and replacement;
- (c) Housing — including maintenance of household utilities, furnishings, and equipment;
- (d) Daily supervision — including teaching and directing to ensure safety and well-being at a level which is appropriate based on the child's or young adult's chronological age;
- (e) Personal incidentals — including personal care items, entertainment, reading materials, and miscellaneous items; and
- (f) The cost of providing transportation — including local travel associated with expenditure for gas and oil, and vehicle maintenance and repair associated with transportation to and from extracurricular, child care, recreational, and cultural activities.

(10) "CANS screening" means Child and Adolescent Needs and Strength screening, a process of gathering information on a child's or young adult's needs and strengths used for one or more of the following purposes:

- (a) Identifying case planning, service planning, and supervision needs of the child or young adult in substitute care with a certified family;
- (b) Determining the level of care payment while in substitute care with a certified family; and
- (c) Determining the level of care payment included in an adoption assistance agreement or guardianship assistance agreement.

(11) "Child" means a person under 18 years of age.

(12) "Department" means the Department of Human Services, Child Welfare.

(13) "Enhanced supervision" means the additional support, direction, observation, and guidance necessary to promote and ensure the safety and well-being of a child or young adult when the child or young adult qualifies for a level of care payment.

(14) "Legally free" means that, with respect to a child, the legal rights of all parents with legal standing have been judicially terminated, voluntarily relinquished, or otherwise terminated by operation of law, thus allowing for the child to be adopted.

(15) "Level of care payment" means the payment provided to an approved or certified family, a guardian, a pre-adoptive family, or an adoptive family based on the child's or young adult's need for enhanced supervision as determined by applying the CANS algorithm to the results of the CANS screening.

(16) "Licensed adoption agency" means an:

- (a) Approved child-caring agency of this state acting by authority of ORS 418.270 and OAR 413-215-0401 to 413-215-0481; and
- (b) Agency or other organization that is licensed, or otherwise authorized, to provide adoption services pursuant to the laws of that state, country or territory.

(17) "Nonrecurring adoption assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the pre-adoptive family of an eligible child for a one-time payment to reimburse the adoptive family for the reasonable and necessary expenses incurred in legally finalizing the adoption of a child who has been determined to have special needs.

(18) "Nonrecurring expenses" mean a one-time payment up to \$2,000 per child, which the Department will pay to an adoptive family to assist with the reasonable and necessary expenses incurred in legally finalizing the adoption of an eligible child.

(19) "Parent" means the biological or adoptive mother or the legal father of the child. A legal father is a man who has adopted the child or whose paternity has been established or declared under ORS 109.070, ORS 416.400 to 416.465, or by a juvenile court. In cases involving an Indian child under the Indian Child Welfare Act (ICWA), a legal father includes a man who is a father under applicable tribal law. "Parent" also includes a putative father who has demonstrated a direct and significant commitment to the child by assuming or attempting to assume responsibilities normally associated with parenthood unless a court finds that the putative father is not the legal father.

(20) "Participating tribe" means a federally recognized Indian tribe in Oregon with a Title IV-E agreement with the Department.

(21) "Pre-adoptive family" means an individual or individuals who:

- (a) Has been selected to be the child's adoptive family; and
- (b) Is in the process of legalizing the relationship to the child through the judgment of the court.

(22) "Qualified alien" has the same meaning as in Child Welfare Policy I-E.6.1, "Title IV-E Foster Care, Adoption Assistance, and Guardianship Assistance Eligibility", OAR 413-100-0210(2), and 8 USC 1641(b).

(23) "Qualified vendor attorney" means an attorney who has a price agreement with the Department to process the adoption of a child who is eligible for adoption assistance.

(24) "Sibling" means one of two or more children or young adults related:

- (a) By blood or adoption through a common legal parent;
- (b) Through the marriage of the legal or biological parents of the children or young adults; or
- (c) Through a legal or biological parent who is the registered domestic partner of the legal or biological parent of the children or young adults.

(25) "Special payment" means a payment for unanticipated short-term costs which are directly related to the special needs of the child or young adult or are essential to the welfare of the child or young adult, and are not covered by another resource available to the adoptive family.

(26) "Substitute care" means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

(27) "Young adult" means a person aged 18 through 20 years.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 23-2005(Temp), f. 12-30-05, cert. ef. 1-1-06; CWP 16-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11; CWP 35-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 2-2014, f. 1-31-14, cert. ef. 2-1-14

413-130-0015

Funding for Adoption Assistance

(1) The Department makes efforts to establish Title IV-E adoption assistance eligibility under Child Welfare Policy I-E.6.1, "Title IV-E Foster Care, Adoption Assistance, and Guardianship Assistance Eligibility", OAR 413-100-0335 to access federal reimbursement for adoption assistance.

(2) A child determined to have special needs under OAR 413-130-0020 who is ineligible for Title IV-E funded adoption assistance is eligible for state funded adoption assistance as described in OAR 413-130-0040(4) - (6). Administration of state funded adoption assistance is dependent upon the availability of such funds.

(3) When all available state funds are obligated, the Department must continue to:

- (a) Accept new applications;
- (b) Accept requests to adjust an adoption assistance payment; and
- (c) Establish a waiting list.

(4) As state funds become available, an adoption assistance payment may be made according to the date that the adoption assistance agreement is signed by all parties. The adoption assistance agreement may be retroactive for up to twelve months only when a foster care base rate payment, level of care payment, or personal care service payment was not made on behalf of the child.

(5) When state funds are unavailable and a new adoption assistance application is received, the pre-adoptive family may sign an adoption assistance agreement only to prevent delay in finalizing the adoption, with the understanding that adoption assistance may be requested at a later date.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 35-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 2-2014, f. 1-31-14, cert. ef. 2-1-14

413-130-0020

Special Needs Determination for Adoption Assistance Eligibility

(1) In order to be eligible for adoption assistance, funded through either federal or state funds, a child must be determined to have special needs.

(2) The Department must make the determination that the child has special needs under each of the following subsections:

(a) The child cannot or should not be returned to the home of his or her parent or parents. This decision is based on one of the following paragraphs:

(A) An order from a court of competent jurisdiction terminating parental rights.

(B) The existence of a petition for termination of parental rights.

(C) A voluntary relinquishment of parental rights for a child under the jurisdiction of the court, in the custody of the Department, or in a subsequent adoption when there was an adoption assistance agreement in place during the prior adoption.

(D) A voluntary relinquishment of parental rights and a judicial determination that remaining in the home of a specified relative as defined in Child Welfare Policy I-E.6.1, "Title IV-E Foster Care, Adoption Assistance,

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and Guardianship Assistance Eligibility”, OAR 413-100-0020 would be contrary to the welfare of the child. The request for the judicial determination must be filed within six months of the time the child last lived with the specified relative.

(E) For a child who can be adopted in accordance with state or tribal law without a termination of parental rights or voluntary relinquishment of parental rights, the valid reason why the child cannot or should not be returned to the home of his or her parents.

(F) In the case of an orphan, verification of the death of the parent or parents.

(b) The child has at least one of the following factors or conditions that make adoptive placement difficult to achieve:

(A) A documented medical, physical, mental, or emotional condition or other clinically diagnosed disability, or a documented history of abuse or neglect or other identified predisposing factor that places the child at significant risk for future problems that need treatment;

(B) Is a member of a sibling group that will be placed together and is difficult to place because there are three or more children, or if in a sibling group of two, at least one of the children is six years of age or older;

(C) Is a member of an ethnic, racial, or cultural minority (such as African American, Hispanic, Asian, Indian, or Pacific Islander); or

(D) Is eight years of age or older.

(c) A reasonable but unsuccessful effort to place the child with an appropriate adoptive family for adoption without adoption assistance has been made, unless such an effort is not in the best interest of the child for reasons including placement with a relative or another person with whom the child has an established significant relationship.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11; CWP 35-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 2-2014, f. 1-31-14, cert. ef. 2-1-14

413-130-0040

Eligibility for an Adoption Assistance Payment

(1) In determining eligibility for an adoption assistance payment, the Department may not impose an income eligibility requirement for the pre-adoptive family or adoptive family.

(2) To be eligible for a Title IV-E funded adoption assistance payment, a child must meet all of the following requirements.

(a) Be a citizen of the United States or a qualified alien as described in Child Welfare Policy I-E.6.1, “Title IV-E Foster Care, Adoption Assistance, and Guardianship Assistance Eligibility”, OAR 413-100-0210(2), and in 8 USC 1641(b) or (c).

(b) When the child is a qualified alien and is placed with a pre-adoptive parent who is an unqualified alien, the child must meet the five year residency requirement set forth in The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193.

(c) Be determined eligible for Title IV-E adoption assistance under Child Welfare Policy I-E.6.1, “Title IV-E Foster Care, Adoption Assistance, and Guardianship Assistance Eligibility”, OAR 413-100-0335.

(3) A licensed adoption agency, participating tribe, or another individual applying to receive adoption assistance on behalf of a child determined to have special needs must make all requested efforts to assist the Department in establishing Title IV-E eligibility.

(4) Except as provided in section (5) of this rule, a child determined to be ineligible for a Title IV-E adoption assistance payment is eligible for a state-funded adoption assistance payment when the child meets all of the following criteria.

(a) Is in the legal custody of:

(A) The Department;

(B) A participating tribe; or

(C) A licensed adoption agency and the child is placed with a family residing in Oregon.

(b) Is not eligible for or receiving adoption assistance for the same child through another state.

(c) Is determined to have special needs in accordance with OAR 413-130-0020.

(d) Meets the requirements in section (6) of this rule.

(5) A child relinquished by a parent directly to a family residing in Oregon who is not eligible for a Title IV-E funded adoption assistance payment is only eligible for a state funded adoption assistance payment when:

(a) A state funded adoption assistance agreement was previously in effect on behalf of the child;

(b) The pre-adoptive family or adoptive family is not eligible for or receiving adoption assistance for the same child through another state;

(c) The child is in a subsequent adoption; and

(d) The child meets the requirements in section (6) of this rule.

(6) In addition to the eligibility requirements in section (4) or (5) of this rule, a child must also be a citizen of the United States to receive a state funded adoption assistance payment when the child is being brought into the United States for the purpose of adoption or being placed outside of the United States, or a territory or possession thereof.

(7) When an adopted child becomes legally free for re-adoption due to the voluntary relinquishment of parental rights, the termination of the rights of the legal parent or parents, or the death of the legal parent or parents:

(a) The child must be determined to have special needs under OAR 413-130-0020 at the time the child again becomes available for adoption; and

(b) The determination of funding eligibility of the adopted child for adoption assistance remains as it was the last time the child was determined eligible for adoption assistance.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 11-1999(Temp), f. & cert. ef. 6-3-99 thru 11-30-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11; CWP 35-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 2-2014, f. 1-31-14, cert. ef. 2-1-14

413-130-0050

Adoption Assistance Application Requirements and Responsibilities

(1) A licensed adoption agency recommending adoption assistance for a pre-adoptive family must verify and document that recruitment efforts under OAR 413-130-0020(2)(c) were made for the child.

(2) A pre-adoptive family under OAR 413-130-0040(5) may contact the Adoption Assistance and Guardianship Assistance Unit for help in submitting a written adoption assistance application directly to the Department.

(3) A pre-adoptive family of a child in the custody of the Department must notify the Department in writing if they choose not to accept any form of adoption assistance.

(4) An adoption assistance application is considered complete when the Adoption Assistance and Guardianship Assistance Unit has received a signed adoption assistance application form and all supporting documentation.

(5) Except as described in subsections (a) and (b) of this section, the Adoption Assistance and Guardianship Assistance Unit must begin negotiation of the adoption assistance agreement no later than 60 calendar days after receipt of a completed adoption assistance application submitted for a legally free child in the home of an approved pre-adoptive family.

(a) The Adoption Assistance and Guardianship Unit may delay negotiation of the adoption assistance base rate for a completed application when the child is due for an updated CANS screening, a new CANS screening is warranted, or a CANS screening is in process or completed but a decision is pending regarding the level of care payment. The unit must begin negotiation no later than 30 calendar days from receipt of the final decision regarding the level of care.

(b) The Adoption Assistance and Guardianship Unit may delay negotiation following a request by the caseworker, the pre-adoptive family, or adoptive family when there are extenuating circumstances regarding the child or family. The unit must begin negotiation no later than 30 calendar days from notification that the extenuating circumstance causing the delay has been resolved.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11; CWP 35-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 2-2014, f. 1-31-14, cert. ef. 2-1-14

413-130-0055

Extension of Adoption Assistance for a Young Adult

(1) The Department may approve an extension of an adoption assistance agreement for an individual under the age of 21 when the individual and meets subsection (a) or (b) of this section.

(a) An initial adoption assistance agreement was entered into on behalf of the child, and at the time of his or her 18th birthday, the child:

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(A) Qualifies as an individual with a developmental disability as determined by the Oregon Department of Human Services, Developmental Disabilities Services;

(B) If living in a state other than Oregon, qualifies as an individual with a developmental disability as determined by the equivalent developmental disability program in that state; or

(C) Qualifies for Supplemental Security Income (SSI) as determined by the Social Security Administration.

(b) An initial adoption assistance agreement was entered into on behalf of the child who is age 16 or 17, and upon reaching the age of 18, the child is:

(A) Completing secondary school (or equivalent);

(B) Enrolled in post-secondary or vocational school;

(C) Participating in a program or activity that promotes or removes barriers to employment;

(D) Employed for at least 80 hours a month; or

(E) Determined incapable of any of the above due to a documented medical condition, physical disability, or mental disability.

(2) In order for the extension of adoption assistance under subsection (1)(a) of this rule to be approved on behalf of a young adult, the adoptive family must submit to the Department documentation from the agency making the determination described in paragraphs (1)(a)(A) through (C) of this rule.

(3) In order for the extension of adoption assistance under subsection (1)(b) of this rule to be approved on behalf of a young adult, the adoptive family must submit to the Department documentation verifying the circumstances described in paragraphs (1)(b)(A) through (E) of this rule. Documentation of circumstances described in paragraph (1)(b)(E) of this rule must be from a medical or mental health professional.

(4) The Department must receive the request for extension of the adoption assistance agreement and the documentation described in sections (2) and (3) of this rule:

(a) At least 30 calendar days before the individual's 18th birthday; or

(b) Before a date determined by the Department when the Department approves a request from the adoptive family to submit the documentation after the individual's 18th birthday. The Department must receive the request before the individual's 18th birthday.

(5) If the Department does not receive the documentation as required by sections (2) through (4) of this rule, the Department may not approve an extension of an adoption assistance agreement.

(6) An extension of adoption assistance approved under subsection (1)(a) of this rule will continue until the young adult turns 21 years old.

(7) The Department will review the young adult's eligibility for continued adoption assistance when an extension of adoption assistance has been granted under subsection (1)(b) of this rule:

(a) At least annually; or

(b) When information is received that indicates the young adult may no longer be eligible for adoption assistance or may be eligible for adoption assistance in a different amount.

(8) The adoptive family must notify the Department, orally or in writing, of any changes in circumstances that may make the young adult:

(a) Ineligible for adoption assistance; or

(b) Eligible for adoption assistance in a different amount.

Stat. Auth.: ORS 418.005 & 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11; CWP 35-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 2-2014, f. 1-31-14, cert. ef. 2-1-14

413-130-0070

Negotiation and Determination of the Monthly Adoption Assistance Payment

(1) When adoption assistance is not provided, a pre-adoptive family or adoptive family may enter into an adoption assistance agreement only.

(2) The monthly adoption assistance payment may not exceed the total of:

(a) The adoption assistance base rate; and

(b) When applicable, the level of care payment determined by the CANS screening conducted under Child Welfare Policy I-B.1.6, "CANS Screening and Enhanced Supervision", OAR 413-020-0230.

(3) The monthly adoption assistance base rate:

(a) Is determined through discussion and negotiation between the Department and the pre-adoptive family or adoptive family.

(b) May not exceed the current foster care base rate payment the child or young adult would be eligible to receive in foster care under Child Welfare Policy I-E.5.1, "Foster Care Payments for a Child or Young Adult

Living With a Certified Family or Living Independently", OAR 413-090-0010(1)(b).

(c) Is negotiated between the pre-adoptive family or adoptive family and the Department, taking into consideration relevant factors which include, but are not limited to:

(A) The ordinary and special needs of the child or young adult;

(B) The services and goods required to meet the needs of the child or young adult;

(C) The cost of the services and goods required to meet the needs of the child or young adult;

(D) The circumstances of the pre-adoptive family or adoptive family and their ability to provide the required services and goods for the child or young adult; and

(E) The resources available to the pre-adoptive family or adoptive family such as medical coverage, private health insurance, public education, other income sources and community resources.

(4) When, during negotiation of the adoption assistance base rate, the Adoption Assistance and Guardianship Assistance Coordinator and the pre-adoptive family or adoptive family are unable to reach agreement, the Adoption Assistance and Guardianship Assistance Coordinator or the family may request a review by the Adoption Assistance Review Committee. When a review is requested:

(a) An Adoption Assistance and Guardianship Assistance Coordinator must:

(A) Prepare documentation for the scheduled Adoption Assistance Review Committee;

(B) Notify the pre-adoptive family or adoptive family and the assigned caseworkers of the date of the committee; and

(C) Attend and participate in the Adoption Assistance Review Committee.

(b) The pre-adoptive family or adoptive family may provide written documentation to the Adoption Assistance and Guardianship Assistance Coordinator for the review and consideration by the Adoption Assistance Review Committee.

(c) The adoption worker for the pre-adoptive family or adoptive family and the caseworker for the child or young adult may participate in an Adoption Assistance Review Committee meeting and may present information and respond to questions. The workers may not participate in the deliberations of the Adoption Assistance Review Committee.

(d) The Adoption Assistance Review Committee members must:

(A) Consider written documentation provided by the pre-adoptive family or adoptive family, the adoption worker for the pre-adoptive family or adoptive family, the caseworker for the child or young adult, and the Adoption Assistance and Guardianship Assistance Coordinator.

(B) Review materials submitted to the Adoption Assistance Review Committee, deliberate, and make one or more recommendations regarding the adoption assistance base rate.

(e) At the conclusion of the Adoption Assistance Review Committee, the Adoption Assistance and Guardianship Assistance Coordinator must:

(A) Document the recommendations of the Adoption Assistance Review Committee; and

(B) Submit the documentation to the Post Adoption Services Program Manager or designee within one business day of the Adoption Assistance Review Committee meeting.

(5) The Post Adoption Services Program Manager or designee must complete each of the following actions:

(a) Attend the Adoption Assistance Review Committee and ask any clarifying questions, but not participate in the deliberation or recommendation of the Adoption Assistance Review Committee.

(b) Review and consider:

(A) The materials submitted to the Adoption Assistance Review Committee;

(B) The recommendations of the committee; and

(C) The information presented by the pre-adoptive family or adoptive family under subsection (4)(b) of this rule.

(c) Make a decision within 30 calendar days of receipt of the documentation under paragraph (4)(e)(B) of this rule; and

(d) Provide written notification to the pre-adoptive family or adoptive family and the Adoption Assistance and Guardianship Assistance Coordinator within ten business days of the decision.

(6) The monthly level of care payment:

(a) Is determined based on the results of a CANS screening conducted under Child Welfare Policy I-B.1.6, "CANS Screening and Enhanced Supervision", OAR 413-020-0230;

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(b) May not exceed the amount of the level of care payment set forth in Child Welfare Policy I-E.5.1, "Foster Care Payments for a Child or Young Adult Living With a Certified Family or Living Independently", OAR 413-090-0010(2)(g); and

(c) Is included in the adoption assistance payment when the child or young adult qualifies for a level of care payment and when requested by the pre-adoptive family or adoptive family.

(7) When a pre-adoptive family or adoptive family is not satisfied with the final adoption assistance offer from the Department, consisting of the adoption assistance base rate and, when applicable, a level of care payment, the pre-adoptive family or adoptive family has the right to a contested case hearing under Child Welfare Policy I-A.5.2, "Contested Case Hearings", OAR 413-010-0500 to 413-010-0535.

(8) An initial adoption assistance payment begins on a date determined by the Department when all of the following criteria are met:

(a) The child is legally free for adoption;

(b) Unless the child is in the custody of a pre-adoptive family eligible to apply for adoption assistance under OAR 413-130-0040(5) or the Department has approved an adoptive family to apply for adoption assistance under OAR 413-130-0130 — the Department, participating tribe, or licensed adoption agency has approved the pre-adoptive family as the adoptive placement; and

(c) An adoption assistance agreement has been signed by the pre-adoptive family or adoptive family and by the Department representative.

(9) An adoption assistance payment is issued at the end of each month of eligibility.

(10) An adoption assistance payment made to a pre-adoptive family or an adoptive family by the Department is inalienable by any assignment or transfer and exempt from garnishment, levy, or execution under the laws of this state.

Stat. Auth.: ORS 418.005 & 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 23-2008, f. & cert. ef. 10-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11; CWP 35-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 2-2014, f. 1-31-14, cert. ef. 2-1-14

413-130-0075

Renegotiation of an Adoption Assistance Payment

(1) The Department, pre-adoptive family, or adoptive family may request renegotiation of an adoption assistance agreement. When the pre-adoptive family or adoptive family has previously signed an adoption assistance agreement only and requests adoption assistance at a later date, it is considered a renegotiation.

(2) A request for renegotiation of the adoption assistance agreement made by a pre-adoptive family or adoptive family must:

(a) Be in writing in a format provided by the Department to the pre-adoptive family or adoptive family;

(b) Document changes in the circumstances of the pre-adoptive family or adoptive family, when applicable;

(c) Document the needs of the child or young adult;

(d) Provide information about the financial expenses of the pre-adoptive family or adoptive family in meeting the needs of the child or young adult; and

(e) Provide additional documentation of the child's or young adult's current behaviors when the child or young adult meets the eligibility requirements for consideration of a level of care payment under Child Welfare Policy I-B.1.6, "CANS Screening and Enhanced Supervision", OAR 413-020-0230, and the pre-adoptive family or adoptive family is requesting a level of care payment.

(3) Renegotiation of the adoption assistance base rate will be conducted using the negotiation process described in OAR 413-130-0070(3) through (7).

(4) A new adoption assistance agreement must be signed by all parties each time the adoption assistance payment changes as a result of renegotiation.

(5) The Department may authorize a renegotiated adoption assistance payment increase or decrease for the period commencing the first day of the month in which the Department receives the documentation required to complete the requested renegotiation, or another date agreed upon by the pre-adoptive family or adoptive family and the Department.

(6) The Department may approve up to twelve months of retroactive payments unless a contested case hearing was requested and a subsequent decision necessitates a payment of more than twelve months. The decision includes any decision by the Department, including:

(a) A final order;

(b) A stipulated final order;

(c) A settlement agreement; or

(d) Any other agreement resulting in withdrawal of the contested case.

Stat. Auth.: ORS 418.005, 418.340

Stats Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11; CWP 35-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 2-2014, f. 1-31-14, cert. ef. 2-1-14

413-130-0077

Eligibility for Nonrecurring Expenses

(1) Except as provided in section (2) of this rule, a pre-adoptive family is eligible for reimbursement of nonrecurring expenses through Title IV-E funding on behalf of a child determined to have special needs under OAR 413-130-0020 when the child is in the custody of:

(a) The Department, a participating tribe, a licensed adoption agency;

or

(b) An Oregon family following a relinquishment of parental rights by the legal parent directly to the Oregon family.

(2) Reimbursement for nonrecurring expenses is prohibited on behalf of an applicable child who:

(a) Is not a citizen or resident of the United States; and

(b) Was either adopted outside the United States or was brought to the United States for the purpose of being adopted.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11, Renumbered from 413-130-0030; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11; CWP 35-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 2-2014, f. 1-31-14, cert. ef. 2-1-14

413-130-0080

Payment for Nonrecurring Expenses

(1) An agreement, indicating the nature and amount of nonrecurring expenses, must be signed prior to the final judgment of adoption. Payment for nonrecurring expenses is made when the Department receives the final judgment of adoption.

(2) The Department will reimburse an adoptive family up to \$2,000 for each eligible child for approved nonrecurring expenses, including but not limited to:

(a) The cost of a home study;

(b) Court costs;

(c) Legal fees, as authorized by the Department;

(d) Physical and psychological examinations required for the adoption; and

(e) Travel to visit with the adoptive child prior to the placement.

(3) The Department will consider requests for nonrecurring expenses that:

(a) Are submitted with written documentation to the Adoption Assistance and Guardianship Assistance Unit;

(b) Are not in violation of state or federal law; and

(c) Do not duplicate expenses covered by:

(A) The Interstate Compact on Placement of Children (ORS 417.200 - 417.260);

(B) A Department contract with a licensed adoption agency; or

(C) Another resource available to the adoptive family.

(4) When a pre-adoptive family indicates that they will be using a qualified vendor attorney, the Adoption Assistance and Guardianship Assistance Unit must send the pre-adoptive family a list of qualified vendor attorneys.

(5) The pre-adoptive family may select and contact an attorney from the list of qualified vendor attorneys, in which case the pre-adoptive family must:

(a) Sign the legal fees agreement; and

(b) Send the legal fees agreement to the attorney, who will sign it and return it to the Department for payment after the judgment of adoption is received.

(6) The pre-adoptive family may privately retain an attorney, in which case:

(a) The adoptive family is responsible for paying the attorney; and

(b) The Department will reimburse the adoptive family reasonable charges equal to the amount allowed for a qualified vendor attorney unless the Adoption Assistance and Guardianship Assistance Coordinator has

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determined that a higher amount may be considered due to extraordinary circumstances.

Stat. Auth.: ORS 418.005, 418.340
Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340
Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 23-2005(Temp), f. 12-30-05, cert. ef. 1-1-06; CWP 16-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11; CWP 35-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 2-2014, f. 1-31-14, cert. ef. 2-1-14

413-130-0110

Administration of Approved Adoption Assistance

(1) Except as provided in OAR 413-130-0130, in order for the Department to provide adoption assistance on behalf of an eligible child:

(a) An adoption assistance agreement must be signed by each individual who is a party to the agreement and a Department representative; and

(b) The adoption assistance agreement must be in effect before the judgment of adoption.

(2) An adoption assistance agreement must include each of the following:

(a) A statement indicating that an adoption assistance agreement remains in effect regardless of the state or residency of the pre-adoptive family or the adoptive family and the child.

(b) An effective date which:

(A) Must be after the completion of a signed adoption assistance application; and

(B) Except as provided in OAR 413-130-0130, must be before the date of the judgment of adoption.

(c) Information identifying the eligibility of the child or young adult to receive medical assistance and specifying the eligibility of the child or young adult for Title XIX and XX.

(d) Information that ORS 192.558 allows the Oregon Health Plan (OHP) and OHP managed care plans to exchange the following protected health information without authorization from the pre-adoptive family or adoptive family for the purpose of treatment activities related to behavioral or physical health of the child or young adult when the child or young adult is the recipient of OHP services:

(A) The name and Medicaid recipient number for the child or young adult;

(B) The hospital or medical provider for the child or young adult;

(C) The hospital or medical provider's Medicaid number;

(D) Each diagnosis for the child or young adult;

(E) Each treatment activity's date of service;

(F) Each treatment activity's procedure or revenue code;

(G) The quantity of units or services provided; and

(H) Information about medication prescription and monitoring.

(e) Specification of the amount and nature of all adoption assistance to be provided.

(f) A statement informing the pre-adoptive family or adoptive family of the right to a contested case hearing under Child Welfare Policy I-A.5.2, "Contested Case Hearings", OAR 413-010-0500 to 413-010-0535.

(3) The Department remains financially responsible for providing the services specified in the adoption assistance agreement if the needed service is not available in the new state or service area of residence, except as described in OAR 413-130-0100(4).

(4) The foster care base rate payment, level of care payment, any level of personal care payment, and medical coverage end when adoption assistance begins. Medical assistance, as determined by the child's eligibility, may continue when requested by the pre-adoptive family or adoptive family.

(5) The Department may require documentation from the pre-adoptive family or adoptive family verifying that the child:

(a) Is enrolled in an elementary or secondary school as determined by the law of the state of residence;

(b) Is home schooled in accordance with the law of the state of residence;

(c) Is enrolled in an independent study program in accordance with the law of the state of residence;

(d) Has completed secondary school; or

(e) Is incapable of attending school due to a documented medical condition, mental disability, or physical disability.

(6) A pre-adoptive family or adoptive family must immediately inform the Adoption Assistance and Guardianship Assistance Unit of a change in circumstances that may make them ineligible for adoption assistance or eligible for an adoption assistance payment in a different amount.

(7) An individual who is a party to an adoption assistance agreement may request a change of payee due to a divorce, legal separation, or other judicially recognized modification of custody.

(a) The requesting individual must provide the Department with the current address and telephone number of the current payee.

(b) The Department must notify the current payee that there has been a request to change the payee within 30 calendar days of receipt of a request for a change of payee.

(c) Unless the current payee submits a challenge to the request to change payee within 30 calendar days of the date the Department sends the notice in subsection (b) of this section, the request to change payee will be approved.

(d) If the change of payee is challenged, the Department requires legal documentation describing physical custody of the child to make a change in payee.

(e) The new payee must be one of the parties to the adoption assistance agreement.

(8) Overpayment.

(a) If the Department issues an adoption assistance payment on behalf of a child or young adult after the date the adoption assistance agreement automatically expires, the Department may seek reimbursement of the overpayment and the pre-adoptive family or the adoptive family must repay the Department.

(b) If the pre-adoptive family or adoptive family fails to comply with any provisions of the adoption assistance agreement, including failing to notify the Department of any of the events or circumstances described in section (6) of this rule, the Department may collect any adoption assistance payment or medical assistance which the Department would not have provided had the pre-adoptive family or adoptive family complied with the provisions of the adoption assistance agreement.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 11-1999(Temp), f. & cert. ef. 6-3-99 thru 11-30-99; SOSCF 22-1999, f. & cert. ef. 11-24-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 16-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11; CWP 35-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 2-2014, f. 1-31-14, cert. ef. 2-1-14

413-130-0125

Adjustments of Adoption Assistance

(1) The Department may request updated information from the pre-adoptive family or the adoptive family when the Department becomes aware of a change in circumstances that may make the pre-adoptive family or the adoptive family ineligible for adoption assistance or eligible for adoption assistance in a different amount.

(2) When the adoptive family divorces, legally separates, or is party to a judicially recognized modification of custody, the Department may request updated information, including financial information, to reflect the change in family circumstances.

(3) When there is an across-the-board reduction or increase in the base rate payment or level of care payment that the child or young adult would be eligible to receive if the child or young adult were in foster care, the Department may, after a case-by-case review and without concurrence of the adoptive family, adjust the adoption assistance payment to an amount that does not exceed the new foster care payment the child or young adult would receive if currently in foster care, as follows:

(a) In the case of a reduction, only those payments that exceed the amount the child or young adult would be eligible for if currently in foster care would be reduced, and the reduction would only be to the amount that the child or young adult would be eligible to receive if currently in foster care.

(b) In the case of an increase, the Department, considering the needs of the child or young adult and the circumstances of the adoptive family, may increase the adoption assistance payment to an amount that does not exceed the new foster care payment the child or young adult would receive if currently in foster care.

(4) If, upon an adjustment under section (3) of this rule, the Department intends to adjust an adoption assistance payment without the concurrence of the adoptive family, the Department will provide the adoptive family and the child or young adult with written notice as described in Child Welfare Policy I-A.5.2, "Contested Case Hearings", OAR 413-010-0500 to 413-010-0535.

(5) The Department, with the concurrence of the pre-adoptive family or adoptive family, may adjust or suspend the adoption assistance payment

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to reflect a change in the pre-adoptive family or adoptive family's circumstances or expenses on behalf of the child or young adult.

(6) The Department will terminate the adoption assistance agreement upon ten calendar days written notice to the pre-adoptive family or adoptive family when it becomes known to the Department that the pre-adoptive family or adoptive family is no longer providing any support to the child or young adult or is no longer legally responsible for the support of the child or young adult, including under the following circumstances:

(a) When the parental rights of the adoptive family have been terminated or relinquished.

(b) When the child becomes an emancipated minor.

(c) When the child or young adult:

(A) Marries.

(B) Enlists in the military.

(C) Dies.

(d) When the young adult no longer meets the eligibility requirements in OAR 413-130-0055.

(7) The adoption assistance agreement automatically expires when the child reaches the age of 18 or, when an extension has been granted under OAR 413-130-0055, no later than when the young adult reaches the age of 21 as documented in the adoption assistance agreement.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: CWP 16-2003, f. 1-21-03, cert. ef. 2-1-03; CWP 38-2003(Temp), f. & cert. ef. 11-19-03 thru 5-17-04; CWP 4-2004, f. & cert. ef. 4-1-04; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11; CWP 35-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 2-2014, f. 1-31-14, cert. ef. 2-1-14

413-130-0130

Post Judgment of Adoption Applications for Adoption Assistance

(1) An adoptive family asking to apply for adoption assistance after the judgment of adoption must submit a written request to the Adoption Assistance and Guardianship Assistance Unit, 500 Summer Street NE, E-71, Salem, Oregon 97301, based on one or more of the following extenuating circumstances:

(a) Relevant facts regarding the child, the biological family, or background of the child were known, but not shared with the adoptive family prior to legal finalization of the adoption;

(b) Adoption assistance was denied based on an assessment of the financial need of the adoptive family;

(c) The Department determined the child was ineligible for adoption assistance, but information becomes known that indicates a review of the determination is appropriate; or

(d) The Department failed to advise the adoptive family of a special needs child of the availability of adoption assistance.

(2) Upon receipt of the written request, the Department must determine, within 30 calendar days, whether the child meets Title IV E eligibility requirements.

(3) The Department may review and provide an adoptive family historic information regarding the child to assist in the request and determination regarding eligibility for adoption assistance:

(a) Following receipt of a request from the adoptive parents for non-identifying information from the adoption registry as provided by ORS 109.425 through 109.507;

(b) Following receipt of a court order to review and release records from the sealed adoption file; or

(c) As otherwise allowed under Child Welfare Policy I-A.3.2, "Confidentiality of Client Information", OAR 413-010-0065.

(4) When a child is Title IV-E eligible, a decision is made through a contested case hearing on whether the adoptive family may apply for adoption assistance after the judgment of adoption based on the extenuating circumstances in section (1) of this rule:

(a) The Adoption Assistance and Guardianship Assistance Coordinator must write a summary of the situation and submit a hearing referral and supporting documentation to the Office of Administrative Hearings within 45 calendar days of receipt of the request in section (1) of this rule.

(b) An adoptive family has the burden of proof to show that extenuating circumstances exist. The Department may provide corroborating facts to both the adoptive family and the administrative law judge.

(c) The contested case hearing is conducted under Child Welfare Policy I-A.5.2, "Contested Case Hearings", OAR 413-010-0500 to 413-010-0535.

(5) When a child does not meet Title IV E eligibility requirements, the Post Adoption Services Program Manager determines if extenuating cir-

cumstances under section (1) of this rule exist that justify accepting an adoption assistance application from the adoptive family.

(a) The Adoption Assistance and Guardianship Assistance Coordinator must prepare information for review by the Post Adoption Services Program Manager including information submitted by both the adoptive family and Department records.

(b) A written finding will be sent to the adoptive family within 60 calendar days of the receipt of the request for review.

(c) When the Post Adoption Services Program Manager finds that extenuating circumstances do not exist, the adoptive family may request a contested case hearing under Child Welfare Policy I-A.5.2, "Contested Case Hearings", OAR 413-010-0500 to 413-010-0535.

(A) The administrative law judge in the contested case hearing reviews whether the adoptive family may submit an application for adoption assistance.

(B) The approval of the adoption assistance application is a separate determination made by the Department.

(6) When the decision, through a contested case hearing or Post Adoption Services Program Manager review, is that the adoptive family is eligible to apply for adoption assistance on behalf of the child, an adoption assistance application may be signed, effective the date of the written request described in section (1) of this rule. The process for application in OAR 413-130-0050 and negotiation in OAR 413-130-0070 apply.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11; CWP 35-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 2-2014, f. 1-31-14, cert. ef. 2-1-14

Rule Caption: Changing OARs affecting Child Welfare programs (II-C.1.8)

Adm. Order No.: CWP 3-2014

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Rules Amended: 413-215-0918

Subject: OAR 413-215-0918 about consents, disclosures, and authorizations in the context of outdoor youth programs is being amended to remove references to the use of seclusion because seclusion does not occur in outdoor youth program settings

In addition, the above rule may have been changed to reflect new Department terminology and to correct formatting and punctuation.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-215-0918

Consents, Disclosures, and Authorizations

(1) Consents. For each youth in placement with an outdoor youth program (defined in OAR 413-215-0911), the outdoor youth program must ensure that the legal guardian signs a consent that authorizes the outdoor youth program to undertake each of the following:

(a) To provide routine and emergency medical care.

(b) To use the behavior management system of the outdoor youth program, including the point, level, or other behavior management techniques utilized by the outdoor youth program.

(c) If applicable, to use restraint in the management of the youth. The consent for the use of physical restraint must be limited to the requirements outlined in OAR 413-215-0076(8).

(d) If applicable, to use time outs. The consent for the use of time outs must be limited to the requirements outlined in OAR 413-215-0076(10).

(2) Disclosures to parent or legal guardian. At the time an outdoor youth program takes a youth into placement, the outdoor youth program must ensure that each legal guardian of the youth receives and acknowledges in writing the receipt of each of the following:

(a) Information regarding any personal searches and protocols for confiscation of contraband items, including the notification of law enforcement if illegal contraband is discovered. This information will include the procedures and rationales of the outdoor youth program for any program-initiated pat down searches.

(b) A statement concerning the rights of youth and legal guardians served by the outdoor youth program. The statement must be written in a manner that is easy to understand, and the outdoor youth program must ensure that the youth and the parent or legal guardian understand the state-

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ment. The statement must explain the following rights belonging to youth and, in some cases, legal guardians:

(A) Private and uncensored communications by mail, telephone, and visitation, subject to both of the following restrictions.

(i) This right may be restricted only if the provider documents in the individual's record that there is a court order to the contrary, or that in the absence of this restriction, significant physical or clinical harm will result to the individual or others. The nature of the harm must be specified in reasonable detail, and any restriction of the right to communicate must be no broader than necessary to prevent this harm.

(ii) The individual and his or her guardian, if applicable, must be given specific written notice of each restriction of the individual's right to private and uncensored communication. The provider must ensure that correspondence can be conveniently received and mailed, that telephones are reasonably accessible and allow for confidential communication, and that space is available for visits. Reasonable times for the use of telephones and visits may be established in writing by the provider.

(B) The youth's right to reasonable privacy.

(C) The youth's right to meaningfully participate in service planning.

(D) The youth's right to fair and equitable treatment.

(E) The right to be free from unauthorized treatment.

(F) The right of the youth or guardian to file a grievance for any reason, including, if the youth or legal guardians believe that they have been treated unfairly, or, if they are not in agreement with the services provided.

(G) The youth's right to have and wear personally exclusive clothing of their choosing unless the type of clothing has been prohibited in writing on the basis that significant physical or clinical harm would result.

(H) The youth's right to have personal belongings unless they are prohibited by storage limits, or because the item is prohibited in writing on the basis that significant physical or clinical harm would result.

(I) The youth's right to receive an appropriate education, and if the youth has not yet graduated, to stay on course for graduation.

(J) The youth's right to participate in recreation and leisure activities unless the program restricts the youth's participation in recreation or leisure activities due to serious behavior or safety issues.

(K) The youth's right to have timely access to physical and behavioral health care services.

(L) The right of the youth, or legal guardians, to promptly review the program policies and procedures regarding program services.

(c) An outdoor youth program shall provide a copy of transportation policies and procedures to the legal guardians at the time of admission to the program.

(d) An outdoor youth program will disclose orientation procedures to the client and legal guardians at the time of admission to the program and prior to transporting the youth to the field.

(3) Authorizations. An outdoor youth program must follow the following requirements:

(a) Written authorizations to exchange information with others must be filled out prior to signatures being requested.

(b) All youth-specific visitors must be approved or authorized by the legal guardians, except Department personnel, child abuse investigators, Court Appointed Special Advocates, and attorneys appointed to represent the child.

(c) All other visitors must be pre-approved by the youth's legal guardians.

(d) Activity-specific authorizations must be pre-approved by the youth's legal guardians to allow children to participate in potentially hazardous activities, such as rock climbing, swimming, and horseback riding.

(e) All other required authorizations must be pre-approved by the youth's legal guardians.

Stat. Auth.: ORS 409.050, 418.005, 418.240

Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998

Hist.: CWP 7-2013, f. & cert. ef. 10-1-13; CWP 3-2014, f. 1-31-14, cert. ef. 2-1-14

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Rule Caption: Changing OARs affecting Child Welfare programs

Adm. Order No.: CWP 4-2014(Temp)

Filed with Sec. of State: 2-4-2014

Certified to be Effective: 2-4-14 thru 8-3-14

Notice Publication Date:

Rules Adopted: 413-100-0457

Subject: The Department of Human Services, Child Welfare Programs, is adopting OAR 413-100-0457 to provide eligibility criteria for the Former Foster Care Youth (FFCY) Medical program, a new program under the Affordable Care Act which replaced the Chafee Medical Program effective January 1, 2014. The program

provides medical coverage to youth who leave Oregon State or Tribal foster care at age 18 or older, up to their 26th birthday. The Oregon Health Authority's Office of Client and Community Services adopted a temporary rule (OAR 410-200-0406) effective Oct. 1, 2013 that provided eligibility requirements for the program. Since that time administration of the program transferred to Child Welfare, and OHA has suspended its temporary rule. This rule is being adopted in Child Welfare's rules in chapter 413 to replace the OHA rule, and applies to all individuals considered for enrollment in FFCY Medical on or after January 1, 2014.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-100-0457

Former Foster Care Youth Medical Program

(1) This rule applies to all individuals considered for enrollment in the Former Foster Care Youth Medical program on or after January 1, 2014.

(2) Individuals may not be eligible for the Former Foster Care Youth Medical program with an effective date prior to January 1, 2014.

(3) There is no income test for the Former Foster Care Youth Medical program.

(4) An individual is eligible for Former Foster Care Youth Medical if the individual meets the requirements of all of the following subsections:

(a) Is 18 years of age or older, but under 26 years of age.

(b) Was in foster care under the responsibility of the Department or Tribe, and enrolled in Child Welfare Title XIX Medicaid upon attaining:

(A) Age 18, or

(B) If over 18, the age at which Oregon Medicaid or Oregon Tribal foster care assistance ended under Title IV-E.

(c) Is not receiving Supplemental Security Income (SSI).

(d) Is not receiving adoption assistance or foster care maintenance payments.

(5) Applicants for Former Foster Care Youth Medical should first be screened for eligibility for the Oregon Health Authority's Office of Client and Community Services (OCCS) medical programs such as MAGI Child, MAGI Pregnant Woman, MAGI Parent or Other Caretaker Relative program benefits.

Stat. Auth.: ORS 409.050, 411.404, 418.005

Stats. Implemented: ORS 409.010, 411.404, 418.005

Hist.: CWP 4-2014(Temp), f. & cert. ef. 2-4-14 thru 8-3-14

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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 2-2014

Filed with Sec. of State: 1-31-2014

Certified to be Effective: 2-1-14

Notice Publication Date: 11-1-2013

Rules Amended: 461-155-0180

Subject: OAR 461-155-0180 about poverty-related income standards is being amended to reflect the 2014 poverty level standards. The poverty guidelines are updated each year by the Department of Health and Human Services. The poverty guidelines are adjusted based on the Consumer Price Index for All Urban Consumers (CPI-U). The poverty guidelines are then used to determine financial eligibility for the programs covered by this rule except OSIP, OSIPM and QMB. 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.

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 2014 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

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(3) A monthly income standard set at 133 percent of the 2014 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 2014 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 2014 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 2014 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 2014 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 409.050, 411.060, 411.070, 411.816, 412.014, 412.049
Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.816, 412.014, 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 5-2013(Temp), f. & cert. ef. 2-1-13 thru 7-31-13; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 22-2013(Temp), f. & cert. ef. 8-23-13 thru 2-19-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 2-2014, f. 1-31-14, cert. ef. 2-1-14

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

Adm. Order No.: SSP 3-2014

Filed with Sec. of State: 1-31-2014

Certified to be Effective: 2-1-14

Notice Publication Date: 11-1-2013

Rules Amended: 461-160-0620

Subject: OAR 461-160-0620 about income deductions and client liability for long-term care services and home and community-based care in the Oregon Supplemental Income Program Medical (OSIPM) is also being amended to change the need standard deduction for home and community-based care in-home services from the OSIPM maintenance standard (currently \$710) to the OSIPM maintenance standard plus \$500.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-160-0620

Income Deductions and Client Liability; Long-Term Care Services or Home and Community-Based Care; OSIPM

In the OSIPM program:

(1) Deductions from income are made for a client residing in or entering a long-term care facility or receiving home and community-based care (see OAR 461-001-0030) as explained in subsections (3)(a) to (3)(h) of this rule.

(2) Except as provided otherwise in OAR 461-160-0610, the liability of the client is determined according to subsection (3)(i) of this rule.

(3) Deductions are made in the following order:

(a) One standard earned income deduction of \$65 is made from the earned income in the OSIPM-AD and OSIPM-OAA programs. The deduction is \$85 in the OSIPM-AB program.

(b) The deductions under the plan for self-support as allowed by OAR 461-145-0405.

(c) One of the following need standards:

(A) A \$30 personal needs allowance for a client receiving long-term care services.

(B) A \$90 personal needs allowance for a client receiving long-term care services who is eligible for VA benefits based on unreimbursed medical expenses. The \$90 allowance is allowed only when the VA benefit has been reduced to \$90.

(C) For a client who receives home and community-based care:

(i) Except as provided in subparagraph (ii) of this paragraph, the OSIPM maintenance standard.

(ii) For a client who receives in-home services, the OSIPM maintenance standard plus \$500.

(d) A community spouse monthly income allowance is deducted from the income of the institutionalized spouse to the extent that the income is

made available to or for the benefit of the community spouse, using the following calculation.

(A) Step 1 — Determine the maintenance needs allowance. \$1,939 is added to the amount over \$582 that is needed to pay monthly shelter expenses for the principal residence of the couple. This sum or \$2,931 whichever is less, is the maintenance needs allowance. For the purpose of this calculation, shelter expenses are the rent or home mortgage payment (principal and interest), taxes, insurance, required maintenance charges for a condominium or cooperative, and the full standard utility allowance for the SNAP program (see OAR 461-160-0420).

(B) Step 2 — Compare maintenance needs allowance with community spouse's countable income. The countable income of the community spouse is subtracted from the maintenance needs allowance determined in step 1. The difference is the income allowance unless the allowance described in step 3 is greater.

(C) Step 3 — If a spousal support order or exceptional circumstances resulting in significant financial distress require a greater income allowance than that calculated in step 2, the greater amount is the allowance.

(e) A dependent income allowance as follows:

(A) For a case with a community spouse, a deduction is permitted only if the monthly income of the eligible dependent is below \$1,939. To determine the income allowance of each eligible dependent:

(i) The monthly income of the eligible dependent is deducted from \$1,939.

(ii) One-third of the amount remaining after the subtraction in paragraph (A) of this subsection is the income allowance of the eligible dependent.

(B) For a case with no community spouse:

(i) The allowance is the TANF adjusted income standard for the client and eligible dependents.

(ii) The TANF standard is not reduced by the income of the dependent.

(f) Costs for maintaining a home if the client meets the criteria in OAR 461-160-0630.

(g) Medical deductions allowed by OAR 461-160-0030 and 461-160-0055 are made for costs not covered under the state plan. This includes the public and private health insurance premiums of the community spouse and the client's dependent.

(h) After taking all the deductions allowed by this rule, the remaining balance is the adjusted income.

(i) The client liability is determined as follows:

(A) For a client receiving home and community-based care (except a client identified in OAR 461-160-0610(4)), the liability is the actual cost of the home and community-based care or the adjusted income of the client, whichever is less. This amount must be paid to the Department each month as a condition of being eligible for home and community-based care. In OSIPM-IC, the liability is subtracted from the gross monthly benefit.

(B) For a client who resides in a nursing facility, a state psychiatric hospital, an Intermediate Care Facility for the Mentally Retarded, or a mental health facility, there is a liability as described at OAR 461-160-0610.

(4) The deduction used to determine adjusted income for a GA and GAM client receiving long-term care services or home and community-based care is as follows:

(a) One standard earned income deduction of \$65 is made from the earned income for a client who is not blind; or

(b) One standard earned income deduction of \$85 is made from the earned income for a client who is blind.

Stat. Auth.: ORS 411.060, 411.070 & 411.706

Stats. Implemented: ORS 411.060, 411.070 & 411.706

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 6-1999, f. & cert. ef. 4-22-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 8-2005(Temp), f. & cert. ef. 7-1-05 thru 10-1-05; SSP 9-2005(Temp), f. & cert. ef. 7-6-05 thru 10-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 18-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-

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11; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 23-2012(Temp), f. 6-29-12, cert. ef. 7-1-12 thru 12-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; SSP 16-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 25-2013, f. & cert. ef. 10-1-13; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 3-2014, f. 1-31-14, cert. ef. 2-1-14

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

Adm. Order No.: SSP 4-2014(Temp)

Filed with Sec. of State: 2-4-2014

Certified to be Effective: 3-1-14 thru 8-28-14

Notice Publication Date:

Rules Amended: 461-155-0290, 461-155-0291, 461-155-0295

Subject: OAR 461-155-0290 about income standards for QMB-BAS, OAR 461-155-0291 about income standards for QMB-DW, and OAR 461-155-0295 about income standards for QMB-SMB and QMB-SMF are being amended to adjust these standards to reflect the annual updates to the Federal Poverty Level. These amendments keep Oregon in line with current federal standards for Department Medicaid programs and changes in the Federal Poverty Level.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-155-0290

Income Standard; QMB-BAS

The adjusted income standard for the QMB-BAS program is 100 percent of the 2014 federal poverty level. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 411.060 & 411.070

Stats. Implemented: ORS 411.060 & 411.070

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 16-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 4-2006, f. & cert. ef. 3-1-06; SSP 2-2007(Temp), f. & cert. ef. 3-1-07 thru 3-31-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 6-2008(Temp), f. 2-29-08, cert. ef. 3-1-08 thru 8-28-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 8-2011(Temp), f. & cert. ef. 3-1-11 thru 8-28-11; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 8-2012, f. & cert. ef. 3-1-12; SSP 6-2013, f. & cert. ef. 3-1-13; SSP 4-2014(Temp), f. 2-4-14, cert. ef. 3-1-14 thru 8-28-14

461-155-0291

Income Standard; QMB-DW

The adjusted income standard for the QMB-DW program is 200 percent of the 2014 federal poverty level (see OAR 461-155-0290). [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 411.060 & 411.070

Stats. Implemented: ORS 411.060 & 411.070

Hist.: AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 16-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 4-2006, f. & cert. ef. 3-1-06; SSP 2-2007(Temp), f. & cert. ef. 3-1-07 thru 3-31-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 6-2008(Temp), f. 2-29-08, cert. ef. 3-1-08 thru 8-28-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 8-2011(Temp), f. & cert. ef. 3-1-11 thru 8-28-11; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 8-2012, f. & cert. ef. 3-1-12; SSP 6-2013, f. & cert. ef. 3-1-13; SSP 4-2014(Temp), f. 2-4-14, cert. ef. 3-1-14 thru 8-28-14

461-155-0295

Income Standard; QMB-SMB, QMB-SMF

(1) Eligibility for QMB-SMB requires income greater than 100 percent (see OAR 461-155-0290) but less than 120 percent of the federal poverty level. The adjusted income standard for QMB-SMB is 120 percent of the 2014 federal poverty level. [Table not included. See ED. NOTE.]

(2) Eligibility for QMB-SMF requires income equal to or greater than 120 percent (see section (1) of this rule) but less than 135 percent of the federal poverty level. The adjusted income standard for QMB-SMF is 135 percent of the 2014 federal poverty level. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 411.060 & 411.070

Stats. Implemented: ORS 411.060 & 411.070

Hist.: AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 16-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 19-2002(Temp), f. 12-10-02, cert. ef. 1-1-03 thru 5-31-03; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 4-2006, f. & cert. ef. 3-1-06; SSP 2-2007(Temp), f. & cert. ef. 3-1-07 thru 3-31-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 6-2008(Temp), f. 2-29-08, cert. ef. 3-1-08 thru 8-28-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 8-2011(Temp), f. & cert. ef. 3-1-11 thru 8-28-11; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 8-2012, f. & cert. ef. 3-1-12; SSP 6-2013, f. & cert. ef. 3-1-13; SSP 4-2014(Temp), f. 2-4-14, cert. ef. 3-1-14 thru 8-28-14

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

Adm. Order No.: SSP 5-2014(Temp)

Filed with Sec. of State: 2-4-2014

Certified to be Effective: 3-1-14 thru 8-28-14

Notice Publication Date:

Rules Amended: 461-165-0180

Subject: OAR 461-165-0180 (eligibility of child care providers) is being amended to increase child care provider standards. This applies to providers that care for individuals receiving child care benefits through the Employment Related Day Care (ERDC) program or Temporary Assistance to Needy Families Jobs Opportunities and Basic Skills (TANF-JOBS) program.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-165-0180

Eligibility of Child Care Providers

(1) The Department must approve a child care provider to receive payment for child care if information available to the Department provides no basis for denying eligibility unless the Department determines, following a preliminary or final fitness determination (see OAR 407-007-0320) or Child Protective Service (CPS) records checks, that the provider or other subject individual (see 407-007-0210(30)(A), (B), (F), (I), and (O)) is not eligible for payment.

(2) Ineligibility for payment may result from any of the following:

(a) A finding of “denied”. A provider may be denied under OAR 461-165-0410 and 461-165-0420. If, after conducting a weighing test as described in 407-007-0210, the Department finds substantial risk to the health or safety of a child in the care of the provider, the provider must be denied and is ineligible for payment. A provider who has been denied has the right to a hearing under 407-007-0330.

(b) A finding of “failed”. A provider may be failed if the Department determines, based on a specific eligibility requirement and evidence, that a provider does not meet the eligibility requirements of this rule. A provider with a status of “failed” may reapply at any time by providing the required documents and information to the Department for review.

(c) The Department has referred an overpayment against the provider for collection and the claim is unsatisfied.

(3) The provider must submit a completed Child Care Provider Listing Form (DHS 7494) to the Department within 30 calendar days from the date the Department issues the listing form to the client. The provider and each individual identified under section (4) of this rule must complete and sign the authorization for a records check through the Criminal History (CH) record system maintained by the Oregon State Police (OSP), Federal Bureau of Investigation (FBI), and the Child Protective Service (CPS) record system maintained by the Department and, if necessary, an authorization to release information and fingerprint cards. The provider, each individual described in section (4) of this rule, and each subject individual described in OAR 407-007-0210(30)(a)(A), (B), (F), (I) or (O) must fully disclose all requested information as part of the records check.

(4) This rule also establishes additional requirements for the following individuals:

(a) The site director of an exempt child care facility and each employee of the facility who may have unsupervised access to a child in care.

(b) The child care provider and each individual the provider uses to supervise a child in his or her absence.

(c) In the case of a provider who provides care for a child in the provider’s home:

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(A) Each individual 16 years of age or older who lives in the provider's home; and

(B) Each individual who visits the home of the provider during the hours care is provided and may have unsupervised access to a child in care.

(5) To receive payment or authorization for payment, the provider must meet the requirements of either subsection (a) or (b) of this section:

(a) Currently be certified or registered with the Office of Child Care (OCC) of the Oregon Department of Education (ODE) under OAR 414-205-0000 to 414-205-0170, 414-300-0000 to 414-300-0440, or 414-350-0000 to 414-350-0250 unless legally exempt, and be in compliance with the applicable rules. The provider must also complete the Department's listing process and be approved by the Department.

(b) If legally exempt from being certified or registered with the CCD, complete the Department's background check process and be approved by the Department.

(6) Each individual described in section (4) of this rule must:

(a) Allow the Department to conduct a national criminal history records check through the Oregon State Police and the Federal Bureau of Investigation as specified in OAR 407-007-0250.

(b) Provide, in a manner specified by the Department, information required to conduct CH, FBI, OSP, and CPS records checks or determine whether the provider meets health and safety requirements.

(c) Have a history of behavior that indicates no substantial risk to the health or safety of a child in the care of the provider.

(7) Each provider must:

(a) Obtain written approval from their certifier or certifier's supervisor if the provider is also certified as a foster parent.

(b) Be 18 years of age or older and in such physical and mental health as will not affect adversely the ability to meet the needs of safety, health, and well-being of a child in care.

(c) Not be in the same filing group as the child cared for and cannot be the parent (see OAR 461-001-0000) of the child.

(d) Allow the Department to inspect the site of care while child care is provided.

(e) Keep daily attendance records showing the arrival and departure times for each child in care and billing records for each child receiving child care benefits from the Department. The provider must keep written records of any attendance that is not able to be recorded in the Child Care Billing and Attendance Tracking (CCBAT) system. These written records must be retained for a minimum of 12 months and provided to the Department upon request.

(f) Be the individual or facility listed as providing the child care. The provider may only use someone else to supervise a child on a temporary basis if the person was included on the most current listing form and the provider notifies the Department's Direct Pay Unit.

(g) Not bill a Department client for an amount collected by the Department to recover an overpayment or an amount paid by the Department to a creditor of the provider because of a lien, garnishment, or other legal process.

(h) Report to the Department's Direct Pay Unit within five days of occurrence:

(A) Any arrest or conviction of any subject individual or individual described in section (4) of this rule.

(B) Any involvement of any subject individual or individual described in section (4) of this rule with CPS or any other agency providing child protective services.

(C) Any change to the provider's name or address including any location where care is provided.

(D) The addition of any subject individual or individual described in section (4) of this rule.

(i) Report suspected child abuse of any child in his or her care to CPS or a law enforcement agency.

(j) Supervise each child in care at all times.

(k) Prevent any individual who behaves in a manner that may harm children from having access to a child in the care of the provider.

(l) Allow the custodial parent of a child in his or her care to have immediate access to the child at all times.

(m) Inform a parent of the need to obtain immunizations for a child.

(n) Take reasonable steps to protect a child in his or her care from the spread of infectious diseases.

(o) Ensure that the home or facility where care is provided meets all of the following standards:

(A) Each floor level used by a child has two usable exits to the outdoors (a sliding door or window that can be used to evacuate a child is considered a usable exit). If a second floor is used for child care, the provider

must have a written plan for evacuating occupants in the event of an emergency.

(B) The facility has safe drinking water.

(C) The facility has a working smoke detector on each floor level and in any area where a child naps.

(D) Each fireplace, space heater, electrical outlet, wood stove, stairway, pool, pond, and any other hazard has a barrier to protect a child. Gates and enclosures should have the Juvenile Products Manufacturers Association (JPMA) certification seal to ensure safety.

(E) Any firearm, ammunition, and other dangerous item such as any medicine, drug, cleaning supply, paint, plastic bag, and poisonous and toxic material is kept in a secure place out of a child's reach.

(F) The building, grounds, any toy, equipment, and furniture are maintained in a clean, sanitary, and hazard free condition.

(G) The facility has a telephone in operating condition.

(H) No person may smoke or use smokeless tobacco in the home or facility during the hours the child care business is conducted. No person may smoke or use smokeless tobacco in motor vehicles while child care children are passengers.

(I) No one may consume alcohol or use non-prescription controlled substances in the presence of children. No one under the influence of alcohol or non-prescription controlled substances may be in the home when child care children are present.

(J) Is not a hotel, motel, shelter, or other temporary housing such as a tent, trailer, or motor home. The restriction in this paragraph does not apply to licensed (registered or certified) care approved in a hotel, motel, or shelter.

(K) Is not a structure:

(i) Designed to be transportable; and

(ii) Not attached to the ground, another structure, or to any utilities system on the same premises.

(p) Complete and submit a new listing form every two years, or sooner at the request of the Department, so that the Department may review the provider's eligibility.

(q) Provide evidence of compliance with the Department's administrative rules, upon request of Department staff.

(r) Complete registration for the CCBAT system within 45 days of the date of the registration notice.

(s) Comply with state and federal laws related to child safety systems and seat belts in vehicles, bicycle safety, and crib standards under 16 CFR 1219 and 1220.

(t) Place infants to sleep on their backs.

(8) Child Care providers who are License Exempt or Registered Family Child Care Providers with the Office of Child Care (OCC) of the Oregon Department of Education (ODE) under OAR 414-205-0000 to 414-205-0170 must complete either the three-hour Oregon Kids Healthy and Safe (OKHS) classroom training or the two-hour, web-based training developed by OKHS prior to being approved by the Department.

(9) A child care provider not subject to certification or registration with the Office of Child Care (OCC) of the Oregon Department of Education (ODE) under OAR 414-205-0000 to 414-205-0170, 414-300-0000 to 414-300-0440, or 414-350-0000 to 414-350-0250, must complete an orientation provided by the Department or a Child Care Resource and Referral agency within 90 days of being approved by the Department if he or she:

(a) Receives funds from the Department; and

(b) Begins providing child care services after June 30, 2010, or resumes providing child care services, after a break of more than one year that began after June 30, 2010.

Stat. Auth.: ORS 181.537, 409.050, 411.060 & 411.070

Stats. Implemented: ORS 181.537, 409.010, 409.610, 411.060, 411.070, 411.122 & 657A.340

Hist.: AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 17-1994(Temp), f. & cert. ef. 8-15-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 2-1997, f. 2-27-97, cert. ef. 3-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 12-1997, f. & cert. ef. 8-25-97; AFS 14-1999, f. & cert. ef. 11-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 13-2004, f. 4-29-04, cert. ef. 5-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 6-2005(Temp), f. & cert. ef. 4-25-05 thru 9-30-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 5-2014(Temp), f. 2-4-14, cert. ef. 3-1-14 thru 8-28-14

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Department of Justice Chapter 137

Rule Caption: Adopts Rules Required by 2013 Legislation to Implement Oregon Foreclosure Avoidance Program

Adm. Order No.: DOJ 2-2014

Filed with Sec. of State: 1-27-2014

Certified to be Effective: 1-31-14

Notice Publication Date: 12-1-2013

Rules Adopted: 137-110-0300, 137-110-0605, 137-110-0675

Rules Amended: 137-110-0010, 137-110-0110, 137-110-0200, 137-110-0210, 137-110-0410, 137-110-0420, 137-110-0600, 137-110-0610, 137-110-0620, 137-110-0630, 137-110-0640, 137-110-0650, 137-110-0670

Rules Repealed: 137-110-0001, 137-110-0005, 137-110-0020, 137-110-0430, 137-110-0500, 137-110-0510, 137-110-0520, 137-110-0660

Subject: These rules implement the Oregon Foreclosure Avoidance Program established by Oregon Laws 2013, chapter 304. These rules provide:

The minimum training, qualifications and experience required of program facilitators;

The fees that must be paid by the parties, the time of fee payments, and the requirements for obtaining a waiver by low-income grantors;

The contents of the notices that will be issued by the service provider;

The form for, and contents of, an affidavit exempting a beneficiary from the requirement to enter into a resolution conference with a grantor;

The guidelines that provide for the role of program facilitators; the contents of the notices that will be issued by the service provider; documents required of both parties; procedures for rescheduling resolution conference sessions; role of interpreters; means of executing agreements; the form for, and contents of, the certificate of compliance or notice that no certificate of compliance will be issued to a beneficiary.

Rules Coordinator: Carol Riches—(503) 947-4700

137-110-0010

Definitions

As used in these division 110 rules:

(1) "Foreclosure avoidance facilitator roster" means the roster of qualified facilitators maintained by the service provider.

(2) "Oregon Foreclosure Avoidance Program" means the resolution conference program established under Oregon Laws 2013, chapter 304.

(3) "Party" means the grantor, the beneficiary and the beneficiary's agent if the beneficiary authorizes the agent to appear on the beneficiary's behalf at the resolution conference.

(4) "Service provider website" means an internet-based system maintained by the service provider at <http://www.foreclosuremediationor.org> and designed to facilitate the exchange of necessary program-related documents and other information.

Stat. Auth.: 2013 OL Ch. 304

Stats. Implemented: 2013 OL Ch. 304

Hist.: DOJ 10-2012(Temp), f. 7-6-12, cert. ef. 7-11-12 thru 1-6-13; DOJ 2-2013, f. 1-3-13, cert. ef. 1-7-13; DOJ 6-2013(Temp), f. 7-22-13, cert. ef. 8-4-13 thru 1-31-14; DOJ 2-2014, f. 1-27-14, cert. ef. 1-31-14

137-110-0110

Facilitator Qualifications, Training and Experience

(1) A facilitator conducting a resolution conference under the Oregon Foreclosure Avoidance Program shall:

(a) Have conducted at least 20 mediations or resolution conferences of any type or subject matter as a mediator or facilitator. Work performed as an assistant or apprentice under the supervision of a lead mediator or facilitator may also be counted toward the 20-resolution conference requirement. Observations of sessions may not count toward work performed as an assistant or apprentice;

(b) Provide evidence of at least 100 hours of mediation or resolution conference experience as a mediator or facilitator or as an assistant or apprentice mediator or facilitator. Work that a mediator or facilitator performs to prepare for and schedule the mediation or resolution conference or to prepare the parties for a mediation or resolution conference may be

counted towards this 100-hour requirement. Observations of sessions may not count toward the 100-hour requirement;

(c) Disclose to the service provider the professional standards to which the facilitator subscribes;

(d) Have successfully participated in at least 30 hours of training that is consistent with the curriculum found in Section 3.2 of the Oregon Judicial Department Court Connected Mediator Qualification Rules effective August 1, 2005;

(e) Provide evidence of successful participation in at least 16 hours of training on foreclosure avoidance programs and the substantive law and legal processes regarding foreclosures in Oregon including ORS Chapter 86; and

(f) Provide evidence of successful participation in at least 8 hours of training on the procedures, practices and policies of the Oregon Foreclosure Avoidance Program. This training shall include some interactive instruction, such as role-playing.

(2) The service provider may grant a waiver from the training requirements in subsections 1(d), 1(e) and 1(f) of this rule upon a showing by the facilitator of significant and related education or experience.

(3) The service provider shall decide whether or not an individual:

(a) Meets the minimum qualifications as a facilitator under these rules;

(b) Is included on the foreclosure avoidance resolution conference roster; or

(c) Is assigned to a resolution conference.

(4) An individual who meets the minimum qualifications as a facilitator under these rules or who is added to the foreclosure avoidance resolution conference roster may not represent that fact as license or certification of their competency for anything other than their role in the Oregon Foreclosure Avoidance Program.

Stat. Auth.: 2013 OL Ch. 304 Sec. 6(1)(e)

Stats. Implemented: 2013 OL Ch. 304 Sec. 6(1)(e)

Hist.: DOJ 10-2012(Temp), f. 7-6-12, cert. ef. 7-11-12 thru 1-6-13; DOJ 2-2013, f. 1-3-13, cert. ef. 1-7-13; DOJ 6-2013(Temp), f. 7-22-13, cert. ef. 8-4-13 thru 1-31-14; DOJ 2-2014, f. 1-27-14, cert. ef. 1-31-14

137-110-0200

Fees Paid by the Grantor, Fee Waiver

(1) The grantor shall pay a fee of \$175 to the service provider at the time required by Oregon Laws 2013, chapter 304, section 3(2)(a). If there are joint or multiple grantors, only one grantor must pay this fee.

(2) The grantor may apply for a waiver of \$125 of the fee described in section (1) of this rule at the time the grantor is required by Oregon Laws 2013, chapter 304, section 3(2)(a), to pay the fee. The grantor shall pay \$50 at the time of the fee waiver request.

(3) A grantor's application for a fee waiver under section (2) of this rule shall be granted if the grantor is able to provide satisfactory evidence to the service provider that the grantor's annual household income is less than:

(a) \$ 23,340 for a household of one;

(b) \$ 31,460 for a household of two;

(c) \$ 39,580 for a household of three;

(d) \$ 47,700 for a household of four;

(e) \$ 55,820 for a household of five;

(f) \$ 63,940 for a household of six;

(g) \$ 72,060 for a household of seven;

(h) \$ 80,180 for a household of eight;

(i) \$ 88,300 for a household of nine; or

(j) \$ 96,420 for a household of ten or more.

(4) The service provider shall decide whether to grant a grantor's application for a fee waiver made under section (2) of this rule within 10 days of receiving the application.

(5) If the service provider denies a grantor's application for a fee waiver made under section (2) of this rule, the grantor shall pay the remaining \$125 within 15 days of receiving the service provider's determination not to grant a fee waiver but never later than the date of the scheduled resolution conference.

(6) Failure by a grantor to timely pay fees will result in cancellation of the resolution conference.

Stat. Auth.: 2013 OL Ch. 304, Sec. 3(2)(a), 6(1)(d) & 6(1)(g)

Stats. Implemented: 2013 OL Ch. 304, Sec. 3(2)(a) & 6(1)(d)

Hist.: DOJ 10-2012(Temp), f. 7-6-12, cert. ef. 7-11-12 thru 1-6-13; DOJ 2-2013, f. 1-3-13, cert. ef. 1-7-13; DOJ 6-2013(Temp), f. 7-22-13, cert. ef. 8-4-13 thru 1-31-14; DOJ 2-2014, f. 1-27-14, cert. ef. 1-31-14

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137-110-0210

Fees Paid by Beneficiary

(1) If a beneficiary requests a resolution conference, the beneficiary shall pay a \$200 processing fee to the service provider at the time of making the request. The beneficiary shall pay an additional \$325 to the service provider within 25 days after the service provider makes the grantor's documents available to the beneficiary, as required by Oregon Laws 2013, chapter 304, section 3(4)(a).

(2) If a grantor requests a resolution conference, the beneficiary or the beneficiary's agent shall pay a fee of \$525 to the service provider within 25 days after the service provider makes the grantor's documents available to the beneficiary, as required by Oregon Laws 2013, chapter 304, section 3(4)(a).

(3) If a lienholder other than a beneficiary who requested the resolution conference participates, the lienholder is not required to pay a fee under this rule.

(4) A beneficiary that is otherwise exempt from the requirement to participate in a resolution conference with a grantor pursuant to Oregon Laws 2013, chapter 304, section 2(1)(b), may participate in a resolution conference by:

(a) Submitting a request for a resolution conference in the manner prescribed by OAR 137-110-0410;

(b) Paying \$325 within 25 days of the date on which the grantor makes the documents required by OAR 137-110-0610 available to the service provider; and

(c) Following the resolution conference guidelines set forth in OAR 137-110-0600 to 137-110-0670.

(5) The service provider and beneficiary may enter into an agreement allowing the fees described in sections (1)-(4) of this rule to be paid in regular lump sums.

Stat. Auth.: 2013 OL Ch. 304, Sec. 2(2), 3(4)(a), 6(1)(d) & 6(1)(g)

Stats. Implemented: 2013 OL Ch. 304, Sec. 2(2), 3(4)(a)

Hist.: DOJ 10-2012(Temp), f. 7-6-12, cert. ef. 7-11-12 thru 1-6-13; DOJ 2-2013, f. 1-3-13, cert. ef. 1-7-13; DOJ 6-2013(Temp), f. 7-22-13, cert. ef. 8-4-13 thru 1-31-14; DOJ 2-2014, f. 1-27-14, cert. ef. 1-31-14

137-110-0300

Beneficiary Exemptions

Beneficiaries claiming an exemption from the requirement to participate in a resolution conference with a grantor under Or Laws 2013, chapter 304, section 2(1)(b), shall submit an affidavit that substantially complies with the model form provided in Appendix A to these division 110 rules and available as "Form 300" at http://www.doj.state.or.us/consumer/foreclosure_mediation.shtml. The affidavit may be submitted to the Attorney General either:

(1) By U.S. mail addressed to Attorney General of Oregon, Foreclosure Avoidance Mediation Program, 1162 Court St. NE, Salem, OR 97301-4096; or

(2) By electronic mail addressed to DOJ@foreclosuremediation OR.org.

Stat. Auth.: 2013 OL Ch. 304, Sec. 2(1)(b) & 6(1)(g)

Stats. Implemented: 2013 OL Ch. 304, Sec. 2(1)(b)

Hist.: DOJ 6-2013(Temp), f. 7-22-13, cert. ef. 8-4-13 thru 1-31-14; DOJ 2-2014, f. 1-27-14, cert. ef. 1-31-14

137-110-0410

Beneficiary Request for Resolution Conference

(1) A beneficiary may request a resolution conference under Or Laws 2013, chapter 304, section 2(2), by submitting the request, applicable fees, and required information to the service provider using the service provider website or by facsimile or mail. The beneficiary's request under this rule must identify the residential trust deed that the beneficiary intends to foreclose and list the name, title, address, telephone number and other available contact information for:

(a) The beneficiary;

(b) Any agent of the beneficiary that will attend the resolution conference;

(c) Any person other than a person identified in paragraph (a) or (b) of Or Laws 2013, chapter 304, section 2(2), that will receive, on the beneficiary's behalf, notices or other communications related to the resolution conference; and

(d) The grantor.

(2) If the information provided in section (1) of this rule changes prior to the resolution conference, the beneficiary shall update that information with the service provider.

Stat. Auth.: 2013 OL Ch. 304, Sec. 2(2), 6(1)(f) & 6(1)(g)

Stats. Implemented: 2013 OL Ch. 304, Sec. 2(2) & 6(1)(f)

Hist.: DOJ 10-2012(Temp), f. 7-6-12, cert. ef. 7-11-12 thru 1-6-13; DOJ 2-2013, f. 1-3-13, cert. ef. 1-7-13; DOJ 6-2013(Temp), f. 7-22-13, cert. ef. 8-4-13 thru 1-31-14; DOJ 2-2014, f. 1-27-14, cert. ef. 1-31-14

137-110-0420

Grantor Request for Resolution Conference

A grantor may request a resolution conference either:

(1) Through a housing counselor who may request a resolution conference on behalf of the grantor by using the service provider website to certify that the grantor is more than 30 days in default on the obligation that the residential trust deed secures or, if the grantor is not in default, that the grantor has a financial hardship that the housing counselor believes may qualify the grantor for a foreclosure avoidance measure.

(2) By submitting a request to the service provider electronically via e-mail or the service provider website, by facsimile, or by mail. The request shall include a certification by a housing counselor that the grantor is more than 30 days in default on the obligation that the residential trust deed secures or, if the grantor is not in default, that the grantor has a financial hardship that the housing counselor believes may qualify the grantor for a foreclosure avoidance measure.

Stat. Auth.: 2013 OL Ch. 304, Sec. 2(3), 3(2), 3(3) & 6(1)(g)

Stats. Implemented: 2013 OL Ch. 304, Sec. 2(3), 3(2), 3(3), 6(1)(g)

Hist.: DOJ 10-2012(Temp), f. 7-6-12, cert. ef. 7-11-12 thru 1-6-13; DOJ 2-2013, f. 1-3-13, cert. ef. 1-7-13; DOJ 6-2013(Temp), f. 7-22-13, cert. ef. 8-4-13 thru 1-31-14; DOJ 2-2014, f. 1-27-14, cert. ef. 1-31-14

137-110-0600

Facilitator Authority and Role

(1) The facilitator has no authority to impose a settlement on the grantor or the beneficiary or to render any decisions on any substantive issue or to make any legal determinations.

(2) The facilitator and the service provider may rely on assertions made in the documents provided by the parties and need not make an independent inquiry.

(3) The facilitator shall:

(a) Act as an impartial intermediary and not as an advocate for the beneficiary or the grantor;

(b) Make appropriate disclosures to the parties about the facilitator's skills and the specific resolution conference approaches the facilitator uses;

(c) Support the ability of the parties to make informed decisions regarding the resolution conference process and outcomes by ensuring that parties are provided with information regarding the resolution conference process and that relevant documents are available to the parties;

(d) Conduct resolution conferences fairly, diligently, even-handedly, and with no personal stake in the outcome;

(e) Avoid actual, potential, or perceived conflicts of interest that can arise from a facilitator's relationship or experience that reasonably raise a question about the facilitator's impartiality;

(f) Affirmatively disclose to the service provider and the parties any actual, potential or perceived conflicts of interest that could raise a question about the facilitator's impartiality;

(g) Where a party, the facilitator or the service provider questions the facilitator's ability to act impartially, and the issue cannot be resolved to the satisfaction of the questioner, the facilitator shall decline to serve or withdraw if already serving as the facilitator in a particular resolution conference. Having questioned a facilitator's impartiality, and that facilitator having declined to serve, the ability of a party to exclude any subsequent facilitator shall be at the discretion of the service provider;

(h) Not engage in any other services, other than the resolution conference, for any of the parties involving the same or significantly related issues, unless the parties agree in writing; and

(i) Preserve the grantor's and the beneficiary's desired levels of confidentiality.

Stat. Auth.: 2013 OL Ch. 304, Sec. 6(1)(e) & 6(1)(f)

Stats. Implemented: 2013 OL Ch. 304, Sec. 6(1)(e) & 6(1)(f)

Hist.: DOJ 10-2012(Temp), f. 7-6-12, cert. ef. 7-11-12 thru 1-6-13; DOJ 2-2013, f. 1-3-13, cert. ef. 1-7-13; DOJ 6-2013(Temp), f. 7-22-13, cert. ef. 8-4-13 thru 1-31-14; DOJ 2-2014, f. 1-27-14, cert. ef. 1-31-14

137-110-0605

Resolution Conference Scheduling

(1) Within 10 days after the date on which the beneficiary or grantor requested a resolution conference as provided in Oregon Laws 2013, chapter 304, section 2, the service provider shall send a Notice of Resolution Conference to the grantor and beneficiary. The notice must:

(a) Specify a range of dates within which and a location at which the resolution conference will occur;

(b) State that the beneficiary and the grantor must each pay the facilitator's fees for the resolution conference;

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(c) List and describe the documents that the beneficiary and grantor must submit to the service provider;

(d) State that the grantor must consult a housing counselor before attending the resolution conference unless the grantor notifies the service provider that the grantor could not obtain an appointment with a housing counselor before the date of the resolution conference;

(e) State that the grantor may have an attorney or housing counselor present to represent the grantor at the resolution conference, and that the grantor must attend the resolution conference in person unless there are compelling circumstances that prevent attendance in person;

(f) Provide contact information for:

(A) The Oregon State Bar's Lawyer Referral Service;

(B) Service agencies or other providers that offer free or low-cost legal services; and

(C) A list of not-for-profit housing counselors approved the Oregon Housing and Community Services Department.

(2) Within 5 days after receiving the grantor's fee, the service provider shall send a written notice to the grantor and the beneficiary that specifies the date, time and location of the resolution conference.

Stat. Auth.: 2013 OL Ch. 304, Sec. 3(1), 3(2), 3(4) & 6(1)(g)

Stats. Implemented: 2013 OL Ch. 304, Sec. 3(1), 3(2), 3(4) & 6(1)(g)

Hist.: DOJ 6-2013(Temp), f. 7-22-13, cert. ef. 8-4-13 thru 1-31-14; DOJ 2-2014, f. 1-27-14, cert. ef. 1-31-14

137-110-0610

Documents Required of the Grantor

(1) The grantor shall provide the following documents to the service provider for provision to the beneficiary within 25 days after the date on which the service provider sends a Notice of Resolution Conference:

(a) A completed "Universal Intake Form" provided in Appendix B and available by selecting "Form 610" at http://www.doj.state.or.us/consumer/foreclosure_mediation.shtml or a substantially similar form;

(b) Information about the grantor's income, expenses, debts and other obligations;

(c) A description of the grantor's financial hardship, if any;

(d) Documents that verify the grantor's income.

(2) In addition to the documents listed in subsection (1), a grantor's successor-in-interest shall provide documents that establish the person's identity and legal interest in the property, including but not limited to letters testamentary, letters of administration, or a court certified copy of a small estate affidavit.

(3) Within 5 days of receiving documents provided by the grantor, the service provider shall make those documents available to the beneficiary using the service provider website. The service provider shall provide the documents to the beneficiary in an alternative format upon request.

(4) If a grantor fails to timely provide documents as required by Oregon Laws 2013, chapter 304 and section (1) of this rule, the grantor and the beneficiary shall nevertheless appear at the resolution conference. A grantor who does not timely provide a document required by this rule is at increased risk of the resolution conference concluding without reaching an agreement for a foreclosure avoidance measure.

(5) The Oregon Foreclosure Avoidance Program may ask grantors to provide documents that contain social security numbers. The Program will inform grantors that it does not require them to provide their social security numbers, but that grantors may do so voluntarily to facilitate resolution with the beneficiary. The Program will tell grantors that if they provide their social security numbers, the numbers will be disclosed to the beneficiary, the grantor's housing counselor and the facilitator for the purposes of the resolution conference and to the service provider for the purpose of ensuring that the grantor has submitted the necessary documents.

Stat. Auth.: 2013 OL Ch. 304, Sec. 3(2)(c) & 6(1)(g)

Stats. Implemented: 2013 OL Ch. 304, Sec. 3(2)(c) & 6(1)(g)

Hist.: DOJ 10-2012(Temp), f. 7-6-12, cert. ef. 7-11-12 thru 1-6-13; DOJ 2-2013, f. 1-3-13, cert. ef. 1-7-13; DOJ 6-2013(Temp), f. 7-22-13, cert. ef. 8-4-13 thru 1-31-14; DOJ 8-2013(Temp), f. & cert. ef. 8-22-13 thru 1-31-14; DOJ 2-2014, f. 1-27-14, cert. ef. 1-31-14

137-110-0620

Documents Required of the Beneficiary

(1) Within 25 days after the service provider makes the information the grantor provided under Oregon Laws 2013, chapter 304, and OAR 137-110-0610 available to the beneficiary, the beneficiary shall provide the following documents to the service provider for provision to the grantor:

(a) Copies of:

(A) The residential trust deed; and

(B) The promissory note that is evidence of the obligation that the residential trust deed secures and that the beneficiary or beneficiary's agent certifies is a true copy;

(b) The name and address of the person that owns the obligation that is secured by the residential trust deed;

(c) A record of the grantor's payment history for the longer of the preceding 12 months or since the beneficiary last deemed the grantor current on the obligation;

(d) An itemized statement that shows:

(A) The amount the grantor owes on the obligation, itemized to reflect the principal, interest, fees, charges and any other amounts included within the obligation; and

(B) The amount the grantor must pay to cure the grantor's default;

(e) A document that identifies:

(A) The input values for each net present value model that the beneficiary or the beneficiary's agent uses in this transaction; and

(B) The output values that each net present value model produces;

(f) The appraisal or price opinion the beneficiary relied on most recently to determine the value of the property that is the subject of the residential trust deed;

(g) The portion of any pooling agreement, servicing agreement or other agreement that the beneficiary cites as a limitation or prohibition on modifying the terms of the obligation, together with a statement that describes the extent to which the beneficiary sought to have the limitation or prohibition waived;

(h) A description of any additional documents the beneficiary requires to evaluate the grantor's eligibility for a foreclosure avoidance measure.

(2) Nothing in section (1)(e) of this rule requires a beneficiary or the beneficiary's agent to disclose the algorithmic formula of the net present value model used by the beneficiary or the beneficiary's agent.

(3) If a beneficiary fails to timely provide documents as required by section (1) of this rule, the grantor and the beneficiary shall nevertheless appear at the resolution conference. A beneficiary who fails to provide a document required by this rule is at risk of the resolution conference concluding without the beneficiary receiving a certificate of compliance.

Stat. Auth.: 2013 OL Ch. 304, Sec. 3(4)(b) & 6(1)(g)

Stats. Implemented: 2013 OL Ch. 304, Sec. 3(4)(b) & 6(1)(g)

Hist.: DOJ 10-2012(Temp), f. 7-6-12, cert. ef. 7-11-12 thru 1-6-13; DOJ 2-2013, f. 1-3-13, cert. ef. 1-7-13; DOJ 6-2013(Temp), f. 7-22-13, cert. ef. 8-4-13 thru 1-31-14; DOJ 2-2014, f. 1-27-14, cert. ef. 1-31-14

137-110-0630

Rescheduling the Resolution Conference

(1) Upon written request from both the grantor and beneficiary, the service provider may reschedule the resolution conference to a mutually agreed-upon date. Written notice shall be provided by facsimile, electronic mail, regular mail, or through the service provider's website.

(2) Upon written request from either grantor or beneficiary, and upon good cause shown, the service provider may reschedule the resolution conference for not more than 30 days after the original date scheduled for the resolution conference. The request shall set forth the circumstances demonstrating good cause with particularity and shall be provided by facsimile, electronic mail, regular mail, or through the service provider's website.

(3) If the service provider grants rescheduling, the service provider shall issue a notice that provides the new date, time, and location of the resolution conference within 10 days of the request for rescheduling.

Stat. Auth.: 2013 OL Ch. 304, Sec. 6(1)(f) & 6(1)(g)

Stats. Implemented: 2013 OL Ch. 304, Sec. 3(5), 6(1)(f) & 6(1)(g)

Hist.: DOJ 10-2012(Temp), f. 7-6-12, cert. ef. 7-11-12 thru 1-6-13; DOJ 2-2013, f. 1-3-13, cert. ef. 1-7-13; DOJ 6-2013(Temp), f. 7-22-13, cert. ef. 8-4-13 thru 1-31-14; DOJ 2-2014, f. 1-27-14, cert. ef. 1-31-14

137-110-0640

Confidentiality

No videotaping, transcription or other recording of resolution conferences is permitted except by written agreement of the parties and the facilitator.

Stat. Auth.: 2013 OL Ch. 304, Sec. 6(1)(f) & 6(1)(g)

Stats. Implemented: 2013 OL Ch. 304, Sec. 3(5), 6(1)(f) & 6(1)(g)

Hist.: DOJ 10-2012(Temp), f. 7-6-12, cert. ef. 7-11-12 thru 1-6-13; DOJ 2-2013, f. 1-3-13, cert. ef. 1-7-13; DOJ 6-2013(Temp), f. 7-22-13, cert. ef. 8-4-13 thru 1-31-14; DOJ 2-2014, f. 1-27-14, cert. ef. 1-31-14

137-110-0650

Participation in the Resolution Conference

(1) Any party wishing to participate in a resolution conference shall do so in accordance with all other provisions of OAR 137-110-0001 to 137-110-0670.

(2) If a trust deed includes joint or multiple grantors, and fewer than all grantors confirm participation in the resolution conference, the resolution conference may nevertheless occur with the consent of the beneficiary.

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(3) The grantor, or any individual that a court appoints to act on the grantor's behalf, must attend the resolution conference in person unless there are compelling circumstances that prevent attendance in person.

(4) The service provider may assist the parties in obtaining an interpreter. However, if the service provider is unable to provide an interpreter, the party needing an interpreter is responsible for securing and paying for the interpreter. The manner of participation of a language interpreter during a resolution conference will be determined by the facilitator.

(5) Any mediator or facilitator wishing to observe a resolution conference for training purposes may only do so with the written consent of all participants.

Stat. Auth.: 2013 OL Ch. 304, Sec. 6(1)(f) & 6(1)(g)
Stats. Implemented: 2013 OL Ch. 304, Sec. 6(1)(f) & 6(1)(g)
Hist.: DOJ 10-2012(Temp), f. 7-6-12, cert. ef. 7-11-12 thru 1-6-13; DOJ 2-2013, f. 1-3-13, cert. ef. 1-7-13; DOJ 6-2013(Temp), f. 7-22-13, cert. ef. 8-4-13 thru 1-31-14; DOJ 2-2014, f. 1-27-14, cert. ef. 1-31-14

137-110-0670

Certificate of Compliance

(1) The service provider shall issue a certificate of compliance if:

(a) The grantor fails to timely pay the fee required by Oregon Laws 2013, chapter 304, section 3(2)(a) and OAR 137-110-200; or

(b) The service provider receives a report from the facilitator that complies with Oregon Laws 2013, chapter 304, section 4(4) and the beneficiary has:

(A) Submitted the materials required under section 3(4) of Oregon Laws 2013, chapter 304, to the service provider;

(B) Appeared in person at, or sent an agent to, the resolution conference with complete authority to negotiate on the beneficiary's behalf and commit the beneficiary to a foreclosure avoidance measure, or if the beneficiary or agent did not have complete authority, required the participation by remote communication of a person with complete authority to negotiate on the beneficiary's behalf and commit the beneficiary to a foreclosure avoidance measure;

(C) Signed a document that sets forth the terms of any foreclosure avoidance measure to which the beneficiary and the grantor agreed; and

(D) Complied with sections 2, 3, and 4 of Oregon Laws 2013, chapter 304.

(2) The certificate of compliance that has been signed and notarized by the service provider shall be issued to the beneficiary or the beneficiary's agent no later than five days following:

(a) Cancellation of the resolution conference if the certificate is issued pursuant to section (1)(a) of this rule.

(b) Receipt of the facilitator's report under Oregon Laws 2013, chapter 304, section 4(4) if the certificate is issued pursuant to section (1)(b) of this rule.

(3) The certificate of compliance shall include:

(a) The name of the grantor;

(b) The name of the beneficiary;

(c) The address of the property at issue;

(d) Reference to the recording information of the trust deed at issue;

(e) A certification that either:

(A) The beneficiary or its agent appeared at the resolution conference and complied with sections 2, 3, and 4 of Oregon Laws 2013, chapter 304; or

(B) The grantor failed to timely pay the fee required by Oregon Laws 2013, chapter 304, section 3(2)(a), and OAR 137-110-0200.

(4) The certificate of compliance described in this rule shall substantially comply with the model form provided in Appendix C to these division 110 rules and available as "Form 670" at http://www.doj.state.or.us/consumer/foreclosure_mediation.shtml.

(5) Unless otherwise requested, the service provider shall mail the original certificate of compliance to the beneficiary(ies) or, if a beneficiary is represented by an attorney, the beneficiary's attorney. The service provider shall mail a copy of the certificate to the grantor(s).

Stat. Auth.: 2013 OL Ch. 304, Sec. 6(1)(f) & 6(1)(g)
Stats. Implemented: 2013 OL Ch. 304, Sec. 5, 6(1)(f) & 6(1)(g)
Hist.: DOJ 10-2012(Temp), f. 7-6-12, cert. ef. 7-11-12 thru 1-6-13; DOJ 2-2013, f. 1-3-13, cert. ef. 1-7-13; DOJ 6-2013(Temp), f. 7-22-13, cert. ef. 8-4-13 thru 1-31-14; DOJ 2-2014, f. 1-27-14, cert. ef. 1-31-14

137-010-0675

Notice That No Certificate of Compliance Will Be Issued

(1) If a beneficiary failed to meet a requirement to which the beneficiary was subject under sections 2, 3 or 4 of Oregon Laws 2013, chapter 304, the service provider shall issue a notice explaining why the service provider will not issue a certificate of compliance.

(2) The service provider may cancel a resolution conference if, prior to the date the resolution conference first convenes, the grantor and beneficiary agree to cancel the conference and confirm their agreement in writing to the service provider. The service provider shall issue a notice explaining why the service provider will not issue a certificate of compliance.

(3) This notice issued under section (1) of this rule shall substantially comply with the model form provided in Appendix D to these division 110 rules and available as "Form 670a" at http://www.doj.state.or.us/consumer/foreclosure_mediation.shtml. Unless otherwise requested, the service provider shall mail the notice described in this rule to the beneficiary(ies) or, if a beneficiary is represented by an attorney, the beneficiary's attorney. The service provider shall mail a copy of the notice described in this rule to the grantor(s).

(4) Unless otherwise requested, the service provider shall mail the notice described in this rule to the beneficiary(ies) or, if a beneficiary is represented by an attorney, the beneficiary's attorney. The service provider shall mail a copy of the notice described in this rule to the grantor(s).

Stat. Auth.: OL 2013, ch. 304, sec 6(1)(f), 6(1)(g)
Stats. Implemented: OL 2013, ch. 304, sec 5, 6(1)(f), 6(1)(g)
Hist.: DOJ 2-2014, f. 1-27-14, cert. ef. 1-31-14

Rule Caption: Adopts Rules Implementing 2013 Legislation Regarding Foreclosure Avoidance Measure Notices

Adm. Order No.: DOJ 3-2014

Filed with Sec. of State: 1-27-2014

Certified to be Effective: 1-31-14

Notice Publication Date: 12-1-2013

Rules Amended: 137-120-0020

Rules Repealed: 137-120-0010

Subject: These amended rules implement the foreclosure avoidance measure notice provisions of Oregon Laws 2013, chapter 304. They provide a form and content of the notice issued by a beneficiary when the beneficiary determines that a grantor is not eligible for any foreclosure avoidance measure or that the grantor has not complied with the terms of a foreclosure avoidance measure to which the grantor has agreed. They also provide the address to which a copy of the notice must be sent to the Attorney General.

Rules Coordinator: Carol Riches—(503) 947-4700

137-120-0020

Determination of Grantor Ineligibility for or Noncompliance With Foreclosure Avoidance Measure

(1) A beneficiary may comply with the notice requirements of Oregon Laws 2012, chapter 112, section 4a by using the model form provided in the Appendix to these division 120 rules and available as "Form 20" at http://www.doj.state.or.us/consumer/foreclosure_mediation.shtml.

(2) A copy of the notice required by Oregon Laws 2012, chapter 112, section 4a shall be submitted to the Attorney General of Oregon at 1162 Court St. NE, Salem, OR 97301-4096 or foreclosureavoidance@doj.state.or.us.

Stat. Auth.: 2013 OL Ch. 304, Sec. 6(1)(g)
Stats. Implemented: 2013 OL Ch. 304, Sec. 9
Hist.: DOJ 11-2012(Temp), f. 7-6-12, cert. ef. 7-11-12 thru 1-6-13; DOJ 1-2013, f. 1-3-13, cert. ef. 1-7-13; DOJ 7-2013(Temp), f. 7-22-13, cert. ef. 8-4-13 thru 1-31-14; DOJ 3-2014, f. 1-27-14, cert. ef. 1-31-14

Rule Caption: Amends Attorney General's Model Rules for Office of Administrative Hearings to Lift or Extend Sunsets

Adm. Order No.: DOJ 4-2014(Temp)

Filed with Sec. of State: 1-31-2014

Certified to be Effective: 2-1-14 thru 7-31-14

Notice Publication Date:

Rules Amended: 137-003-0505, 137-003-0640

Subject: Amends OAR 137-003-505(3) to delete the following language: "[t]he notice of sanction requirement imposed in subsection (1)(i) of this rule is effective until January 31, 2014." Continues the requirement to include notice of sanction in the contested case notice pending adoption of a permanent rule anticipated to remove any sunset date on that requirement.

Amends OAR 137-003-0640 to delete subsection (8), which provides that "[b]eginning February 1, 2014, agencies, rather than the Chief Administrative Law Judge, will be responsible for providing the immediate review set out in this rule." Continues immediate

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review by Chief Administrative Law Judge pending adoption of a permanent rule anticipated to extend the sunset date to February 1, 2016.

Rules Coordinator: Carol Riches—(503) 947-4700

137-003-0505

Contested Case Notice

(1) When the agency is required to issue a contested case notice pursuant to ORS 183.415, the notice shall include:

(a) A caption with the name of the agency and the name of the person or agency to whom the notice is issued;

(b) A short and plain statement of the matters asserted or charged and a reference to the particular sections of the statute and rules involved;

(c) A statement of the party's right to be represented by counsel and that legal aid organizations may be able to assist a party with limited financial resources;

(d) A statement of the party's right to a hearing;

(e) A statement of the authority and jurisdiction under which a hearing is to be held on the matters asserted or charged;

(f) Either:

(A) A statement of the procedure and time to request a hearing, the agency address to which a hearing request should be sent, and a statement that if a request for hearing is not received by the agency within the time stated in the notice the person will have waived the right to a contested case hearing; or

(B) A statement of the time and place of the hearing;

(g) A statement indicating whether and under what circumstances an order by default may be entered;

(h) If the party is an agency, corporation, partnership, limited liability company, trust, government body or an unincorporated association, a statement that the party must be represented by an attorney licensed in Oregon, unless statutes applicable to the contested case proceeding specifically provide otherwise;

(i) If the agency proposes a sanction, the sanction that the agency proposes based on the facts alleged in the notice. If the proposed sanction is not the maximum potential sanction, the agency may also state the maximum potential sanction for each violation and that the agency may impose up to the maximum potential sanction provided in the notice, without amending the notice; and,

(j) Any other information required by law.

(2) A contested case notice may include either or both of the following:

(a) A statement that the record of the proceeding to date, including information in the agency file or files on the subject of the contested case and all materials submitted by a party, automatically become part of the contested case record upon default for the purpose of proving a prima facie case;

(b) A statement that a collaborative dispute resolution process is available as an alternative to a contested case hearing, if requested within the time period stated in the notice, and that choosing such a process will not affect the right to a contested case hearing if a hearing request is received by the agency within the time period stated in the notice and the matter is not resolved through the collaborative process.

(3) The notice requirements imposed in subsections (1)(h) and (1)(i) apply to all notices issued after January 31, 2012.

Stat. Auth.: ORS 183.341

Stats. Implemented: ORS 183.341, 183.413, 183.415, 183.630 & 183.675

Hist.: DOJ 10-1999, f. 12-23-99, cert. ef. 1-1-00; DOJ 9-2007, f. 10-15-07 cert. ef. 1-1-08; DOJ 1-2012, f. 1-11-12, cert. ef. 1-31-12; DOJ 4-2014(Temp), f. 1-31-14, cert. ef. 2-1-14 thru 7-31-14

137-003-0640

Immediate Review by Chief Administrative Law Judge

(1) Before issuance of a proposed order or before issuance of a final order if the administrative law judge has authority to issue a final order, the agency or a party may seek immediate review by the Chief Administrative Law Judge of the administrative law judge's decision on any of the following:

(a) A ruling on a motion to quash a subpoena under OAR 137-003-0585;

(b) A ruling refusing to consider as evidence judicially or officially noticed facts presented by the agency under OAR 137-003-0615 that is not rebutted by a party;

(c) A ruling on the admission or exclusion of evidence based on a claim of the existence or non-existence of a privilege.

(2) The agency by rule or in writing may elect not to make available this process of immediate review by the Chief Administrative Law Judge.

(3) The agency or a party may file a response to the request for immediate review. The response shall be in writing and shall be filed with the Chief Administrative Law Judge within five calendar days after receipt of the request for review with service on the administrative law judge, the agency representative, if any, and any other party.

(4) The mere filing or pendency of a request for the Chief Administrative Law Judge's immediate review, even if uncontested, does not alter or extend any time limit or deadline established by statute, rule, or order.

(5) The Chief Administrative Law Judge shall rule on all requests for immediate review in writing.

(6) The request and ruling shall be made part of the record of the proceeding.

(7) The Chief Administrative Law Judge may designate in writing a person to exercise his or her responsibilities under this rule.

Stat. Auth.: ORS 183.341

Stats. Implemented: ORS 183.341 & 183.630

Hist.: DOJ 10-1999, f. 12-23-99, cert. ef. 1-1-00; DOJ 19-2003, f. 12-12-03, cert. ef. 1-1-04; DOJ 1-2012, f. 1-11-12, cert. ef. 1-31-12; DOJ 4-2014(Temp), f. 1-31-14, cert. ef. 2-1-14 thru 7-31-14

Department of Public Safety Standards and Training Chapter 259

Rule Caption: Update and clarify the contested case process regarding default orders; housekeeping.

Adm. Order No.: DPSST 4-2014

Filed with Sec. of State: 1-28-2014

Certified to be Effective: 1-28-14

Notice Publication Date: 1-1-2014

Rules Amended: 259-008-0070, 259-009-0070, 259-060-0300

Subject: HB 2790 (2010) changed the timeline for serving Notices of Intent to Deny or Revoke Certification or Licensure (NOI). Currently, an NOI is served and the contested case process begins immediately following a Policy Committee's decision to deny or revoke certification or licensure. If the officer fails to request a hearing within the allotted timeframe, the NOI becomes a final order by default denying or revoking certification or licensure.

This proposed rule clarifies that, even if an NOI defaults to a final order due to lack of timely request for a hearing, DPSST not issue any notifications or make any notations concerning a revocation or denial until the Board has reviewed and affirmed a Policy Committee's recommendation. This will prevent injury should the Board ultimately disagree with a Policy Committee recommendation.

Finally, an error was discovered in OAR 259-009-0070. Unlawful Use of a Weapon is incorrectly listed as a Category I offense, rather than a Category II offense. Looking at the rule history, this appears to be in error. This proposed rule change will categorize Unlawful Use of a Weapon as a Category II offense.

Rules Coordinator: Sharon Huck—(503) 378-2432

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:

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(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 phenylpropranolamine; unlawful distribution);
- 475.975 (Unlawful possession of iodine in its elemental form);
- 475.976 (Unlawful possession of iodine matrix);
- 807.520 (False swearing to receive license);
- 807.620 (Giving false information to police officer);
- Any offense involving any acts of domestic violence as defined in ORS 135.230.

(b) The Department must take action on a mandatory disqualifying conviction, regardless of when it occurred, unless the Department, or the Board, has previously reviewed the conviction and approved the public safety professional or instructor for certification under a prior set of standards.

Discretionary Disqualifying Misconduct as Grounds for Denying or Revoking Certification

(4) Discretionary disqualifying misconduct as Grounds for Denying or Revoking Certification(s) of a Public Safety Professional or Instructor:

(a) The Department may deny or revoke the certification of any public safety professional or instructor, after written notice, and a hearing, if requested, based upon a finding that:

(A) The public safety professional or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;

(B) The public safety professional or instructor 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.

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(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;

(d) Upon determination to proceed with the denial or revocation of a public safety professional's or instructor's certification based on discre-

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tionary 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.

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(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, pending Board affirmation.

(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; DPSST 21-2013, f. & cert. ef. 9-23-13; DPSST 1-2014, f. & cert. ef. 1-2-14; DPSST 4-2014, f. & cert. ef. 1-28-14

259-009-0070

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 will apply:

(a) "Denial" or "Deny" means the refusal to grant a fire service 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 Conviction" means a conviction identified in OAR 259-009-0070(6).

(c) "Discretionary Disqualifying Misconduct" means misconduct identified in OAR 259-009-0070(4).

(d) "Revocation" or "Revoke" means to withdraw the certification of a fire service professional or instructor for mandatory grounds or discretionary disqualifying misconduct as identified in this rule, pursuant to the procedures identified in subsection (9) of this rule.

Grounds for Mandatory Denial or Revocation of Certification

(3) Mandatory Grounds for Denying or Revoking Certification of a Fire Service Professional or Instructor:

(a) The Department must deny or revoke the certification of any fire service professional or instructor, after written notice, and a hearing if requested, based upon a finding that:

(A) The fire service professional or instructor has been convicted in this state of a crime listed in ORS 137.700 or in any other jurisdiction of a crime that, if committed in this state would constitute a crime listed in 137.700. Those crimes are:

163.095 Attempted Aggravated Murder;
163.115 Attempted Murder;
163.115 Murder;
163.118 Manslaughter in the First Degree;
163.125 Manslaughter in the Second Degree;
163.149 Aggravated Vehicular Homicide;
163.175 Assault in the Second Degree;
163.185 Assault in the First Degree;
163.225 Kidnapping in the Second Degree;
163.235 Kidnapping in the First Degree;
163.365 Rape in the Second Degree;
163.375 Rape in the First Degree;
163.395 Sodomy in the Second Degree;
163.405 Sodomy in the First Degree;
163.408 Sexual Penetration in the Second Degree;
163.411 Sexual Penetration in the First Degree;
163.427 Sexual Abuse in the First Degree;
163.670 Using a Child in a Display of Sexually Explicit Conduct;
164.325 Arson in the First Degree (See exception under OAR 259-009-0070(4));
164.405 Robbery in the Second Degree;
164.415 Robbery in the First Degree;

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(B) The fire service professional or instructor has been discharged for cause from employment as a fire service professional or instructor.

(b) 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 fire service 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.

(A) Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification;

(B) 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.

(C) 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 fire service professional or instructor would observe in a similar circumstance;

(D) Incompetence: means a demonstrated lack of ability to perform the essential tasks of a fire service professional or instructor that remedial measures have been unable to correct.

(E) 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.

Discretionary Disqualifying Misconduct as Grounds for Denying or Revoking Certification

(4) Discretionary disqualifying misconduct as Grounds for Denying or Revoking Certification(s) of a Fire Service Professional or Instructor:

(a) The Department may deny or revoke the certification of any fire service professional or instructor, after written notice, and a hearing, if requested, based upon a finding that:

(A) The fire service professional or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;

(B) The fire service professional or instructor has been convicted of an offense listed in subsection (4)(c), punishable as a crime, other than a mandatory disqualifying crime listed in section (3) of this rule, in this state or any other jurisdiction.

(b) For purposes of this rule, the Department, through the Fire Policy Committee and Board, has defined core values that are integral to the fire service profession. These values are:

(A) Category I: Honesty. Honesty includes straightforwardness of conduct; integrity, adherence to the facts; freedom from subterfuge or duplicity; truthfulness and sincerity.

(B) Category II: Professionalism. Professionalism includes the conduct, aims, or qualities that characterize or mark a profession or a professional person; extreme competence in an occupation or pursuit.

(C) Category III: Justice. Justice includes just treatment, the quality or characteristics of being just, impartial, or fair.

(c) Pursuant to ORS 181.662(3)(b), the Department has determined that, in the absence of a determination to the contrary by the Fire Policy Committee and Board, a Fire Service Professional or Instructor who has been convicted of the following crimes has violated the core values of the fire service profession and may not be fit to receive or hold certification:

25.785(3) (False Submission Social Security Number) — Category I;
92.337 (Furnishing False Information or Making a False Representation) — Category I;

162.015 (Bribe Giving) — Category III;
162.025 (Bribe Receiving) — Category III;
162.065 (Perjury) — Category I;
162.117 (Public Investment Fraud) — Category I;
162.155 (Escape in the Second Degree) — Category III;
162.165 (Escape in the First Degree) — Category II;
162.185 (Supplying Contraband) — Category II;
162.205 (Failure to Appear in the First Degree) — Category II;
162.265 (Bribing a Witness) — Category III;
162.275 (Bribe Receiving by a Witness) — Category III;
162.285 (Tampering with a Witness) — Category III;
162.305 (Tampering with Public Records) — Category III;
162.325 (Hindering Prosecution) — Category III;
162.355 (Simulating Legal Process) — Category III;
162.365 (Criminal Impersonation) — Category I;
162.367 (Criminal Impersonation of a Peace Officer) — Category I;
162.415 (Official Misconduct in the First Degree) — Category II;
163.145 (Criminally Negligent Homicide) — Category III;
163.160 (Assault in the Fourth Degree) — Category III;
163.165 (Assault in the Third Degree) — Category III;
163.205 (Criminal Mistreatment in the First Degree) — Category III;
163.207 (Female Genital Mutilation) — Category III;

163.208 (Assaulting a Public Safety Officer) — Category III;
163.213 (Unlawful Use of an Electrical Stun Gun, Tear Gas or Mace in the First Degree) — Category II;
163.245 (Custodial Interference in the Second Degree) — Category III;
163.257 (Custodial Interference in the First Degree) — Category III;
163.275 (Coercion) — Category III;
163.355 (Rape in the Third Degree) — Category III;
163.425 (Sexual Abuse in the Second Degree) — Category III;
163.465 (Public Indecency) — Category III;
163.515 (Bigamy) — Category III;
163.525 (Incest) — Category III;
163.535 (Abandonment of a Child) — Category III;
163.537 (Buying or Selling a Person Under 18 years of age) — Category III;
163.547 (Child Neglect in the First Degree) — Category III;
163.555 (Criminal Non-Support) — Category III;
163.684 (Encouraging Child Sexual Abuse in the First Degree) — Category III;
163.686 (Encouraging Child Sexual Abuse in the Second Degree) — Category III;
163.688 (Possession of Materials Depicting Sexually Explicit Conduct of a Child in the Second Degree) — Category III;
163.689 (Possession of Materials Depicting Sexually Explicit Conduct of a Child in the Second Degree) — Category III;
163.732 (Stalking) — Category III;
163.750 (Violating Court’s Stalking Protective Order) — Category III;
164.045 (Theft in the Second Degree) — Category I;
164.055 (Theft in the First Degree) — Category I;
164.057 (Aggravated Theft in the First Degree) — Category I;
164.075 (Theft by Extortion) — Category I;
164.125 (Theft of Services: by Deception) — Category I;
164.135 (Unauthorized Use of a Vehicle) — Category I;
164.140 (Criminal Possession of Rented or Leased Personal Property: felony only) — Category I;
164.170 (Launders a Monetary Instrument) — Category I;
164.172 (Engaging in a Financial Transaction in Property Derived from Unlawful Activity) — Category I;
164.215 (Burglary in the Second Degree) — Category III;
164.225 (Burglary in the First Degree) — Category III;
164.235 (Possession of a Burglary Tool or Theft Device) — Category III;
164.315 (Arson in the Second Degree) — Category II;
164.325 (Arson in the First Degree — If not a conviction under ORS 137.700) — Category II;
164.365 (Criminal Mischief in the First Degree) — Category III;
164.377 (Computer Crime) — Category III;
164.395 (Robbery in the Third Degree) — Category III;
164.868 (Unlawful Labeling of a Sound Recording) — Category III;
164.869 (Unlawful Recording of a Live Performance) — Category III;
164.872 (Unlawful Labeling of a Videotape Recording) — Category III;
164.885 (Endangering Aircraft) — Category II;
164.889 (Interference with Agricultural Research) — Category III;
165.013 (Forgery in the First Degree) — Category I;
165.022 (Criminal Possession of a Forged Instrument in the First Degree) — Category I;
165.032 (Criminal Possession of a Forgery Device) — Category I;
165.055 (Fraudulent Use of a Credit Card: Felony Only) — Category I;
165.065 (Negotiating a Bad Check) — Category I;
165.070 (Possessing Fraudulent Communications Device) — Category I;
165.074 (Unlawful Factoring of Payment Card Transaction) — Category I;
165.085 (Sports Bribery) — Category III;
165.090 (Sports Bribe Receiving) — Category III;
165.579 (Cellular Counterfeiting in the Second Degree) — Category III;
165.581 (Cellular Counterfeiting in the First Degree) — Category III;
165.692 (Making False Claim for Health Care Payment) — Category I;
165.800 (Identity Theft) — Category I;
165.810 (Unlawful Possession of a Personal Identification Device) — Category I;
165.813 (Unlawful Possession of Fictitious Identification) — Category I;
166.005 (Treason) — Category II;
166.015 (Riot) — Category II;
166.085 (Abuse of Corpse in the Second Degree) — Category II;
166.087 (Abuse of Corpse in the First Degree) — Category II;
166.155 (Intimidation in the Second Degree) — Category III;
166.165 (Intimidation in the First Degree) — Category III;
166.220 (Unlawful Use of Weapon) — Category II;
166.270 (Possession of Weapons by Certain Felons: Felony only) — Category II;
166.275 (Possession of Weapons by Inmates of Institutions) — Category II;
166.370 (Possession of Firearm or Dangerous Weapon in Public Building or Court Facility; Exceptions; Discharging Firearm at School) — Category II;
166.382 (Possession of Destructive Device Prohibited) — Category II;
166.384 (Unlawful Manufacture of Destructive Device) — Category II;
166.429 (Firearms Used in Felony) — Category II;
166.438 (Transfer of Firearms at Gun Shows: Felony Only) — Category II;
166.450 (Obliteration or Change of Identification Number on Firearms) — Category II;
166.642 (Felon in Possession of Body Armor) — Category II;
166.643 (Unlawful Possession of Body Armor) — Category II;
166.649 (Throwing an Object Off an Overpass in the Second Degree) — Category III;
166.651 (Throwing an Object Off an Overpass in the First Degree) — Category III;
166.660 (Unlawful Paramilitary Activity) — Category III;
166.720 (Racketeering Activity Unlawful) — Category II;
167.012 (Promoting Prostitution) — Category III;
167.062 (Sadomasochistic Abuse or Sexual Conduct in Live Show: Felony Only) — Category III;
167.164 (Possession of Gray Machine) — Category I;
167.212 (Tampering with Drug Records) — Category I;
167.262 (Adult Using Minor in Commission of Controlled Substance Offense: Felony Only) — Category III;
167.322 (Aggravated Animal Abuse in the First Degree) — Category III;
167.339 (Assaulting Law Enforcement Animal) — Category III;

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305.815 (False Return, Statement or Document) — Category I;
411.630 (Unlawfully Obtaining Public Assistance) — Category I;
411.675 (Submitting Wrongful Claim for Payment) — Category I;
411.840 (Unlawfully Obtaining or Disposing of Supplemental Nutrition Assistance) — Category I;
433.010(1) (Willfully Causing the Spread of Communicable Disease) — Category II;
475.840 (Prohibited Acts Generally: Manufacture or Deliver a Controlled Substance) — Category II;
475.846 (Unlawful Manufacture of Heroin) — Category II;
475.848 (Unlawful Manufacture of Heroin Within 1,000 Feet of School) — Category III;
475.850 (Unlawful Delivery of Heroin) — Category II;
475.852 (Unlawful Delivery of Heroin Within 1,000 Feet of School) — Category III;
475.854 (Unlawful Possession of Heroin) — Category II;
475.856 (Unlawful Manufacture of Marijuana) — Category II;
475.858 (Unlawful Manufacture of Marijuana Within 1,000 Feet of School) — Category III;
475.860 (Unlawful Delivery of Marijuana: Felony only) — Category II;
475.862 (Unlawful Delivery of Marijuana Within 1,000 Feet of School) — Category III;
475.864 (Unlawful Possession of Marijuana: Felony only) — Category II;
475.866 (Unlawful Manufacture of 3,4-Methylenedioxyamphetamine (Ecstasy)) — Category II;
475.868 (Unlawful Manufacture of 3,4-Methylenedioxyamphetamine (Ecstasy) Within 1,000 Feet of School) — Category III;
475.870 (Unlawful Delivery of 3,4-Methylenedioxyamphetamine (Ecstasy)) — Category II;
475.872 (Unlawful Delivery of 3,4-Methylenedioxyamphetamine (Ecstasy) Within 1,000 Feet of School) — Category III;
475.874 (Unlawful Possession of 3,4-Methylenedioxyamphetamine (Ecstasy)) — Category II;
475.876 (Unlawful Manufacture of Cocaine) — Category II;
475.878 (Unlawful Manufacture of Cocaine Within 1,000 Feet of School) — Category III;
475.880 (Unlawful Delivery of Cocaine) — Category II;
475.882 (Unlawful Delivery of Cocaine Within 1,000 Feet of School) — Category III;
475.884 (Unlawful Possession of Cocaine) — Category II;
475.886 (Unlawful Manufacture of Methamphetamine) — Category II;
475.888 (Unlawful Manufacture of Methamphetamine Within 1,000 Feet of School) — Category III;
475.890 (Unlawful Delivery of Methamphetamine) — Category II;
475.892 (Unlawful Delivery of Methamphetamine Within 1,000 Feet of School) — Category III;
475.894 (Unlawful Possession of Methamphetamine) — Category II;
475.904 (Unlawful Manufacture or Delivery of Controlled Substance Within 1,000 Feet of School) — Category III;
475.908 (Causing Another Person to Ingest a Controlled Substance) — Category III;
475.910 (Application of Controlled Substance to the Body of Another Person) — Category III;
475.914 (Prohibited Acts for Registrants: Deliver or Dispense Controlled Substance) — Category II;
475.962 (Distribution of Equipment, Solvent, Reagent or Precursor Substance with Intent to Facilitate Manufacture of Controlled Substances) — Category II;
475.967 (Possession of Precursor Substance With Intent to Manufacture Controlled Substance) — Category II;
475.977 (Possessing or Disposing of Methamphetamine Manufacturing Waste) — Category II;
476.150 (Entry and Inspection of Premises; Interfering or Preventing Entry) — Category II;
476.380 (Burning without a Permit) — Category II;
476.510 to 476.610 (Violations of the Emergency Conflagration Act) — Category II;
532.140 (Branding or Marking Forest Products and Booming Equipment with the Intent to Injure or Defraud) — Category I;
632.470 (False Representation as to Raising, Production or Packing) — Category I;
632.475 (Possession of Unlabeled, Falsely Labeled or Deceptively Packed Products) — Category I;
659.815 (Deceptive Representations or Advertisements by Persons Employing Labor) — Category I;
688.120 (Fraudulent Representation) — Category I;
689.995(3) (Willfully Furnishing False Information) — Category I;
689.995(4) (Making or Causing to be Made Any False Representations) — Category I;
731.260 (False or Misleading Filings) — Category I;
759.360(2) (Furnishing False Information or Making a False Representation) — Category I;
811.182 (Criminal Driving While Suspended or Revoked) — Category II;
811.540 (Fleeing or Attempting to Elude Police Officer: Felony Only) — Category II;
811.705 (Failure to Perform Duties of a Driver to Person Injured) — Category II;
813.010 (DUI: Felony Only) — Category II.

Any crime that requires the fire service professional or instructor to register as a sex offender. "Attempt," "Solicitation," or "Conspiracy" to commit a crime listed in ORS 137.700 or in any other jurisdiction that, if committed in this state would constitute an attempt, solicitation, or conspiracy to commit a crime listed in 137.700 (and identified in OAR 259-009-0070(3)). Conviction of felony or Class A misdemeanor "Attempt," "Solicitation" or "Conspiracy" to commit a crime identified in this rule as a discretionary disqualifier.

(d) If a fire service professional or instructor held certification on or before January 15, 2008 and applies for a new certification, the Department will proceed as follows:

(A) No action will be taken on a discretionary conviction that occurred prior to January 15, 2003.

(B) The Department will not initiate revocation proceedings based on a discretionary disqualifying conviction that occurred between January 15, 2003 and January 15, 2008.

(C) The Department may initiate denial of a new certification based on a discretionary disqualifying conviction that occurred between January 15, 2003 and January 15, 2008.

(e) If a fire service professional or instructor held certification on January 15, 2008 and applies for or obtains certification after that date, the Department may initiate denial or revocation of all certifications held based on a discretionary disqualifying conviction that occurred prior to January 15, 2008.

(f) If a fire service professional or instructor is convicted of a discretionary disqualifying crime on or after January 15, 2008, the Department may initiate a denial or revocation of all certification(s) upon learning of the conviction.

Initial Minimum Periods of Ineligibility

(5) Upon determination to proceed with the denial or revocation of a fire service professional's or instructor's certification based on discretionary disqualifying misconduct identified in section (4), the Fire Policy Committee and Board will determine an initial minimum period of ineligibility to apply for certification. The initial minimum period of ineligibility will range from 30 days to 7 (seven) years.

(a) In determining the initial minimum period of ineligibility for discretionary disqualifying misconduct listed in section (4) of this rule, the Fire Policy Committee and the Board will take into consideration any aggravating or mitigating factors subject to the provisions of section (7) of this rule.

(b) A person is not eligible to reapply for training or certification if the person had training or certification denied or revoked for mandatory grounds identified in section (3) of this rule.

(c) The initial minimum period of ineligibility will be included in any Final Order of the Department.

(d) Any subsequent eligibility to apply for certification will be determined by the Board, after a review by the Fire Policy Committee, subject to the provisions of section (9) of this rule.

Procedure for Denial or Revocation of a Certificate

(6) Scope of Revocation. Except as provided in (4) above, when the Department denies or revokes the certification of any fire service professional or instructor under the provisions of OAR 259-009-0070, the revocation will encompass all fire service certificates the Department has issued to that person.

(7) Denial and Revocation Procedure.

(a) Agency Initiated Review: When the entity utilizing a fire service professional or instructor requests that a fire service professional's or instructor's certification be revoked or denied, it must submit in writing to the Department the reason for the requested revocation or denial 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 fire service professional's or instructor's certification be revoked or denied.

(c) Department Staff Review: When the Department receives information, from any source, that a fire service professional or instructor may not meet the established standards for Oregon fire service 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 fire service professional or instructor may have engaged in discretionary disqualifying misconduct listed in subsection (4), the case may be presented to the Board, through the Fire Policy Committee.

(D) The Department will seek input from the affected fire service professional or instructor, allowing him or her to provide, in writing, information for the Fire Policy Committee and Board's review.

(E) In misconduct cases in which there has been an arbitrator's opinion related to the fire service 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

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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 Fire Policy Committee and Board will consider mitigating and aggravating circumstances including, but not limited to the following:

(A) When the misconduct occurred in relation to the fire service professional's or instructor's service as a fire service professional or instructor (i.e., before, during, after);

(B) Whether the fire service professional or instructor served time in prison/jail; and if so, the length of incarceration;

(C) Whether restitution was ordered, and if so, whether the fire service professional or instructor met all obligations;

(D) Whether the fire service professional or instructor has ever been on parole or probation. If so, the date on which the parole or probation period expired or is set to expire;

(E) Whether the fire service professional or instructor has more than one conviction and if so, over what period of time;

(F) Whether the misconduct involved domestic violence;

(G) Whether the fire service professional or instructor self-reported the misconduct;

(H) Whether the conduct involved dishonesty, fraud, deceit, or misrepresentation;

(I) Whether the conduct was prejudicial to the administration of justice;

(J) Whether the conduct adversely reflects on the fitness of the fire service professional or instructor to perform as a fire service professional or instructor;

(K) Whether the conduct makes the fire service professional or instructor otherwise unfit to render effective service because of the agency's or public's loss of confidence that the fire service professional or instructor possesses the core values integral to the fire service profession; and

(L) What the fire service professional's or instructor's physical or emotional condition was at the time of the conduct.

(e) Initiation of Proceedings: Upon determination by the policy committee 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 fire service 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 of 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 fire service 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 a "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 a 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 revoking or denying certification pursuant to OAR 137-003-0672, pending Board affirmation.

(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 provision of the Attorney General's Model Rules of Procedure 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 poli-

cy 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 fire service 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

(8) Appeal Procedure. A fire service 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.

(9) Reapplication Process.

(a) Any fire service professional or instructor whose certification has been denied or revoked under section (4) of this rule for discretionary disqualifying misconduct may reapply for certification within the applicable timeframes described in (4) and (5) of this rule.

(b) Any fire service 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 the maximum initial period of ineligibility identified in (5) 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 the Fire Policy Committee has recommended that a fire service professional's or instructor's eligibility to apply for fire service 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 fire service professional's or instructor's request for eligibility to apply for certification.

(ii) In considering a request for an eligibility determination, the Fire Policy Committee and the Board may consider mitigating and aggravating circumstances identified in Section (7)(d) of this rule.

(iii) After reviewing a written request for an eligibility determination, the Board, through the Fire 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 fire service professional or instructor is employed or utilized by a fire service agency; and

(D) All requirements for certification have been met.

[ED. NOTE: Tables referenced are available from the agency.]

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.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 3-2008, f. & cert. ef. 1-15-08; DPSST 7-2009, f. & cert. ef. 7-13-09; DPSST 7-2010, f. 7-15-10, cert. ef. 8-1-10; DPSST 1-2011, f. 2-24-11, cert. ef. 4-1-11; DPSST 11-2011, f. & cert. ef. 7-1-11; DPSST 19-2012, f. & cert. ef. 8-31-12; DPSST 7-2013, f. & cert. ef. 3-26-13; DPSST 22-2013, f. & cert. ef. 10-3-13; DPSST 4-2014, f. & cert. ef. 1-28-14

259-060-0300

Denial/Suspension/Revocation

(1) It is the responsibility of the Board, through the Private Security and Investigator Policy Committee, to set the standards, and of the Department to uphold them, to ensure the highest level of professionalism and discipline. The Board will uphold these standards at all times unless the Board determines that neither the safety of the public or respect of the profession is compromised.

Mandatory Grounds for Denying, Suspending or Revoking Private Security Certification or Licensure

(2) The Department must deny or revoke a certification or license of any applicant or private security provider after written notice and hearing, if requested, upon a finding that the applicant or private security provider:

(a) Has been convicted of a person felony as defined by the Criminal Justice Commission in OAR 213-003-0001 in effect on April 27, 2012 or any crime with similar elements in any other jurisdiction;

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(b) Is required to register as a sex offender under ORS 181.595, 181.596, 181.597 or 181.609; or

(c) Has, within a period of ten years prior to application or during certification or licensure, been convicted of the following:

(A) Any felony other than those described in subsection (a) above or any crime with similar elements in any other jurisdiction;

(B) A person class A misdemeanor as defined by the Criminal Justice Commission in OAR 213-003-0001 in effect on April 27, 2012 or any crime with similar elements in any other jurisdiction;

(C) Any crime involving any act of domestic violence as defined in ORS 135.230 or any crime with similar elements in any other jurisdiction;

(D) Any misdemeanor or felony conviction involving the unlawful use, possession, delivery or manufacture of a controlled substance, narcotic, or dangerous drug in this or any other jurisdiction;

(E) Any misdemeanor arising from conduct while on duty as a private security provider; or

(F) Any of the following misdemeanors:

161.405(2)(d) (Attempt to Commit a Class C Felony or Unclassified Felony)

161.435(2)(d) (Solicitation of a Class C Felony)

161.450(2)(d) (Conspiracy to Commit a Class A misdemeanor)

162.075 (False Swearing)

162.085 (Unsworn Falsification)

162.145 (Escape III)

162.235 (Obstructing Governmental or Judicial Administration)

162.247 (Interfering with a Peace Officer)

162.295 (Tampering with Physical Evidence)

162.335 (Compounding a Felony)

162.365 (Criminal Impersonation)

162.369 (Possession of a False Law Enforcement Identification Card)

162.375 (Initiating a False Report)

162.385 (Giving False Information to Police Officer for a Citation or Arrest on a Warrant)

162.415 (Official Misconduct I)

163.435 (Contributing to the Sexual Delinquency of a Minor)

164.043 (Theft III)

164.045 (Theft II)

164.125 (Theft of Services)

164.140 (Criminal Possession of Rented or Leased Personal Property)

164.235 (Possession of Burglar's Tools)

164.255 (Criminal Trespass I)

164.265 (Criminal Trespass while in Possession of a Firearm)

164.335 (Reckless Burning)

164.354 (Criminal Mischief II)

164.369 (Interfering with Police Animal)

164.377(4) (Computer Crime)

165.007 (Forgery II)

165.055(4)(a) (Fraudulent Use of a Credit Card)

165.065 (Negotiating a Bad Check)

165.570 (Improper Use of Emergency Reporting System)

166.115 (Interfering with Public Transportation)

166.240 (Carrying of Concealed Weapons)

166.250 (Unlawful Possession of Firearms)

166.350 (Unlawful Possession of Armor Piercing Ammunition)

166.425 (Unlawful Purchase of Firearm)

167.007 (Prostitution)

167.062 (Sodomosexual Abuse or Sexual Conduct in a Live Show)

167.075 (Exhibiting an Obscene Performance to a Minor)

167.080 (Displaying Obscene Material to Minors)

167.262 (Adult Using Minor in Commission of Controlled Substance Offense)

167.320 (Animal Abuse I)

167.330 (Animal Neglect I)

471.410 (Providing Liquor to a Person Under 21 or Intoxicated Person)

807.620 (Giving False Information to a Police Officer/Traffic)

811.540(3)(b) (Fleeing or Attempting to Elude Police Officer) Any crime with similar elements in any other jurisdiction.

(3) Emergency Suspension Order: The Department may issue an emergency suspension order pursuant to OAR 137-003-0560 immediately suspending a private security provider's certification or licensure upon finding that a person has been charged with any of the mandatory disqualifying crimes listed in section (2) of this rule. The report may be in any form and from any source.

(a) The Department may combine the hearing on the Emergency Suspension Order with any underlying proceeding affecting the license or certificate.

(b) The sole purpose of the emergency suspension hearing will be to determine whether the individual was charged with a mandatory disqualifying crime. Upon showing that an individual was not charged with a mandatory disqualifying crime, the suspension of the individual's certification or licensure will be rescinded, otherwise the suspension will remain in effect until final disposition of the charges.

Discretionary Grounds for Denying, Suspending or Revoking Private Security Certification or Licensure

(4) The Department may deny or revoke the certification or licensure of any applicant or private security provider after written notice and hearing, if requested, upon finding that an applicant or private security provider:

(a) Fails to meet the minimum standards for certification or licensure as a private security provider as defined in OAR 259-060-0020;

(b) Has falsified any information submitted on the application for certification or licensure or any documents submitted to the Department pertaining to private security certification or licensure;

(c) Has violated any of the temporary assignment provisions of OAR 259-060-0120(1);

(d) Has failed to submit properly completed forms or documentation in a time frame as designated by the Department;

(e) Has failed to pay a civil penalty or fee imposed by the Department when due;

(f) Has failed to comply with any provisions found in the Act or these rules; or

(g) Lacks moral fitness. For the purposes of this standard, the Department, through the Policy Committee and Board, has defined lack of moral fitness as:

(A) Dishonesty. Lack of honesty includes, but is not limited to, untruthfulness, dishonesty by admission or omission, deception, misrepresentation or falsification;

(B) Lack of Good Character. Lack of good character includes, but is not limited to, failure to be faithful and loyal to the employer's charge and failure to use discretion and compassion;

(C) Mistreatment of Others. Mistreatment of others includes, but is not limited to, violating another person's rights and failure to respect others;

(D) Lack of Public Trust. Failure to maintain public trust and confidence includes, but is not limited to, acting in an unlawful manner or not adhering to recognized industry standards; or

(E) Lack of Respect for the Laws of this State or Nation. Lack of respect for the laws of this state and nation includes a pattern of behavior which leads to three or more arrests or convictions within a ten-year period prior to application or during certification or licensure.

Procedure for Denial or Revocation of Certification or Licensure

(5) Scope of Revocation. Whenever the Department revokes the certification or licensure of a private security provider under the provisions of this rule, the revocation will encompass all private security certificates and licenses the Department has issued to that person.

(6) Denial and Revocation Procedure.

(a) Employer Request: When the employer of the private security provider requests that certification or licensure be denied or revoked, the employer must submit in writing to the Department the reason for the requested action and include all factual information supporting the request.

(b) Department Initiated Review: Upon receipt of factual written information from any source other than an employer, and pursuant to ORS 181.878, the Department may request that the Board deny, revoke or suspend the private security provider's certification or licensure.

(c) Department Staff Review:

(A) When the Department receives information, from any source, that a private security provider may not meet the established standards for Oregon private security providers, the Department will review the request and the supporting factual information to determine if a sufficient factual basis exists to support the request for denial, suspension, or revocation of a private security license or certification under the Act or these administrative rules

(B) If the Department determines that a private security provider may have engaged in discretionary disqualifying misconduct, the case may be presented to the Board, through the Policy Committee. The Department will seek input from the affected private security provider by allowing the individual to provide, in writing, information for the Policy Committee and Board's review.

(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 Committee and Board will consider mitigating and aggravating circumstances.

(e) Initiation of Proceedings: Upon determination that a sufficient factual basis exists to support the request for denial, suspension, or revocation of a private security license or certification under the Act or these administrative rules, the Department will prepare and serve a contested case notice on the private security provider.

(A) All contested case notices will be prepared in accordance with the applicable provisions of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015.

(B) In discretionary cases heard by a policy committee, the contested case notice will be served on the private security provider prior to Board review. If the Board disapproves the Policy Committee's recommendation, the Department will withdraw the contested case notice.

(C) Applicants who choose to withdraw their application forfeit their application fees.

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(f) Response Time:

(A) A party who has been served with an Emergency Suspension Order has 90 days from the date of mailing or personal service of the Order in which to file a written request for hearing with the Department.

(B) A party who has been served with a Contested Case Notice of Intent to Deny Certification or Licensure has 60 days from the date of mailing or personal service of the notice in which to file a written request for hearing or a written request withdrawing their application from consideration with the Department.

(C) A party who has been served with a Contested Case Notice of Intent to Revoke Certification or Licensure has 20 days from the date of the mailing or personal service of the notice in which to file a written request for hearing with the Department.

(g) Default Order: If a timely request for a hearing is not received, the Contested Case Notice will become a final order denying or revoking certification pursuant to OAR 137-003-0672, pending Board affirmation.

(h) Final Order:

(A) A final order will be issued pursuant to the applicable provisions of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015 if a private security provider fails to file exceptions and arguments within 20 days of issuance of the proposed order.

(B) Department-proposed amendments to the proposed order in a case that was originally heard by a policy committee must be considered and approved by the policy committee that originally reviewed the case before a final order is issued.

(i) Stipulated Order Revoking Certification or Licensure: The Department may enter a stipulated order revoking certification or licensure of a private security provider upon the person's voluntary agreement to terminate an administrative proceeding to revoke a certification or license, or to surrender a certification or license, under the terms and conditions provided in the stipulated order.

Appeals, Ineligibility Period, and Reconsideration

(7) Appeal Procedure. Private security applicants and providers aggrieved by the findings and Order of the Department may file an appeal with the Court of Appeals from the Final Order of the Department, as provided in ORS 183.480.

(8) Notwithstanding section (9) of this rule, any private security applicant or provider whose certification or licensure is denied or revoked will be ineligible to hold any private security certification or licensure for a period of ten years from the date of the final order issued by the Department.

(9) Reconsideration Process. Any individual whose certification or license has been denied or revoked for discretionary grounds may apply for reconsideration of the denial or revocation after a minimum four-year ineligibility period from the date of the final order.

(a) All applicants for reconsideration are required to submit a new application packet along with a Form PS-30 Application for Reconsideration. The applicant may provide any mitigating information for the consideration of DPSST, Policy Committee, and Board.

(b) In reconsidering the application of an applicant whose certification or licensure was previously denied or revoked for discretionary grounds, DPSST, the Policy Committee and the Board may consider mitigating and aggravating circumstances.

(c) The Board's decision to deny an application for reconsideration will be subject to the contested case procedure described under subsection (6) of this rule.

(d) If an application for reconsideration is denied, the original ineligibility date remains in effect as described in subsection (8) of this rule.

Stat. Auth.: ORS 181.878, 181.882 & 181.885

Stats. Implemented: ORS 181.878 & 181.885

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 4-2003, f. & cert. ef. 1-22-03; DPSST 10-2003(Temp), f. & cert. ef. 6-16-03 thru 12-1-03; DPSST 12-2003, f. & cert. ef. 7-24-03; DPSST 6-2004, f. & cert. ef. 4-23-04; DPSST 5-2005(Temp), f. & cert. ef. 8-3-05 thru 1-1-06; DPSST 10-2005, f. & cert. ef. 10-14-05; DPSST 6-2006, f. & cert. ef. 5-15-06; DPSST 25-2012, f. 10-26-12, cert. ef. 11-1-12; DPSST 12-2013, f. & cert. ef. 6-24-13; DPSST 4-2014, f. & cert. ef. 1-28-14

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Rule Caption: Instructor Certification clarification including minimum requirements, updated definitions, expiration dates, experience, and housekeeping.

Adm. Order No.: DPSST 5-2014

Filed with Sec. of State: 1-29-2014

Certified to be Effective: 1-29-14

Notice Publication Date: 1-1-2014

Rules Amended: 259-008-0005, 259-008-0020, 259-008-0067, 259-008-0080, 259-008-0090

Subject: DPSST requires anyone instructing a mandated course be certified as an instructor. After reviewing the instructor certification process in its entirety, DPSST proposes the following changes to administrative rule:

The DPSST Standards and Certification Section will continue to certify instructors who meet the minimum standards for certification, to include training, experience, education and criminal history. Standards and Certification will no longer certify instructors on a categorical or topical level. Once an individual meets the minimum requirements and has been certified as an instructor, agencies will be free to use them to instruct mandated courses as they see fit.

This rule adds definitions for "Academy Training Division" and "Standards and Certification," to differentiate the responsibilities of the Department as a certifying agency and the Department as an employer of certified personnel, as appropriate throughout the rule set.

The F-4 Personnel Action Reporting requirement has been expanded to include agencies employing certified instructors.

Instructor certification will no longer expire after two years. The certification will lapse after five years if the individual has not been utilized as an instructor. Recertification as an instructor will require reapplication up to and including the successful completion of an Instructor Development Course, depending on the amount of time the certification has been lapsed.

The minimum experience requirement for instructor certification has been clarified. Instructors are required to have a minimum of three-years of certified experience as a public safety officer. The ability for Standards and Certification to waive this requirement based on other relevant professional or educational experience has also been clarified. This encompasses all individuals formerly referred to as "Applied Professions Instructors" and "Subject Matter Expert Instructors."

The rule governing training records has been expanded to include certified instructors.

Finally, minor housekeeping changes are made for clarity and consistency.

Rules Coordinator: Sharon Huck—(503) 378-2432

259-008-0005

Definitions

(1) "Academy Training Division" means the division of the Department which coordinates and facilitates criminal justice training courses to include the development, evaluation, and validation of curriculum and training.

(2) "Assistant Department Head" means an officer occupying the first position subordinate to a Department Head who is primarily responsible for supervision of middle managers and supervisors.

(3) "Board" means the Board on Public Safety Standards and Training.

(4) "Casual employment" means employment that is occasional, irregular, or incidental for which the employee does not receive seniority rights or fringe benefits.

(5) "Certified Reserve Officer" means a reserve officer who has been designated by a local law enforcement unit, has received training necessary for certification and has met the minimum standards and training requirements established under ORS 181.640.

(6) "Commissioned" means being authorized to perform various acts or duties of a police officer or reserve officer and acting under the supervision and responsibility of a county sheriff or as otherwise provided by law.

(7) "Community College" means a public institution operated by a community college district for the purpose of providing courses of study limited to not more than two years full-time attendance and designed to meet the needs of a geographical area by providing educational services, including, but not limited to, vocational or technical education programs or lower division collegiate programs.

(8) "Corrections Officer" means an officer or member employed full-time by a law enforcement unit who:

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(a) Is charged with and primarily performs the duty of custody, control or supervision of individuals convicted of or arrested for a criminal offense and confined in a place of incarceration or detention other than a place used exclusively for incarceration or detention of juveniles;

(b) Has been certified as a corrections officer described in paragraph (a) of this subsection and has supervisory or management authority for corrections officers as described in paragraph (a) of this subsections; or

(c) Is any full-time employee of the Department who possesses requisite qualifications and is so certified pursuant to ORS 181.652.

(9) "Department" and "DPSST" means the Department of Public Safety Standards and Training.

(10) "Department Head" means the chief of police, sheriff, or chief executive of a law enforcement unit or a public or private safety agency directly responsible for the administration of that unit.

(11) "Director" means the Director of the Department of Public Safety Standards and Training.

(12) "Educational Credits" are credits earned for studies satisfactorily completed at an accredited post-secondary education institution recognized under OAR 259-008-0045.

(13) "Emergency Medical Dispatcher" means a person who has responsibility to process requests for medical assistance from the public or to dispatch medical care providers.

(14) "First-Level Supervisor" means a law enforcement officer, telecommunicator, or emergency medical dispatcher occupying a position between the operational level and the middle manager position who is primarily responsible for the direct supervision of subordinates. A first level supervisor position does not include a position with limited or acting supervisory responsibilities.

(15) "Full-time employment" means the employment of a person who has the responsibility for, and is paid to perform the duties of a public safety professional for more than 80 hours per month for a period of more than 90 consecutive calendar days. For purposes of this rule, any employment that meets the definition of seasonal, casual, or temporary employment is not considered full-time employment as a public safety professional.

(16) "High School" is a school accredited as a high school by the Oregon Department of Education, a school accredited as a high school by the recognized regional accrediting body, or a school accredited as a high school by the state university of the state in which the high school is located.

(17) "Instructor" means an individual who has completed the requisite training and certification requirements prescribed by statute, rule, and policy and has been certified by the Department. The Department will only certify instructors who instruct mandated courses.

(18) "Law Enforcement Officers" means police, corrections, and parole and probation officers as described in the Public Safety Standards and Training Act.

(19) "Law Enforcement Unit" means:

(a) A police force or organization of the state, a city, university that has established a police department under ORS 352.383, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal governments as defined in section 1, chapter 644, Oregon Laws 2011, that employs authorized tribal police officers as defined in section 1, chapter 644, Oregon Laws 2011, the Criminal Justice Division of the Department of Justice, the Department of Corrections, the Oregon State Lottery Commission, the Security and Emergency Preparedness Office of the Judicial Department or common carrier railroad the primary duty of which, as prescribed by law, ordinance, or directive, is any one or more of the following:

(A) Detecting crime and enforcing the criminal laws of this state or laws or ordinances relating to airport security;

(B) The custody, control, or supervision of individuals convicted of or arrested for a criminal offense and confined to a place of incarceration or detention other than a place used exclusively for incarceration or detention of juveniles; or

(C) The control, supervision, and reformation of adult offenders placed on parole or sentenced to probation and investigation of adult offenders on parole or probation or being considered for parole or probation.

(b) A police force or organization of a private entity with a population of more than 1,000 residents in an unincorporated area the employees of which are commissioned by a county sheriff;

(c) A district attorney's office;

(d) The Oregon Liquor Control Commission with regard to liquor enforcement inspectors; or

(e) A humane investigation agency as defined in section 1, chapter 67, Oregon Laws 2012.

(20) "Leave" means a leave granted to a public safety professional by their employing public or private safety agency.

(21) "Middle Manager" means a law enforcement officer, telecommunicator, or emergency medical dispatcher occupying a position between first-level supervisor and department head position and is primarily responsible for management and command duties. A middle manager position does not include a position with limited, or acting middle management duties.

(22) "Part-time Employment" means the employment of a person who has the responsibility for, and is paid to perform the duties of a public safety professional for 80 hours or less per month for a period of more than 90 consecutive calendar days.

(23) "Parole and Probation Officer" means:

(a) An officer who is employed full-time by the Department of Corrections, a county or a court and who is charged with and performs the duty of:

(A) Community protection by controlling, investigating, supervising, and providing or making referrals to reformatory services for adult parolees or probationers or offenders on post-prison supervision; or

(B) Investigating adult offenders on parole or probation or being considered for parole or probation; or

(b) Any officer who:

(A) Is certified and has been employed as a full-time parole and probation officer for more than one year;

(B) Is employed part-time by the Department of Corrections, a county or a court; and

(C) Is charged with and performs the duty of:

(i) Community protection by controlling, investigating, supervising, and providing or making referrals to reformatory services for adult parolees or probationers or offenders on post-prison supervision; or

(ii) Investigating adult offenders on parole or probation or being considered for parole or probation; or

(c) A full-time employee of the Department who possesses requisite qualifications and is so certified pursuant to ORS 181.652.

(24) "Police Officer" means:

(a) An officer, member or employee of a law enforcement unit employed full-time as a peace officer who is:

(A) Commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government as defined in section 1, chapter 644, Oregon Laws 2011, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a university that has established a police department under ORS 352.383, the Governor or the Department of State Police; and

(B) Responsible for enforcing the criminal laws of this state or laws or ordinances relating to airport security;

(b) An investigator of a district attorney's office if the investigator is or has been certified as a peace officer in this or another state;

(c) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011;

(d) A special agent commissioned under section 1, chapter 67, Oregon Laws 2012;

(e) An individual member of the judicial security personnel identified pursuant to ORS 1.177 who is trained pursuant to section 3, chapter 88, Oregon Laws 2012; or

(f) Any full-time employee of the Department who possesses requisite qualifications and is so certified pursuant to ORS 181.665.

(25) "Public or private safety agency" means:

(a) A law enforcement unit; or

(b) A unit of state or local government, a special purpose district or a private firm that provides, or has authority to provide, police, ambulance or emergency medical services.

(26) "Public Safety Personnel" and "Public Safety Officer" include corrections officers, emergency medical dispatchers, parole and probation officers, police officers, certified reserve officers, telecommunicators and liquor enforcement inspectors.

(27) "Public Safety Professional" includes public safety personnel, public safety officers, and instructors.

(28) "Regulations" mean written directives established by the Department or its designated staff describing training activities and student procedures at the Oregon Public Safety Academy.

(29) "Reimbursement" is the money allocated from the Police Standards and Training Account, established by ORS 181.690, to a law

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enforcement unit meeting the requirements of these regulations to defray the costs of officer salaries, relief duty assignments, and other expenses incurred while officers attend approved training courses certified by the Department.

(30) "Reserve Officer" means an officer or member of a law enforcement unit who is:

(a) A volunteer or employed less than full time as a peace officer commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government as defined in section 1, chapter 644, Oregon Laws 2011, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, the Governor, or the Department of State Police;

(b) Armed with a firearm; and

(c) Responsible for enforcing the criminal laws and traffic laws of this state or laws or ordinances relating to airport security.

(31) "Seasonal Employment" means employment that can be carried on only at certain seasons or fairly definite portions of the year, with defined starting and ending dates based on a seasonally determined need.

(32) "Staff" means those employees occupying full-time, part-time, or temporary positions with the Department.

(33) "Standards and Certification" means the division of the Department which implements and regulates compliance with Board-established, statewide standards for public safety professionals. Standards and Certification oversees the issuance, maintenance, denial, suspension or revocation of public safety certifications.

(34) "Suspension" means the administrative inactivation of a certificate issued by the Department until maintenance requirements or other administrative requirements for certification are met and certification is restored.

(35) "Telecommunicator" means:

(a) A person employed as an emergency telephone worker as defined in ORS 243.736 or a public safety dispatcher whose primary duties are receiving, processing and transmitting public safety information received through a 9-1-1 emergency reporting system as defined in ORS 403.105; or

(b) A full-time employee of the Department who possesses requisite qualifications and is so certified pursuant to ORS 181.652.

(36) "Temporary employment" means employment that lasts no more than 90 consecutive calendar days and is not permanent.

(37) "The Act" refers to the Public Safety Standards and Training Act (ORS 181.610 to 181.715).

(38) "Waiver" means to refrain from pressing or enforcing a rule.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0010, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 2-1996, f. 5-15-96, cert. ef. 5-20-96; PS 3-1997, f. 3-20-97, cert. ef. 3-25-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 7-2000, f. & cert. ef. 9-29-00; BPSST 11-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 5-2004, f. & cert. ef. 4-23-04; DPSST 12-2006, f. & cert. ef. 10-13-06; DPSST 3-2007, f. & cert. ef. 1-12-07; DPSST 7-2010, f. 7-15-10, cert. ef. 8-1-10; DPSST 6-2012, f. & cert. ef. 3-27-12; DPSST 24-2012, f. & cert. ef. 10-26-12; DPSST 31-2012, f. & cert. ef. 12-27-12; DPSST 1-2014, f. & cert. ef. 1-2-14; DPSST 5-2014, f. & cert. ef. 1-29-14

259-008-0020

Personnel Action Reports

(1) All public or private safety agencies and the Academy Training Division must submit the name and other pertinent information concerning any newly appointed public safety professional to Standards and Certification on a Personnel Action Report (DPSST Form F-4) within 10 business days after employment.

(a) A DPSST number will be established for each newly appointed employee identified on a Personnel Action Report if:

(A) The individual is employed in a certifiable position.

(B) The individual is employed as a reserve police officer; or

(C) An individual's employer has submitted a written request identifying a demonstrated law enforcement need for an employee to obtain a DPSST number and the Department has approved the request. These positions may include, but are not limited to:

(i) A federal officer authorized by the Department to make arrests under ORS 133.245;

(ii) An individual who operates an Intoxilyzer or other law enforcement device for which a DPSST number is necessary; or

(iii) An individual who is required to file a police or other criminal justice report for which a DPSST number is necessary.

(b) No DPSST number will be assigned to an individual who has not been identified as a newly appointed public safety professional unless approved by the Department.

(2) Whenever a public safety officer resigns, retires, or terminates employment, is promoted, demoted, discharged, deceased, is on leave for 91 days or more, or transfers within a private or public safety agency, the agency must report this information to Standards and Certification on a Personnel Action Report within 10 business days of the action.

(3) Whenever a certified instructor resigns, retires, terminates employment, is discharged or deceased, the agency must report this information to Standards and Certification on a Personnel Action Report within 10 business days of the action.

(4) All applicable sections of the Personnel Action Report must be completed and signed by the department head or an authorized representative.

(5) All applicants will furnish their social security number on a Personnel Action Report. The social security number is used to accurately identify the applicant during computerized criminal history (CCH) and Department record checks and to verify information provided by a public safety professional.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: PS 12, f. & ef. 12-19-77; Renumbered from 259-010-0050, PS 1-1983, f. & ef. 12-15-83; Renumbered from 259-010-0026, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 2-2001, f. & cert. ef. 2-8-01; BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 5-2004, f. & cert. ef. 4-23-04; DPSST 6-2009, f. & cert. ef. 7-13-09; DPSST 7-2010, f. 7-15-10, cert. ef. 8-1-10; DPSST 1-2014, f. & cert. ef. 1-2-14; DPSST 5-2014, f. & cert. ef. 1-29-14

259-008-0067

Lapsed Certification

(1)(a) The certification of any police officer, corrections officer, parole and probation officer who does not serve as a police officer, corrections officer, parole and probation officer, or any certified reserve officer who is not utilized as a certified reserve officer, for any period of time in excess of three consecutive months is lapsed. Upon reemployment as a police officer, corrections officer, parole and probation officer, or recommending service as a reserve officer, the person whose certification has lapsed may apply for certification in the manner provided in these rules. (b) Notwithstanding paragraph (a) of this subsection, the certification of a police officer, corrections officer, parole and probation officer or certified reserve officer does not lapse if the officer is on leave from a law enforcement unit.

(2) The certification of any telecommunicator or emergency medical dispatcher who is not utilized as a telecommunicator or emergency medical dispatcher for any period of time in excess of 12 consecutive months, unless the telecommunicator or emergency medical dispatcher is on leave from a public or private safety agency, is lapsed. Upon reemployment as a telecommunicator or emergency medical dispatcher, the person whose certification has lapsed may apply for certification in the manner provided in these rules.

(3) The certification of any instructor who is not utilized as an instructor for any period of time in excess of five years is lapsed. Upon reemployment as an instructor, the person whose certification has lapsed may reapply for certification in the manner provided in OAR 259-008-0080.

Stat. Auth.: ORS 181.652, 181.653 & 181.667

Stats. Implemented: ORS 181.652, 181.653 & 181.667

Hist.: BPSST 9-2003, f. & cert. ef. 4-22-03; DPSST 5-2004, f. & cert. ef. 4-23-04; DPSST 7-2010, f. 7-15-10, cert. ef. 8-1-10; DPSST 10-2013(Temp), f. & cert. ef. 6-5-13 thru 10-1-13; DPSST 19-2013, f. & cert. ef. 9-23-13; DPSST 5-2014, f. & cert. ef. 1-29-14

259-008-0080

Certification of Instructors

(1) Standards and Certification will certify instructors deemed qualified to teach all mandated training courses.

(2) Minimum Standards for Instructor Certification:

(a) Fingerprints.

(A) Prior to the date of employment, instructors must be fingerprinted on standard applicant fingerprint cards. The hiring agency is responsible for fingerprinting and must forward a card to the Oregon State Police Identification Services Section for processing and assignment of identification number.

(B) If any procedural change is made by either the Federal Bureau of Investigation or the Oregon State Police Identification Services Section the Department must comply with the most current requirements.

(b) Criminal Records. No instructor may have been convicted:

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(A) In this state or any other jurisdiction, of a crime designated under the law where the conviction occurred as being punishable as a felony or as a crime for which a maximum term of imprisonment of more than one year may be imposed;

(B) Of violating any law involving the unlawful use, possession, delivery, or manufacture of a controlled substance, narcotic, or dangerous drug;

(C) In this state of violating any law subject to denial or revocation as identified in OAR 259-008-0070 or has been convicted of violating the statutory counterpart of any of those offenses in any other jurisdiction.

(c) Notification of Conviction:

(A) An instructor who is convicted of a crime, as identified in OAR 259-008-0070, while employed by a public or private safety agency or the Department must notify the agency head within 72 hours of the conviction.

(B) When an agency receives notification of a conviction from its employee or another source, they must notify Standards and Certification within five business days. The notification must be in writing and include the specific charges of the conviction, the county and state where the conviction occurred, the investigating agency and the date of the conviction.

(d) Moral Fitness (Professional Fitness). All instructors must be of good moral fitness. For purposes of this standard, lack of good moral fitness includes, but is not limited to:

(A) Mandatory disqualifying misconduct as described in OAR 259-008-0070(3); or

(B) Discretionary disqualifying misconduct as described in OAR 259-008-0070(4).

(e) Training Requirements:

(A) All instructors must complete a Department-approved Basic Instructor Development Course or equivalent Department-approved training. The course must include instruction on the theory and application of adult learning principles.

(B) Instructors whose certification has lapsed must satisfactorily complete an Instructor Development Course to qualify for re-certification. This requirement may be waived by Standards and Certification upon a finding that the applicant has current knowledge and skills to instruct mandated courses.

(f) Professional experience. Instructors must possess:

(A) Three years' experience in a certifiable public safety position.

(B) Standards and Certification may, at its sole discretion, waive the requirement that the experience be in a certifiable public safety position. Such a waiver will be based on documentation that an individual has non-certified, professional or educational experience which allows them to possess the requisite knowledge, skills and abilities to instruct mandated courses.

(g) It is the continuing responsibility of the agency utilizing certified instructors to ensure that instructors are assigned only topics which they are qualified to teach and the instruction is evaluated on a regular basis.

(h) All applicants for initial certification must submit an Instructor Certification Application DPSST Form F-9 with any required documentation to Standards and Certification.

(3) Instructor certification is not required for instructors who instruct non-mandated courses.

(4) Review of instructor certification will be the responsibility of Standards and Certification. Reviews may be initiated upon the request of a department head, staff, or other reliable source.

[ED. NOTE: Form referenced is available from the agency.]

Stat. Auth.: ORS 181.640 & 181.650

Stats. Implemented: ORS 181.640 & 181.650

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1983, f. & ef. 12-15-83; Renumbered from 259-010-0060, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98, BPSST 22-2002, f. & cert. ef. 11-18-02, DPSST 17-2013, f. & cert. ef. 7-23-13; DPSST 1-2014, f. & cert. ef. 1-2-14; DPSST 5-2014, f. & cert. ef. 1-29-14

259-008-0090

Training Records

(1) Upon receipt by the Department of a Personnel Action Report (DPSST Form F-4), properly identifying a public safety professional, the Department will initiate a file for that individual and record completion of approved training, as well as other personnel information, if properly documented.

(2) Upon receipt of the appropriate form, the Department will enter training hours for training attended by a public safety professional.

(a) Beginning April 1, 2007, F-6 (Attendance Rosters) will only be accepted to report training that occurred in the current calendar year and the two previous years.

(b) Any training occurring three or more years prior to the current year, or any training received while a public safety professional was employed in a jurisdiction outside of Oregon, must be reported on an F-15 (Continuing Log of Training). Approved training will appear on a public safety professional's training record as a lump sum number of hours of "approved training" for each year reported.

(3) Beginning January 1, 2007, all training submitted to the Department must be submitted on the current version F-6 (Attendance Roster) or F-15 (Continuing Log of Training) available upon request, or from the Department's internet website.

(4) Any Form F-6 (Attendance Roster) or F-15 (Continuing Log of Training) received by the Department that is insufficient, or not in compliance with this rule, will be returned to the originating agency. The Department will identify any deficiencies needing completion or correction.

(5) Upon display of proper identification, a department head, or authorized representative, may review their employee's file as maintained by the Department. Proper identification will also be required of individuals interested in reviewing their own file.

(6) Review or release of non-public information under Oregon law to other than the individual whose file is the subject of the information request or to the employing law enforcement agency, or public or private safety agency will only be permitted by the Department upon advisement by the Attorney General, by court order, or with a signed consent from the individual whose file is the subject of the information request.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1983, f. & ef. 12-15-83; Renumbered from 259-010-0070, 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 10-2007, f. & cert. ef. 10-15-07; DPSST 1-2014, f. & cert. ef. 1-2-14; DPSST 5-2014, f. & cert. ef. 1-29-14

Rule Caption: Update NFPA Fire Fighter Professional Qualifications and error correction.

Adm. Order No.: DPSST 6-2014

Filed with Sec. of State: 2-6-2014

Certified to be Effective: 2-6-14

Notice Publication Date: 9-1-2013

Rules Amended: 259-009-0005, 259-009-0062

Subject: This proposed rule will update the Fire Fighter professional qualifications to meet the standard set in the NFPA 1001 Standard for Fire Fighter Professional Qualifications, 2013 Edition. It will also correct an error in the definition of "NFPA Vehicle and Machinery Rescue." This definition was added to rule in March of 2011. In June of 2011, additional changes were made to the definitions. During this process, the number "10.2" was inadvertently deleted from the end of the "NFPA Vehicle and Machinery Rescue" definition. This rule change corrects this error by adding "10.2" back to the definition.

Rules Coordinator: Sharon Huck—(503) 378-2432

259-009-0005

Definitions

(1) "Advanced Wildland Interface Fire Fighter (FFT1)" means a person who is an entry level supervisory position with the knowledge and skills to tactically supervise other fire line firefighters.

(2) "Agency Head" means the chief officer of a fire service agency directly responsible for the administration of that unit.

(3) "Authority having jurisdiction" means the Department of Public Safety Standards and Training.

(4) "Board" means the Board on Public Safety Standards and Training.

(5) "Chief Officer" means an individual of an emergency fire agency at a higher level of responsibility than a company officer. A chief officer supervises two or more fire companies in operations or manages and supervises a particular fire service agency program such as training, communications, logistics, prevention, emergency medical services provisions and other staff related duties.

(6) "Community College" means a public institution operated by a community college district for the purpose of providing courses of study limited to not more than two years full-time attendance and designed to meet the needs of a geographical area by providing educational services, including but not limited to vocational or technical education programs or lower division collegiate programs.

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(7) "Company Officer" means a fire officer who supervises a company of fire fighters assigned to an emergency response apparatus.

(8) "Content Expert" means a person who documents their experience, knowledge, training and education for the purposes of course instruction.

(9) "Content Level Course" is a course that includes an identifiable block of learning objectives or outcomes that are required for certification at one or more levels.

(10) "Department" means the Department of Public Safety Standards and Training.

(11) "Director" means the Director of the Department of Public Safety Standards and Training.

(12) "Field Training Officer" means an individual who is authorized by a fire service agency or by the Department to sign as verifying completion of tasks required by task books.

(13) "Fire Company" means a group of fire fighters, usually three or more, who staff and provide the essential emergency duties of a particular emergency response apparatus.

(14) "Fire Fighter" is a term used to describe an individual who renders a variety of emergency response duties primarily to save lives and protect property. This applies to career and volunteer personnel.

(15) "Fire Fighter I" means a person at the first level of progression who has demonstrated the knowledge and skills to function as an integral member of a fire-fighting team under direct supervision in hazardous conditions.

(16) "Fire Fighter II" means a person at the second level of progression who has demonstrated the skills and depth of knowledge to function under general supervision.

(17) "Fire Ground Leader" means a Fire Service Professional who is qualified to lead emergency scene operations."

(18) "Fire Inspector" means an individual whose primary function is the inspection of facilities in accordance with the specific jurisdictional fire codes and standards.

(19) "Fire Service Agency" means any unit of state or local government, a special purpose district or a private firm which provides, or has authority to provide, fire protection services.

(20) "Fire Service Professional" means a paid (career) or volunteer fire fighter, an officer or a member of a public or private fire protection agency who is engaged primarily in fire investigation, fire prevention, fire safety, fire control or fire suppression or providing emergency medical services, light and heavy rescue services, search and rescue services or hazardous materials incident response. "Fire service professional" does not include forest fire protection agency personnel.

(21) "Fire Training Officer" means a fire service member assigned the responsibility for administering, providing, and managing or supervising a fire service agency training program.

(22) "First Responder" means an "NFPA Operations Level Responder."

(23) "NFPA" stands for National Fire Protection Association which is a body of individuals representing a wide variety of professions, including fire protection, who develop consensus standards and codes for fire safety by design and fire protection agencies.

(24) "NFPA Aircraft Rescue and Fire-Fighting Apparatus" means a Fire Service Professional who has met the requirements of Fire Fighter II as specified in NFPA 1001, Fire Apparatus Driver/Operator as specified in NFPA 1002 Chapter 4, NFPA Airport Fire Fighter as specified in NFPA 1003 and the job performance requirements defined in NFPA 1002 Sections 9.1 and 9.2.

(25) "NFPA Airport Firefighter" means a member of a Fire Service Agency who has met job performance requirements of NFPA Standard 1003.

(26) "NFPA Apparatus Equipped with an Aerial Device" means a Fire Service Professional who has met the requirements of Fire Fighter I as specified in NFPA 1001, Fire Apparatus Driver/Operator as specified in NFPA 1002 Chapter 4 and the job performance requirements defined in NFPA 1002 Sections 6.1 and 6.2.

(27) "NFPA Apparatus Equipped with a Tiller" means a Fire Service Professional who has met the requirements of Fire Fighter I as specified in NFPA 1001, Fire Apparatus Driver/Operator as specified in NFPA 1002 Chapter 4, Apparatus Equipped with an Aerial Device as specified in NFPA 1002 Chapter 6 and the job performance requirements defined in NFPA 1002 Sections 7.2.

(28) "NFPA Apparatus Equipped with Fire Pump" means a Fire Service Professional who has met the requirements of Fire Fighter I as specified in NFPA 1001, Fire Apparatus Driver/Operator as specified in

NFPA 1002 Chapter 4 and the job performance requirements defined in NFPA 1002 Sections 5.1 and 5.2.

(29) "NFPA Cargo Tank Specialty" means a person who provides technical support pertaining to cargo tank cars, provides oversight for product removal and movement of damaged cargo tanks, and acts as liaison between technicians and outside resources.

(30) "NFPA Confined Space Rescue" means a Fire Service Professional who has met the job performance requirements defined in NFPA 1006, Chapter 7 sections 7.1 and 7.2.

(31) "NFPA Dive Rescue" means a Fire Service Professional who has met the job performance requirements defined in NFPA 1006, Chapter 11 sections 11.1 and 11.2, and Chapter 13 sections 13.1 and 13.2.

(32) "NFPA Fire Apparatus Driver/Operator" means a Fire Service Professional who has met the job performance requirements defined in NFPA 1002, Chapter 4 sections 4.2 and 4.3.

(33) "NFPA Fire Fighter I" means a member of a fire service agency who has met the Level I job performance requirements of NFPA standard 1001 (sometimes referred to as a journeyman fire fighter).

(34) "NFPA Fire Fighter II" means a member of a fire service agency who met the more stringent Level II job performance requirements of NFPA Standard 1001 (sometimes referred to as a senior fire fighter).

(35) "NFPA Fire Inspector I" means an individual who conducts basic fire code inspections and has met the Level I job performance requirements of NFPA Standard 1031.

(36) "NFPA Fire Inspector II" means an individual who conducts complicated fire code inspections, reviews plans for code requirements, and recommends modifications to codes and standards. This individual has met the Level II job performance requirements of NFPA standard 1031.

(37) "NFPA Fire Inspector III" means an individual at the third and most advanced level of progression who has met the job performance requirements specified in this standard for Level III. The Fire Inspector III performs all types of fire inspections, plans review duties, and resolves complex code-related issues.

(38) "NFPA Fire Instructor I" means a fire service instructor who has demonstrated the knowledge and ability to deliver instruction effectively from a prepared lesson plan, including instructional aids and evaluation instruments; adapts lesson plans to the unique requirements of the students and the authority having jurisdiction; organizes the learning environment so that learning is maximized; and meets the record-keeping requirements of the authority having jurisdiction.

(39) "NFPA Fire Instructor II" means a fire service instructor who, in addition to meeting NFPA Fire Instructor I qualifications, has demonstrated the knowledge and ability to develop individual lesson plans for specific topics, including learning objectives, instructional aids, and evaluation instruments; schedules training sessions based on an overall training plan for the authority having jurisdiction; and supervises and coordinates the activities of other instructors.

(40) "NFPA Fire Instructor III" means a fire service instructor who, in addition to meeting NFPA Fire Instructor II qualifications, has demonstrated the knowledge and ability to develop comprehensive training curricula and programs for use by single or multiple organizations; conducts organization needs analysis; and develops training goals and implementation strategies.

(41) "NFPA Fire Investigator" means an individual who conducts post fire investigations to determine the cause and the point of origin of a fire. This individual has met the job performance requirements of NFPA Standard 1033.

(42) "NFPA Fire Officer I" means a fire officer, at the supervisory level, who has met the job performance requirements specified in NFPA 1021 Standard Fire Officer Professional Qualifications (company officer rank).

(43) "NFPA Fire Officer II" means the fire officer, at the supervisory/managerial level, who has met the job performance requirements in NFPA Standard 1021 (station officer, battalion chief rank).

(44) "NFPA Fire Officer III" means a fire officer, at the managerial/administrative level, who has met the job performance requirements in NFPA Standard 1021 (district chief, assistant chief, division chief, deputy chief rank).

(45) "NFPA Fire Officer IV" means a fire officer, at the administrative level, who has met the job performance requirements in NFPA Standard 1021 (fire chief).

(46) "NFPA Incident Commander" (IC) means a person who is responsible for all incident activities, including the development of strategies and tactics and the ordering and release of resources.

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(47) "NFPA Intermodal Tank Specialty" means a person who provides technical support pertaining to intermodal tanks, provides oversight for product removal and movement of damaged intermodal tanks, and acts as a liaison between technicians and outside resources.

(48) "NFPA Hazardous Materials Safety Officer" means a person who works within an incident management system (IMS), specifically, the hazardous materials branch/group, to ensure that recognized hazardous materials or weapons of mass destruction (WMD) safe practices are followed at hazardous materials or WMD incidents.

(49) "NFPA Hazardous Materials Technician" means a person who responds to hazardous materials or WMD incidents using a risk-based response process where they analyze a problem involving hazardous materials or WMD, select applicable decontamination procedures, and control a release using specialized protective and control equipment.

(50) "NFPA Marine Land-Based Fire Fighter" means a member of a fire service agency who meets the job performance requirements of NFPA 1005.

(51) "NFPA Marine Tank Vessel Specialty" means a person who provides technical support pertaining to marine tank vessels, provides oversight for product removal and movement of damaged marine tank vessels, and acts as a liaison between technicians and outside resources.

(52) "NFPA Mobile Water Supply Apparatus" means a Fire Service Professional who has met the requirements of Fire Apparatus Driver/Operator as specified in NFPA 1002 Chapter 4 and the job performance requirements defined in NFPA 1002 Sections 10.1 and 10.2.

(53) "NFPA Operations Level Responder" means a person who responds to hazardous materials or WMD incidents for the purpose of implementing or supporting actions to protect nearby persons, the environment, or property from the effects of the release.

(54) "NFPA Rope Rescue — Level I" means a Fire Service Professional who has met the job performance requirements defined in NFPA 1006, Chapter 6 section 6.1.

(55) "NFPA Rope Rescue — Level II" means a Fire Service Professional who has met the job performance requirements defined in NFPA 1006, Chapter 6 section 6.2.

(56) "NFPA Structural Collapse Rescue" means a Fire Service Professional who has met the job performance requirements defined in NFPA 1006, Chapter 9 sections 9.1 and 9.2.

(57) "NFPA Surf Rescue" means a Fire Service Professional who has met the job performance requirements defined in NFPA 1006, Chapter 11 sections 11.1 and 11.2, and Chapter 15 sections 15.1 and 15.2.

(58) "NFPA Surface Water Rescue — Level I" means a Fire Service Professional who has met the job performance requirements defined in NFPA 1006, Chapter 11 section 11.1.

(59) "NFPA Surface Water Rescue — Level II" means a Fire Service Professional who has met the job performance requirements defined in NFPA 1006, Chapter 11 section 11.2.

(60) "NFPA Swiftwater Rescue" means a Fire Service Professional who has met the job performance requirements defined in NFPA 1006, Chapter 6 sections 6.1 and 6.2, Chapter 11 sections 11.1 and 11.2, and Chapter 12 sections 12.1 and 12.2.

(61) "NFPA Tank Car Specialty" means a person who provides technical support pertaining to tank cars, provides oversight for product removal and movement of damaged tank cars, and acts as a liaison between technicians and outside resources.

(62) "NFPA Trench Rescue" means a Fire Service Professional who has met the job performance requirements defined in NFPA 1006, Chapter 8 sections 8.1 and 8.2.

(63) "NFPA Vehicle and Machinery Rescue" means a Fire Service Professional who has met the job performance requirements defined in NFPA 1006, Chapter 10 sections 10.1 and 10.2.

(64) "NFPA Wildland Fire Apparatus" means a Fire Service Professional who has met the requirements of Fire Apparatus Driver/Operator as specified in NFPA 1002 Chapter 4 and the job performance requirements defined in NFPA 1002 Sections 8.1 and 8.2.

(65) "Service Delivery" means to be able to adequately demonstrate, through job performance, the knowledge, skills, and abilities of a certification level.

(66) "Staff" means employees occupying full-time, part-time, or temporary positions with the Department.

(67) "Task Performance" means to demonstrate the ability to perform tasks of a certification level, in a controlled environment, while being evaluated.

(68) "The Act" refers to the Public Safety Standards and Training Act (ORS 181.610 to 181.705).

(69) "Topical Level Course" is a course that does not include an identifiable block of learning objectives or outcomes that are required for certification at one or more levels.

(70) "Track" means a field of study required for certification.

(71) "Waiver" means to refrain from pressing or enforcing a rule.

(72) "Wildland Interface Crew Boss" means a person who is in a supervisory position in charge of 16 to 21 fire fighters and is responsible for their performance, safety, and welfare.

(73) "Wildland Interface Division/Group Supervisor" means a person who is responsible to act in an ICS position responsible for commanding and managing resources on a particular geographic area of a wildland fire (reports to a branch director or operations section chief).

(74) "Wildland Interface Engine Boss" means a person in supervisory position who has demonstrated the skills and depth of knowledge necessary to function under general supervision while operating a piece of apparatus such as an engine.

(75) "Wildland Interface Fire Fighter (FFT2)" means a person at the first level of progression who has demonstrated the knowledge and skills necessary to function safely as a member of a wildland fire suppression crew whose principal function is fire suppression. This position has direct supervision.

(76) "Wildland Interface Strike Team Leader Crew" means a person who is responsible to act in an ICS position and is responsible for the direct supervision of a crew strike team.

(77) "Wildland Interface Strike Team Leader Engine" means a person who is responsible to act in an ICS position and is responsible for the direct supervision of an engine strike team.

(78) "Wildland Interface Structural Group Supervisor" means a person who is responsible to act in an ICS position responsible for supervising equipment and personnel assigned to a group. Groups are composed of resources assembled to perform a special function not necessarily within a single geographic division. Groups, when activated, are located between branches and resources in the operations section (reports to a branch director or operations section chief).

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 8-2004, f. & cert. ef. 4-23-04; DPSST 2-2006, f. & cert. ef. 1-24-06; DPSST 9-2006, f. & cert. ef. 7-7-06; DPSST 2-2007, f. & cert. ef. 1-12-07; DPSST 10-2008, f. & cert. ef. 7-15-08; DPSST 7-2009, f. & cert. ef. 7-13-09; DPSST 12-2009, f. & cert. ef. 10-15-09; DPSST 16-2009(Temp), f. & cert. ef. 12-15-09 thru 6-11-10; DPSST 5-2010, f. & cert. ef. 6-14-10; DPSST 11-2010, f. & cert. ef. 11-12-10; DPSST 3-2011, f. & cert. ef. 3-28-11; cert. ef. 5-1-11; DPSST 12-2011, f. & cert. ef. 8-1-11; DPSST 21-2012, f. & cert. ef. 10-1-12; DPSST 8-2013, f. & cert. ef. 3-26-13; DPSST 22-2013, f. & cert. ef. 10-3-13; DPSST 6-2014, f. & cert. ef. 2-6-14

259-009-0062

Fire Service Personnel Certification

(1) A fire service professional affiliated with an Oregon fire service agency may be certified by:

(a) Satisfactorily completing the requirements specified in section (2) of this rule;

(b) Through participation in a fire service agency training program accredited by the Department;

(c) Through a course certified by the Department; or

(d) By evaluation of experience as specified in OAR 259-009-0063.

(e) The Department may certify a fire service professional who has satisfactorily completed the requirements for certification as prescribed in section (2) of this rule, including the Task Performance Evaluations (TPE) if applicable.

(2) The following standards for fire service personnel are adopted by reference:

(a) The provisions of the NFPA Standard 1001, 2013 Edition, entitled "Fire Fighter Professional Qualifications";

(A) Delete section 1.3.1.

NOTE: This references NFPA 1500.

(B) Delete section 2.2.

NOTE: This references NFPA 1500 and 1582.

(C) For certification as Fire Fighter II, the applicant must be certified at NFPA 1001 Fire Fighter I as defined by the Department and meet the job performance requirements defined in Sections 6.1 through 6.5.5 of this Standard.

(D) All applicants for certification must complete a task performance evaluation or a Department-approved task book for NFPA Fire Fighter I and NFPA Fire Fighter II. The evaluation or task book must be approved by the Agency Head or Training Officer before an applicant can qualify for certification.

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(b) The provisions of the NFPA Standard 1002, 2009 Edition, entitled "Standard for Fire Apparatus Driver/Operator Professional Qualifications," are adopted subject to the following definitions and modifications:

(A) 5.1 General. The job performance requirements defined in Sections 5.1 and 5.2 must be met prior to certification as a Fire Service Agency Driver/Operator-Pumper.

(B) 6.1 General. The requirements of NFPA 1001 Fire Fighter I and NFPA 1002 Fire Apparatus Driver/Operator, as specified by the Department and the job performance requirements defined in Sections 6.1 and 6.2, must be met prior to certification as a Fire Service Agency Driver/Operator-Aerial.

(C) 7.1 General. The requirements of NFPA 1001 Fire Fighter I and NFPA 1002 Fire Apparatus Driver/Operator, as specified by the Department and the job performance requirements defined in Sections 7.1 and 7.2 must be met prior to certification as a Fire Service Agency Driver/Operator-Tiller.

(D) 8.1 General. The requirements of NFPA 1001 Fire Fighter I and NFPA 1002 Fire Apparatus Driver/Operator, as specified by the Department and the job performance requirements defined in Sections 8.1 and 8.2, must be met prior to certification as a Fire Service Agency Driver/Operator-Wildland Fire Apparatus.

(E) 9.1 General. The requirements of NFPA 1001 Fire Fighter II and NFPA 1002 Fire Apparatus Driver/Operator, as specified by the Department and the job performance requirements defined in Sections 9.1 and 9.2, must be met prior to certification as a Fire Service Agency Driver/Operator-Aircraft Rescue and Fire Fighting Apparatus (ARFF).

(F) 10.1 General. The requirements of NFPA 1002 Fire Apparatus Driver/Operator, as specified by the Department and the job performance requirements defined in Sections 10.1 and 10.2, must be met prior to certification as a Fire Service Agency Driver/Operator-Mobile Water Supply Apparatus.

(G) Delete "the requirements of NFPA 1500, Standard on Fire Department Occupational Safety and Health Program".

(H) All applicants for certification must complete a task performance evaluation or a Department-approved task book for: NFPA Fire Apparatus Driver/Operator, NFPA Apparatus Equipped with Fire Pump, NFPA Apparatus Equipped with an Aerial Device, NFPA Apparatus Equipped with a Tiller, NFPA Wildland Fire Apparatus, NFPA Aircraft Rescue and Firefighting Apparatus or NFPA Mobile Water Supply Apparatus. The task books must be approved by the Agency Head or Training Officer before an applicant can qualify for certification.

(c) The provisions of the NFPA Standards 1003, 2010 Edition, entitled "Standard for Airport Fire Fighter Professional Qualifications".

(A) 6.1 General. Prior to certification as a Fire Service Agency NFPA 1003 Airport Fire Fighter, the requirements of NFPA 1001 Fire Fighter II, as specified by the Department and the job performance requirements defined in sections 5.1 through 5.4, must be met.

(B) All applicants for certification must complete a Department-approved task book for Airport Fire Fighter. The task book must be approved by the Agency Head or Training Officer before an applicant can qualify for certification.

(d) The provisions of NFPA Standard 1005, 2007 Edition, entitled "Marine Fire Fighting for Land Based Fire Fighters Professional Qualifications," are adopted subject to the following definitions and modifications:

(A) Delete section 2.2.

NOTE: This references NFPA 1500.

(B) Delete sections of 2.4.

NOTE: This references NFPA 1000, NFPA 1081, NFPA 1405, NFPA 1670 and NFPA 1710.

(C) 5.1 General. Prior to certification as a Fire Service Agency NFPA 1005 Marine Land-Based Fire Fighter, the requirements of NFPA 1001 Fire Fighter II, as specified by the Department.

(D) All applicants for certification must complete a Department approved task book for Marine Fire Fighting for Land Based Fire Fighters. The task book must be approved by the Agency Head or Training Officer before an applicant can qualify for certification.

(E) Transition Phase:

(i) An application for certification in Marine Fire Fighting for Land Based Fire Fighters must be submitted to the Department no later than June 30, 2009 to receive consideration for certification without having to complete a task book.

(ii) All applications received on or after July 1, 2009 will need to show completion of the approved task book.

(e) The provisions of the NFPA Standard No. 1031, Edition of (2009), entitled "Professional Qualifications for Fire Inspector and Plan Examiner" are adopted.

(A) All applicants for certification as an NFPA Fire Inspector I must:

- (i) Successfully complete a Department-approved task book; and
- (ii) Furnish proof that they have passed an exam demonstrating proficiency in the model fire code adopted by the State of Oregon or an equivalent.

(B) All applicants for certification as an NFPA Fire Inspector II must:

- (i) Hold a certification as a NFPA Fire Inspector I; and
- (ii) Successfully complete a Department-approved task book.

(C) All applicants for certification as an NFPA Fire Inspector III must:

- (i) Hold a certification as a NFPA Fire Inspector II; and
- (ii) Successfully complete a Department-approved task book.

(D) Task books must be monitored by a Field Training Officer approved by the Department. The Field Training Officer must be certified at or above the level being monitored and have at least five years inspection experience. The Department may approve other Field Training Officers with equivalent training, education and experience as determined by designated Department staff.

(f) The provisions of the NFPA Standard No. 1033, Edition of (2009), entitled "Professional Qualifications for Fire Investigator" are adopted subject to the following definitions and requirements:

(A) An individual must successfully complete a Department-approved task book before the Department will administer a written examination for the Fire Investigator certification level. Exception: Anyone holding a valid IAAI Fire Investigator Certification, National Association of Fire Investigators (NAFI) certification, or Certified Fire Explosion Investigators (CFEI) certification is exempt from taking the Department's Fire Investigator written exam.

(B) A Department approved Field Training Officer must monitor the completion of a task book. The Field Training Officer must be certified at or above the level being monitored and have at least five (5) years fire investigation experience. Exception: The Department may approve Field Training Officers with equivalent training, education and experience.

(g) The provisions of the NFPA Standard No. 1035, Edition of 2000, entitled "Professional Qualifications for Public Fire and Life Safety Educator" are adopted subject to the following definitions and modifications:

(A) Chapter 6 (Six) "Juvenile Firesetter Intervention Specialist I" and Chapter 7 (Seven) "Juvenile Firesetter Intervention Specialist II," Oregon-amended, will be adopted with the following changes:

(i) Change the following definitions:

(I) 1-4.4 Change the definition of "Assessment" to read, "A structured process by which relevant information is gathered for the purpose of determining specific child or family intervention needs conducted by a mental health professional."

(II) 1-4.11 Change the title of "Fire Screener" to "Fire Screening" and the definition to read, "The process by which we conduct an interview with a firesetter and his or her family using state approved forms and guidelines. Based on recommended practice, the process may determine the need for referral for counseling and/or implementation of educational intervention strategies to mitigate effects of firesetting behavior."

(III) 1-4.14 Include "insurance" in list of agencies.

(IV) 1-4.15 Change the definition to read: "...that may include screening, education and referral for assessment for counseling, medical services."

(V) 1-4.16 Change "person" to "youth" and change age from 21 to 18.

(VI) 1-4.17 Add "using state-approved prepared forms and guidelines."

(VII) 1-4.22 Add "...or by authority having jurisdiction."

(VIII) 1-4.24 Add "...or as defined by the authority having jurisdiction."

(ii) Under 6-1 General Requirements, delete the statement, "In addition, the person will meet the requirements for NFPA Public Fire and Life Safety Educator I prior to being certified as a NFPA Juvenile Firesetter Intervention Specialist I."

(B) A task book will be completed prior to certification as a NFPA Public Fire and Life Safety Educator I, II or III.

(C) A task book will be completed prior to certification as a NFPA Public Information Officer.

(D) A task book will be completed prior to certification as a NFPA Juvenile Firesetter Intervention Specialist I and II.

(h) The provisions of the NFPA Standard No. 1041, Edition of 2012, entitled "Standard for Fire Service Instructor Professional Qualifications,"

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are adopted subject to the successful completion of an approved task book for NFPA Fire Instructor I, II and III.

(i) The provisions of the NFPA Standard 1021, 2009 Edition, entitled "Standards for Fire Officer Professional Qualifications," are adopted subject to the following definitions and modifications:

(A) 4.1 General. For certification as NFPA Fire Officer I, the candidate must be certified at NFPA 1001 Fire Fighter II, and NFPA 1041 Fire Instructor I, as defined by the Department, and meet the job performance requirements defined in Sections 4.1 through 4.7 of this Standard.

(i) Amend section 4.1.2 General Prerequisite Skills to include college courses or Department- approved equivalent courses in the following areas of study: Communications, Math, Physics, Chemistry, or Fire Behavior and Combustion. Refer to the suggested course guide for detailed course, curriculum and training information.

(ii) All applicants for certification must complete a task performance evaluation or a Department-approved task book for NFPA Fire Officer I. The evaluation or task book must be approved by the Agency Head or Training Officer before an applicant can qualify for certification.

(B) 5.1 General. For certification as NFPA Fire Officer II, the candidate must be certified as NFPA Fire Officer I, as defined by the Department, and meet the job performance requirements defined in Section 5.1 through 5.7 of the Standard.

(i) Amend section 5.1.2 General Prerequisite Skills to include college courses or Department- approved equivalent courses Psychology or Sociology.

(ii) Amend section 5.3 Community and Government Relations to include State and Local Government or Department-approved equivalent courses.

(iii) All applicants for certification must complete a task performance evaluation or a Department-approved task book for NFPA Fire Officer II. The evaluation or task book must be approved off by the Agency Head or Training Officer, before an applicant can qualify for certification.

(C) 6.1 General. For certification as NFPA Fire Officer III, the candidate must be certified as a NFPA Fire Officer II, NFPA, NFPA 1041 Fire Instructor II, as defined by the Department, and meet the job performance requirements defined in Sections 6.1 through 6.7 of the Standard.

(i) All applicants for certification must complete a Department-approved task book for NFPA Fire Officer III.

(ii) The task book must be approved by the Agency Head or Training Officer before an applicant can qualify for certification.

(D) 7.1 General. For certification as NFPA Fire Officer IV the candidate must be certified as NFPA Fire Officer III, as defined by the Department, and meet the job performance requirements in Sections 7.1 through 7.7 of the Standard.

(i) All applicants for certification must complete a Department-approved task book for NFPA Fire Officer IV.

(ii) The task book must be approved by the Agency Head or Training Officer, before an applicant can qualify for certification.

(j) Hazardous Materials Responder (DPSST-P-12 1/96).

(k) Fire Ground Leader.

(A) This is a standard that is Oregon-specific.

(B) An applicant applying for Fire Ground Leader must first be certified as an NFPA Fire Fighter II.

(C) An applicant applying for Fire Ground Leader must document training in all of the following areas:

(i) Building Construction: Non-Combustible and Combustible;

(ii) Emergency Service Delivery;

(iii) Fire Behavior;

(iv) Fire Ground Safety; and

(v) Water Supply Operations.

(D) All applicants for certification must complete a task performance evaluation or a Department-approved task book for Fire Ground Leader. The evaluation or task book must be approved by the Agency Head or Training Officer before an applicant can qualify for certification.

(l) Advanced Wildland Interface Fire Fighter (FFT1).

(A) This standard includes NWCG Wildland Fire Fighter Type 1.

(B) An individual applying for Advanced Wildland Interface Fire Fighter (FFT1) must be certified as Wildland Interface Fire Fighter (FFT2) prior to applying for Advanced Wildland Interface Fire Fighter (FFT1) and must document training in all of the following areas at the time of application:

(i) S-131 Firefighter Type I;

(ii) S-133 Look Up, Look Down, Look Around; and

(iii) Completion of the NWCG Firefighter Type 1 (FFT1)/Incident Commander Type 5 (ICT5) Task Book.

(m) Wildland Interface Fire Fighter (FFT2).

(A) This standard includes NWCG Wildland Fire Fighter Type 2.

(B) An individual applying for Wildland Interface Fire Fighter (FFT2) must document training in all of the following areas at the time of application:

(i) S-130 Fire Fighter Training;

(ii) S-190 Wildland Fire Behavior;

(iii) L-180 Human Factors on the Fireline; and

(iv) I-100 Introduction to ICS.

(n) Wildland Interface Engine Boss.

(A) This is an NWCG standard.

(B) An individual applying for Wildland Interface Engine Boss must be certified as Wildland Interface Fire Fighter prior to applying for Wildland Interface Engine Boss and must document training in all of the following areas at the time of application:

(i) I-200 Basic Incident Command;

(ii) S-230 or S-231 Crew Boss (Single Resource);

(iii) S-290 Intermediate Wildland Fire Behavior; and

(iv) Completion of the task book for NWCG Single Resource Boss Engine.

(o) Wildland Interface Crew Boss.

(A) This is an NWCG standard.

(B) An individual applying for Wildland Interface Crew Boss must be certified as Wildland Interface Fire Fighter prior to applying for Wildland Interface Crew Boss and must document training in all of the following areas at the time of application:

(i) I-200 Basic Incident Command;

(ii) S-230 Crew Boss (Single Resource);

(iii) S-290 Intermediate Wildland Fire Behavior; and

(iv) Completion of the task book for NWCG Single Resource Boss Crew.

(p) Wildland Interface Strike Team Leader Engine.

(A) This is an NWCG standard.

(B) An individual applying for Wildland Interface Strike Team Leader Engine must be certified as Wildland Interface Engine Boss prior to applying for Wildland Interface Strike Team/Leader Engine and must document training in all of the following areas at the time of application:

(i) S-215 Fire Operations in the WUI;

(ii) S-330 Task Force/Strike Team Leader;

(iii) I-300 Intermediate ICS; and

(iv) Completion of the task book for NWCG Strike Team Leader Engine.

(q) Wildland Interface Strike Team Leader Crew.

(A) This is an NWCG standard.

(B) An individual applying for Wildland Interface Strike Team Leader Crew must be certified as Wildland Interface Crew Boss prior to applying for Wildland Interface Strike Team Leader Crew and must document training in all of the following areas at the time of application:

(i) S-215 Fire Operations in the WUI;

(ii) S-330 Task Force/Strike Team Leader;

(iii) I-300 Intermediate ICS; and

(iv) Completion of the task book for NWCG Strike Team Leader Crew.

(r) Wildland Interface Structural Group Supervisor.

(A) This is an Oregon standard.

(B) An individual applying for Wildland Interface Structural Group Supervisor must be certified as Wildland Interface Strike Team Leader Engine prior to applying for certification as Wildland Structural Interface Group Supervisor and must document training in all of the following areas at the time of application:

(i) S-390 Introduction to Wildland Fire Behavior Calculations;

(ii) S-339 Division/Group Supervisor; and

(iii) Completion of the task book for NWCG Group Supervisor.

(s) Wildland Interface Division/Group Supervisor.

(A) This is an NWCG standard.

(B) An individual applying for Wildland Interface Division/Group Supervisor must be certified as Wildland Interface Strike Team Leader Engine and a Wildland Interface Strike Team Leader Crew prior to applying for certification as Wildland Interface Division/Group Supervisor and must document training in all of the following areas at the time of application:

(i) S-390 Introduction to Wildland Fire Behavior Calculations;

(ii) S-339 Division/Group Supervisor; and

(iii) Completion of the task book for NWCG Division/Group Supervisor.

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(t) Maritime Fire Service Operator Standards Professional Qualifications (October, 1999) and completion of an approved task book. Historical Recognition:

(A) The application must be submitted with the fire chief or designee's signature attesting to the skill level and training of the applicant.

(B) The application must be submitted to the Department no later than October 1, 2004, to receive certification for Maritime Fire Service Operator without having to complete the task book.

(C) All applications received after October 1, 2004, will need to show completion of the approved task book.

(u) Certification guide for Wildland Fire Investigator (August, 2005).

(v) The provisions of the 2008 Edition of NFPA 1006 entitled, "Standards for Technical Rescuer Professional Qualifications" are adopted subject to the following modifications:

(A) Historical Recognition:

(i) Applicants who currently hold active Department of Public Safety Standards and Training NFPA Surface Water Rescue Technician and NFPA Rope Rescue levels of certification may apply for NFPA Swiftwater Rescue level of certification.

(ii) The NFPA Technical Rescuer application for certification under (i) above must be submitted to the Department of Public Safety Standards and Training on or before December 30, 2011.

(B) Instructors:

(i) Curriculum must be certified by the Department to meet NFPA 1006 standards.

(ii) An instructor delivering training under a fire service agency's accreditation agreement must be a certified technician in that specialty rescue area.

(C) Task Books:

(i) A task book must be completed for each of the eleven specialty rescue areas applied for.

(ii) Only a certified technician in that specialty rescue area can approve the task book.

(iii) The requirements in Chapters 4 and 5 only need to be met once for all eleven specialty rescue areas.

(w) Urban Search and Rescue.

(A) This is a standard that is Oregon-specific.

(B) The following eleven (11) specialty Urban Search and Rescue (USAR) certifications are adopted:

(i) Task Force Leader;

(ii) Safety Officer;

(iii) Logistics Manager;

(iv) Rescue Team Manager;

(v) Rescue Squad Officer;

(vi) Rescue Technician;

(vii) Medical Technician;

(viii) Rigging Technician;

(ix) Search Team Manager;

(x) Search Squad Officer; and

(xi) Search Technician.

(C) An applicant applying for any USAR certification(s) must complete the appropriate application attesting to completion of the required training.

(x) The provisions of the NFPA Standard 472, 2008 Edition, entitled "Standard for Hazardous Materials and Weapons of Mass Destruction" are adopted subject to the following definitions and modifications:

(A) NFPA Hazardous Materials Technician: All applicants for certification must first certify as an NFPA Operations Level Responder and complete a Department-approved task book. The task book must be approved by the Agency Head or Training Officer before an applicant can qualify for certification.

(B) NFPA Hazardous Materials Safety Officer: All applicants for certification must first certify as a NFPA Hazardous Materials Technician and complete a Department-approved task book. The task book must be approved by the Agency Head or Training Officer before an applicant can qualify for certification. This certification level includes, but is not limited to, the following course work:

(i) Analyzing the Incident;

(ii) Planning the Response;

(iii) Implementing the Planned Response;

(iv) Evaluating the Progress.

(C) Incident Commander: The level of certification formerly known as "On-Scene Incident Commander" is now known as "NFPA Hazardous Materials Incident Commander." The Incident Commander correlates

directly with NFPA 472. All applicants for certification must first certify as an NFPA Operations Level Responder.

(D) Operations Level Responder: The level of certification formerly known as "First Responder" is now known as "NFPA Operations Level Responder." The NFPA Operations Level Responder correlates directly with NFPA 472. Successful completion of skills sheets or task performance evaluations (TPE) must be met prior to certification as an NFPA Operations Level Responder.

(y) Specialty Levels of Certification. All applicants for specialty levels of certification must first certify as a NFPA Hazardous Materials Technician.

(A) The following four (4) specialty certifications are adopted:

(i) NFPA Cargo Tank Specialty;

(ii) NFPA Intermodal Tank Specialty;

(iii) NFPA Marine Tank Vessel Specialty;

(iv) NFPA Tank Car Specialty;

(B) Successful completion of task performance evaluations (TPE) must be met prior to obtaining a specialty level of certification.

(3) Task performance evaluations, where prescribed, will be required prior to certification. Such examinations will be conducted in the following manner:

(a) Task performance competency will be evaluated by three people nominated by the employing fire service agency's Chief Officer for approval by the Department or its designated representative.

(b) The employing fire service agency's equipment and operational procedures must be used in accomplishing the task performance to be tested.

(c) Specific minimum testing procedures, as provided by the Department, will be used for administration of the evaluation.

(d) The training officer for an accredited fire service agency training program must notify the Department or its designated representative prior to performing a task performance evaluation.

(e) At the request of the fire chief, a representative of the Department will be designated to monitor the task performance evaluation for personnel from a fire service agency whose training program is not accredited.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 11-2003 f. & cert. ef. 7-24-03; DPSST 13-2003(Temp), f. & cert. ef. 10-27-03 thru 3-31-04; DPSST 3-2004(Temp), f. & cert. ef. 4-9-04 thru 10-1-04; DPSST 8-2004, f. & cert. ef. 4-23-04; DPSST 2-2006, f. & cert. ef. 1-24-06; DPSST 9-2006 f. & cert. ef. 7-7-06; DPSST 14-2006, f. & cert. ef. 10-13-06; DPSST 16-2006, f. & cert. ef. 11-20-06; DPSST 2-2007, f. & cert. ef. 1-12-07; DPSST 10-2008, f. & cert. ef. 7-15-08; DPSST 7-2009, f. & cert. ef. 7-13-09; DPSST 12-2009, f. & cert. ef. 10-15-09; DPSST 16-2009(Temp), f. & cert. ef. 12-15-09 thru 6-11-10; DPSST 5-2010, f. 6-11-10, cert. ef. 6-14-10; DPSST 11-2010, f. & cert. ef. 11-12-10; DPSST 11-2010, f. & cert. ef. 11-12-10; DPSST 3-2011, f. 3-28-11, cert. ef. 5-1-11; DPSST 7-2012, f. & cert. ef. 3-28-12; DPSST 21-2012, f. & cert. ef. 10-1-12; DPSST 8-2013, f. & cert. ef. 3-26-13; DPSST 16-2013, f. & cert. ef. 6-25-13; DPSST 22-2013, f. & cert. ef. 10-3-13; DPSST 6-2014, f. & cert. ef. 2-6-14

Department of Transportation, Transportation Safety Division Chapter 737

Rule Caption: Traffic Safety Education and Reimbursement
Adm. Order No.: TSD 1-2014

Filed with Sec. of State: 1-22-2014

Certified to be Effective: 3-1-14

Notice Publication Date: 12-1-2013

Rules Adopted: 737-015-0035, 737-015-0074, 737-015-0076, 737-015-0085, 737-015-0105, 737-015-0120, 737-015-0130

Rules Amended: 737-015-0010, 737-015-0020, 737-015-0030, 737-015-0070, 737-015-0090, 737-015-0100, 737-015-0110

Subject: HB 2264 (2013 legislative session) authorizes the Department of Transportation to increase its rate of reimbursement for reduced-tuition traffic safety education courses provided to low-income students by public school, commercial driver training school or county. To implement the bill ODOT has amended its reimbursement policy and sanction policy, as well as adding provision for low/no income subsidy for qualified students.

Rules Coordinator: Lauri Kunze—(503) 986-3171

737-015-0010

Purpose

The purpose of the rules in division 15 is to implement ORS 802.345 by:

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- (1) Establishing a curriculum for a traffic safety education course under ORS 336.800;
- (2) Establishing a procedure to certify that a traffic safety education course meets the curriculum standards;
- (3) Establishing qualifications for a person to teach a traffic safety education course;
- (4) Establishing rules for the administration of ORS 336.805 and 336.810, relating to recordkeeping for and reimbursement and distribution of funds in the Student Driver Training Fund, including reduced tuition for low-income pupils; and
- (5) Establishing rules for the administration of ORS 336.790 to 336.815, related to increasing enrollment in underserved areas of the state, and the imposition of sanctions against a provider of a traffic safety education course that has violated a provision.
Stat. Auth.: ORS 184.616, 184.619 & 802.345
Stats. Implemented: ORS 336.800, 336.805, 336.810, 802.110, 802.345 & 807.065
Hist.: TSS 1-2000(Temp), f. 2-11-00, cert. ef. 3-1-00 thru 8-27-00; TSS 2-2000, f. 8-10-00, cert. ef. 8-28-00; TSD 1-2014, f. 1-22-14, cert. ef. 3-1-14

737-015-0020

Definitions

As used in division 15 rules, unless the context otherwise requires:

- (1) "Adaptive Strategy" means a program element that may be altered to help support and promote driver education in underserved areas of the state.
- (2) "Approved Course" also "Approved Program" means a traffic safety education course or program conducted by an approved provider.
- (3) "Approved Instructor" also "Instructor" means a teacher who holds a valid approved instructor certification card. An approved instructor has successfully completed required training and meets minimum requirements set forth in OAR 737-015-0070.
- (4) "Approved provider" also "provider" is a private school, public school, commercial driver training school or county that has been granted approval by ODOT-TSD to provide instruction using a Division-approved curriculum by instructors who have completed a Division-approved instructor course of study. A provider is responsible for all aspects of the program and is required to maintain required records, whether or not instruction is contracted.
- (5) "Behind-the-wheel" instruction means the portion of the approved course that requires the student to be located behind the steering wheel of a dual control equipped motor vehicle or a simulated vehicle, operating it either in real or simulated traffic situations, through the direct guidance of a driver education instructor.
 - (a) Four hours of simulation is equal to one hour of behind the wheel instruction.
 - (b) One hour of operating a motor vehicle is equal to one hour of behind the wheel instruction.
- (6) "Cancellation" means to declare the approved provider or instructor status void and obtainable only as defined in OAR 737-015-0010 thru 737-015-0130.
- (7) "Classroom instruction" means that portion of an approved course held in the presence of an approved instructor in a classroom situation and does not include time spent in home study, reading outside of class time or break time. Classroom make-up time is subject to the same provisions.
- (8) "Commercial Driver Training School" means a privately or publicly owned driver training facility in Oregon that has been issued a School Certificate by DMV to provide student drivers behind-the-wheel instruction, classroom instruction or both, for a fee.
- (9) "Completing the course" means completing an ODOT-TSD approved course, with documentation showing 30 hours classroom instruction, 6 hours behind-the-wheel instruction, 6 hours practice driving observation and 5 hours supervised practice.
- (10) "Curriculum guide" means a document that describes what the students need to learn and provides a guide for instructors as they prepare for instruction. It is a document that assists traffic safety instructors and district coordinators in meeting the needs of the regulations identified in OAR 737-015-0030.
- (11) "Department" or "ODOT" means the Oregon Department of Transportation.
- (12) "Division" or "TSD" means the Transportation Safety Division of the Oregon Department of Transportation. A reference to the Division or TSD may include its designee.
- (13) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.
- (14) "Driver Improvement Violation" means:
 - (a) One conviction for an offense listed in OAR 735-064-0220;

- (b) Five convictions for an offense listed in OAR 735-072-0035; or
- (c) A Preventable Accident.
- (15) "Driving simulator" means an electromechanical device designed to represent the driver's compartment of the automobile and with the use of films or video programs attempts to develop judgment, decision-making skills, behavior response, and manipulative skills essential in learning the driving task.
- (16) "Eligible student" means a student that is at least 15 years of age, will complete an approved course before reaching 18 years of age, and has a valid instruction driver permit.
- (17) "Hours" means clock hours, not including breaks or other time that does not apply to actual instruction.
- (18) "Instructor Brake" or "Dual control" means the vehicle is equipped with a foot brake control for both the student driver and the instructor connected either by mechanical or hydraulic means, installed as specified by the manufacturer.
- (19) "Lesson plan" means a written outline of the content and method of instruction. Required elements are specified in OAR 737-015-0030(3).
- (20) "Practice driving observation" means that portion of an approved course given in a dual control vehicle as the instructor observes the student driver and engages the back seat passengers in discussion of the student driver operation of the motor vehicle.
- (21) "Private Provider" means a Commercial Driver Training School that meets approved provider requirements and is in compliance with OAR 737-015-0010 thru 737-015-0130.
- (22) "Public Provider" means a public school or county that meets approved provider status and is in compliance with OAR 737-015-0010 thru 737-015-0130.
- (23) "Public school" means a common or union high school district, education service district, community college district, or any facility for the deaf operated under ORS 346.010.
- (24) "Repeated Violation" means the provider or instructor was notified in writing within three years of the same or a substantially similar deficiency.
- (25) "Revocation" means the termination of the authority granted an approved provider or an approved instructor for a specified period, with a new certificate obtainable only as defined under 737-015-0120 or 737-015-0130.
- (26) "Sanction" means an action taken by ODOT-TSD against a provider or instructor for non-compliance with Oregon law or ODOT-TSD rule related to traffic safety education.
- (27) "Simulation" means the portion of the behind-the-wheel traffic safety education course given in a driving simulator.
- (28) "Student Completion Certificate" means an ODOT-TSD issued certificate that serves as proof of an eligible student completing an approved course with a passing score.
- (29) "Suspension" means the temporary withdrawal for a specified period of time of the authority to conduct business or perform instructional activities granted under approved provider or approved instructor status.
- (30) "Traffic Crime" means a conviction under Oregon statute or city ordinance, or a comparable statute or city ordinance of any other jurisdiction, for any misdemeanor or felony involving the use of a motor vehicle that may result in a jail sentence.
- (31) "Traffic safety education" means a course consisting of classroom instruction, practice driving, and practice driving observation, all devoted to educating teen student drivers in safe and proper driving practices.
- (32) "Valid instruction driver permit" means an instruction permit issued by the State of Oregon under ORS 807.280 or an interim driver card issued by the State of Oregon under 807.310 that is in the student's name and is not expired, canceled, suspended or revoked.
- (33) "Warning" means a written correction notice issued by ODOT-TSD that requires corrective action be taken as specified.
Stat. Auth.: ORS 184.616, 184.619 & 802.345
Stats. Implemented: ORS 336.800, 336.805, 336.810, 802.110, 802.345 & 807.065
Hist.: TSS 1-2000(Temp), f. 2-11-00, cert. ef. 3-1-00 thru 8-27-00; TSS 2-2000, f. 8-10-00, cert. ef. 8-28-00; TSD 1-2007, f. 3-26-07, cert. ef. 4-1-07; TSD 2-2010(Temp), f. & cert. ef. 2-25-10 thru 8-20-10; TSD 3-2010, f. & cert. ef. 7-30-10; TSD 1-2014, f. 1-22-14, cert. ef. 3-1-14

737-015-0030

Curriculum Requirements

- (1) An approved program curriculum must include:
 - (a) A minimum of 30 hours of classroom instruction not exceeding 6 hours per week or 3 hours per day that includes:
 - (A) Instructing students about driving on all types of Oregon roads in a positive and courteous manner;

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- (B) Driver responsibility;
 - (C) Preparing and controlling the vehicle;
 - (D) Identification and proper use of signs, signals, markings, and roadway types;
 - (E) How to enter, use, and exit different types of intersections;
 - (F) Automobile maneuvers and traffic flow;
 - (G) Management of time and space using accepted and current practices, including targeting, line of sight/path of travel, model driving habits and reference point concepts;
 - (H) Defensive driving;
 - (I) Rules of the road;
 - (J) How the laws of physics and natural laws affect driving;
 - (K) How physical, emotional, and psychological conditions affect driving;
 - (L) Impaired driving; and
 - (M) Emergency situations.
- (b) A minimum of 6 hours of behind-the-wheel instruction not exceeding 90 minutes of driving per day per student not to exceed 120 minutes within 7 consecutive days. Behind-the-wheel instructional objectives must correspond with topics covered during classroom instruction described under (1)(a) of this rule.
- (c) A minimum of six hours of practice driving observation not exceeding three hours of observation per day or four hours within seven consecutive days, per student.
- (d) A written skill assessment for each student drive that covers all of the following skills, at a minimum:
- (A) Positioning a vehicle based on visual referencing skills, space management, fender judgment and road position control;
 - (B) Procedures and sequencing for vehicle operations from the simple to the complex skill based on vehicle operation control, vehicle maneuvering, vehicle control options, and vehicle balance;
 - (C) Processing traffic and vehicle information into speed and position changes based on visual skills, space management, vehicle speed control, and control of the road; and
 - (D) Precision movements for maintaining vehicle control and balance in expected and unexpected situations based on vehicle speed control, vehicle balance, collision avoidance, traction control, response to mechanical failures and traction loss.
- (e) During any behind-the-wheel instruction session, the following safety requirements must be met:
- (A) Only the student driver operating the vehicle and the instructor shall be seated in the front seats of the vehicle;
 - (B) All vehicle occupants must use safety belts at all times while operating a vehicle; and
 - (C) Headlights must be turned on at all times during behind-the-wheel instruction. Because automatic headlights do not illuminate side and tail lights, headlights must be manually turned on even if an automatic switch is present and in use.
- (2) An approved program curriculum must include parent, legal guardian, or supervising adult involvement that includes:
- (a) A parent meeting; and
 - (b) A log or other means to demonstrate that a minimum of five hours supervised home practice was conducted during the course. Documentation must be maintained by the provider. Supervised home practice is not counted as part of the classroom, behind-the-wheel, or practice driving observation.
- (3) The traffic safety education curriculum guide must be approved by ODOT-TSD prior to program implementation. The provider must review and update the guide every three years thereafter, maintaining a full current master copy. The guide must be available for review by ODOT-TSD on request. The following elements are required:
- (a) A written lesson plan for each classroom and each behind-the-wheel session. A provider who has fully adopted the ORPC Playbook is not required to provide additional documentation of classroom lesson plans. The requirement to develop written behind-the-wheel lesson plans remains in effect whether or not the program has adopted the ORPC Playbook. A lesson plan must include:
 - (A) The title of the lesson or module to be taught;
 - (B) Prerequisites;
 - (C) Overall objectives;
 - (D) Performance objectives;
 - (E) Materials and resources;
 - (F) Instructor and student activities;
 - (G) Time breakdown;
 - (H) Methods of assessment; and

- (I) Assignments.
 - (b) A flow chart that shows the program's integration between classroom and behind-the-wheel lessons.
 - (c) A written drive route that supports each behind-the-wheel lesson plan. The drive route cannot duplicate the DMV drive test route.
 - (d) The final drive route. Every final drive route in use must be pre-approved by ODOT-TSD, along with the associated formal written score assessment form. Any change to a final route or score assessment form must also be pre-approved.
 - (4) Classroom and behind-the-wheel instruction and practice driving observation must be provided concurrently.
 - (a) Concurrency means the integration of classroom instruction and behind-the-wheel instruction. For each student, no fewer than 4 and no more than 10 hours of classroom instruction will be completed before beginning behind-the-wheel instruction. Classroom and behind-the-wheel instruction must be well organized and coordinated.
 - (b) Behind-the-wheel instruction and practice driving observation of a particular skill or behavior may not precede the classroom instruction of that same skill or behavior.
 - (5) A course may not be completed in fewer than 35 days and no more than 180 days. An extension beyond 180 days may be provided if there is compelling reason dealing with school, family or medical circumstances and has been agreed upon between the provider and parent before completion of the course. Documentation of the agreement must be maintained.
 - (6) At the end of each course, the provider must issue a Student Completion Certificate to each eligible student who completes the approved course with a passing score. A student must obtain a minimum score of 80% on the final skill assessment to receive a certificate.
 - (7) Summer Exception — The classroom portion of a driver education program, required under section (1)(a) of this rule, offered from June through August may be conducted over a shorter period of time and for longer hours. The classroom instruction must be conducted over no less than a 3-week period with no more than 10 hours of classroom instruction per week, not exceeding 3 hours per day. Requirements for the behind-the-wheel portion of the course are unaffected by the exception. A course may not be completed in fewer than 35 days.
 - (8) With agreement between a parent, legal guardian or supervising adult and the provider, behind-the-wheel instruction may be provided hour for hour in place of practice driving observation. In no case shall behind-the-wheel instruction hours be fewer than 6, and in no case shall the behind-the-wheel instruction hours and practice driving observation hours, combined, be fewer than 12. Time must be accurately documented by date, activity, and the amount of time of each session.
- Stat. Auth.: ORS 184.616, 184.619 & 802.345
Stats. Implemented: ORS 336.800, 336.805, 336.810, 802.110, 802.345 & 807.065
Hist.: TSS 1-2000(Temp), f. 2-11-00, cert. ef. 3-1-00 thru 8-27-00; TSS 2-2000, f. 8-10-00, cert. ef. 8-28-00; TSD 1-2007, f. 3-26-07, cert. ef. 4-1-07; TSD 2-2010(Temp), f. & cert. ef. 2-25-10 thru 8-20-10; TSD 3-2010, f. & cert. ef. 7-30-10; TSD 1-2014, f. 1-22-14, cert. ef. 3-1-14

737-015-0035

Adaptive Strategies for Underserved Areas

- (1) A provider that delivers a course in underserved areas may qualify for regulatory incentives.
 - (2) A provider that teaches an approved program in a rural or frontier community may qualify for an adaptive strategy to help offset costs associated with delivering a program in underserved areas.
 - (3) Rural and frontier communities shall be designated by ODOT-TSD based on mileage and travel time from a community of specific size. Population is based on the most recent census. Mileage and travel time is based on approved mapping software.
 - (4) For an approved provider to qualify for an adaptive strategy, classroom sessions must be held within the designated rural or frontier community.
 - (5) Only communities designated as rural or frontier shall qualify for adaptive strategies.
 - (6) An adaptive strategy may include, but is not limited to, online instruction or video conferencing to substitute for a portion of classroom seat time, increased daily lesson time limits, or course materials provided by ODOT-TSD.
 - (7) Applying an adaptive strategy in an area that has not been designated as rural or frontier, or misuse, fraud, or altering the intended use of an adaptive strategy may lead to sanction.
- Stat. Auth.: ORS 184.616, 184.619, 802.345
Stats. Implemented: ORS 336.790, 336.800, 336.805, 336.810, 802.110, 802.345, 807.065
Hist.: TSD 1-2014, f. 1-22-14, cert. ef. 3-1-14

ADMINISTRATIVE RULES

737-015-0070

Qualifications of an Approved ODOT-TSD Traffic Safety Education Instructor

(1) A valid approved instructor certification card issued by ODOT-TSD is required to teach, conduct classes, give demonstrations or supervise the practice of students in an approved program.

(2) An instructor must obtain a corrected approved instructor certification card if there is a change to any of the information printed on the card.

(3) To be eligible for an approved instructor certification card, or to renew a certification card, an individual must:

(a) Submit to ODOT-TSD a completed application on a form provided by the Division;

(b) Be 21 years of age, or older;

(c) Have completed and passed the required instructor training series;

(d) Have valid Oregon driving privileges or valid driving privileges from a state adjacent to Oregon, if the individual is a legal resident of that state and has had valid driving privileges for at least three years preceding the date an application is submitted to ODOT-TSD. To be valid, driving privileges may not be suspended, revoked, canceled, or otherwise withdrawn for a traffic crime as defined in 737-015-0020(30). For purposes of these OAR 737 division 15 rules, a hardship or probationary permit does not constitute valid driving privileges;

(e) With initial application, provide a DMV five-year certified court print driving record dated within the past 60 days. An instructor who has not held Oregon driving privileges for the five-year period is required to submit a certified driving record from a jurisdiction or foreign government that issued driving privileges during that period. The record must meet the following requirements:

(A) Not more than one driver improvement violation within the preceding 12 months or more than 2 driver improvement violations in the preceding 24 months;

(B) No alcohol or drug related traffic violation, conviction or infraction within the preceding five years; and

(C) No driver's license suspension, cancellation, revocation or denial within the preceding three years.

(f) Have current first aid and CPR Certification;

(g) Submit a release authorizing ODOT-TSD to obtain the applicant's criminal history report. Criminal history records will only be used to determine instructor qualification and may be used as evidence in any contested case hearing or appeal, as described in section 737-015-0130 of this rule. Such records will otherwise be kept confidential and not released to any individual unless ODOT-TSD determines a record, or any portion thereof, must be released pursuant to the Public Records Law, ORS 192.410 to 192.505, or the Attorney General or a court order disclosure in accordance with the Public Records Law.

(h) Not have a conviction for any of the following crimes:

(A) A traffic crime as defined by OAR 737-015-0020(30). This subsection does not apply if the conviction occurred more than five years preceding the date an application for approved instructor certification is submitted;

(B) Kidnapping or custodial interference as defined in ORS 163.225 through 163.257;

(C) Any sexual offense, with or without force, any offense related to child pornography, or compelling or promoting prostitution;

(D) Any crime involving injury or threat of injury to another individual;

(E) Any crime involving theft, forgery, fraud, falsifying or tampering with records, or racketeering; or

(F) Any crime relating to the unlawful possession, use, sale, manufacture, or distribution of controlled substances or alcoholic beverages; and

(i) Not engage in conduct that is substantially related to the individual's fitness to be an instructor or that demonstrates unfitness or inability to perform the responsibilities of an instructor. ODOT-TSD will determine from the facts of the conduct, and the intervening circumstances known to ODOT-TSD, if the individual is fit to perform the responsibilities of an instructor or poses a risk to the safety of others while performing those responsibilities.

(4) An instructor must be re-certified every two years. To be eligible for renewal the instructor must submit to ODOT-TSD a completed renewal application and provide documentation of the following:

(a) A minimum of 15 hours of continuing education within the previous two years. This professional development training may be obtained through an approved provider, state agency, college or university or professional education organization. Professional development hours will be

accepted for the purpose of enhancing instructional knowledge and skills in support of teaching driver education best practices;

(b) A minimum of 30 hours of classroom, behind-the-wheel or simulator instruction in a Division-approved program within the previous two years;

(c) Current first aid and CPR Certification. This is not included in the 15 hours of continuing education; and

(d) Out-of-state instructors are responsible for annually obtaining a certified driving record from the jurisdiction or foreign government that issued driving privileges during that period.

(A) The driving record must be submitted to the employer for review and to maintain with records.

(B) A copy of the record, dated within the past 60 days, must also be submitted as part of the renewal application.

(5) An individual is not eligible for approved instructor certification and may not be permitted to renew or maintain approved instructor certification if:

(a) The individual's driving record does not meet minimum requirements as described under (3) of this rule.

(b) The individual's driving privileges are revoked as a habitual offender under ORS 809.600 or any equivalent action in another jurisdiction. This section shall apply if the instructor's driving privileges were revoked as a habitual offender and have not been restored under ORS 809.660 or its equivalent in another jurisdiction at least five years prior to the date an application for approved instructor certification is submitted.

(c) The individual is enrolled or participating in a DUII diversion program including an equivalent diversion program in another jurisdiction. This section will apply if the individual was enrolled or participated in a diversion program anytime within the five years preceding the date an application for approved instructor certification is submitted.

(d) The individual has had a suspension of driving privileges under a driver improvement program, including an equivalent driver improvement program in another jurisdiction. This section will apply if the suspension occurred within the last three years preceding the date an application for approved instructor certification is submitted.

(e) The individual refuses to take a breath or blood test in accordance with ORS 813.100 or any equivalent violation in another jurisdiction. This section will apply if the individual refused a breath test anytime within five years preceding the date an application for approved instructor certification is submitted.

(f) The individual fails to pass a breath or blood test in accordance with ORS 813.100 or an equivalent violation in another jurisdiction. This section will apply if the individual fails a breath test anytime within five years preceding the date an application for approved instructor certification is submitted to ODOT-TSD.

(g) The individual's approved instructor certification is suspended, revoked, canceled, restricted or withdrawn, or a similar sanction in another jurisdiction, on the date the application for approved instructor certification is submitted to ODOT-TSD.

(h) The individual has a conviction for any of the crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if convicted in another jurisdiction.

(i) The individual has a physical or mental condition or impairment affecting the person's ability to teach, give demonstrations, or supervise the practice of student drivers in a motor vehicle.

(6) An applicant who has been convicted of a crime listed in 737-015-0070(3)(h) may include an explanation or evidence of intervening circumstances since the conviction. ODOT-TSD will determine if the intervening circumstances of the conviction are such that the conviction affects the individual's fitness to be an Instructor.

(7) An individual whose driver license has been suspended, cancelled, revoked or denied as described in section (3)(e) of this rule may include an explanation or evidence of intervening circumstances. ODOT-TSD will consider intervening circumstances when making a determination.

(8) ODOT-TSD may request additional information from an applicant. Additional information may include, but is not limited to, documentation regarding the intervening circumstances of a conviction, suspension, cancellation, revocation, or denial. ODOT-TSD will determine if the intervening circumstances of the conviction are such that the conviction affects the individual's fitness to be an instructor.

(9) Criteria described in this rule may provide grounds for suspension, cancellation, revocation, restriction or denial as described in 737-015-0120 if an instructor fails to remain qualified as prescribed under this rule.

(10) An applicant will be refused approval to provide traffic safety education or a current approval will be suspended or revoked if the appli-

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cant or instructor has his or her driver license or privilege suspended or revoked or canceled for any reason or is involved in the DMV Driver Improvement Program or has exceeded two driver improvement violations in a two-year period or has any alcohol or drug related traffic violation, conviction or infraction.

(11) Approval to provide traffic safety education may be granted upon reapplication when the approved instructor's driver license or privilege in Oregon has been reinstated in full for three years or one year has passed since the last Driver Improvement Program entry on the driving record or five years have passed since an alcohol or drug related traffic violation, conviction or infraction.

(12) Opportunities for reinstatement and appeal are available according to provisions equivalent to those specified in ORS 342.175(4) and 342.180.

Stat. Auth.: ORS 184.616, 184.619 & 802.345
Stats. Implemented: ORS 336.800, 336.805, 336.810, 802.110, 802.345 & 807.065
Hist.: TSS 1-2000(Temp), f. 2-11-00, cert. ef. 3-1-00 thru 8-27-00; Administrative correction 2-17-00; TSS 2-2000, f. 8-10-00, cert. ef. 8-28-00; TSS 1-2001(Temp), f. & cert. ef. 6-14-01 thru 12-10-01; TSS 2-2001, f. & cert. ef. 8-13-01; TSD 1-2007, f. 3-26-07, cert. ef. 4-1-07; TSD 1-2014, f. 1-22-14, cert. ef. 3-1-14

737-015-0074

Instructor Responsibilities

(1) An approved instructor must meet all requirements of his or her employer.

(2) An instructor must:

(a) Meet all instructor qualifications set forth in OAR 737-015-0070 when teaching in an approved program.

(b) Provide a copy of a valid approved instructor certification card to an employer prior to teaching an approved course for that employer.

(c) Provide student training that meets the curriculum requirements set forth in OAR 737-015-0030.

(d) Accurately complete all applicable student driver records required under OAR 737-015-0090.

(e) Adhere to the Code of Ethics and Rules of Conduct set forth in OAR 737-015-0080.

(f) Comply with all statutes, administrative rules and regulations relating to an approved instructor.

(g) Notify ODOT-TSD by mail or facsimile within 24 hours, excluding state holidays or weekends of any:

(A) Notice of civil legal action filed against the instructor related to acting as an instructor; or

(B) A conviction for an offense described in OAR 737-015-0070(3)(h); and

(C) If requested, respond to ODOT-TSD in writing by facsimile or mail within 10 calendar days (excluding weekends and state holidays) to any complaint received by ODOT-TSD.

(3) An instructor may not:

(a) Teach an approved course without valid approved instructor certification;

(b) Transfer his or her approved instructor certification to any other individual;

(c) Allow any student to operate a motor vehicle without a valid driver license or instruction permit;

(d) Allow any student to participate in classroom instruction or behind-the-wheel instruction if the instructor has reason to believe the student driver is under the influence of an intoxicant;

(e) Provide classroom instruction or behind-the-wheel instruction if the instructor is under the influence of an intoxicant; or

(f) Teach if the instructor has a physical or mental condition or impairment that affects the individual's ability to teach, give demonstrations, or supervise the practice of student drivers in a motor vehicle.

Stat. Auth.: ORS 184.616, 184.619, 802.345
Stats. Implemented: ORS 336.790, 336.800, 336.805, 336.810, 802.110, 802.345, 807.065
Hist.: TSD 1-2014, f. 1-22-14, cert. ef. 3-1-14

737-015-0076

Provider Responsibilities

(1) On initial application for approval, a provider must submit the following:

(a) Curriculum, including lesson plans, drive routes, and skill assessment forms;

(b) Certification numbers for all instructors who will be permitted to teach the approved program;

(c) The course's final drive route and assessment form; and

(d) Required recording and reporting forms, as provided by ODOT-TSD.

(2) A provider must complete and return, when warranted, all required recording and reporting forms supplied by the Division before or on the required dates.

(3) A provider may not begin a course until the provider has been granted approved provider status by ODOT-TSD.

(4) Any subsequent changes to the final drive route or score assessment form must be pre-approved by ODOT-TSD.

(5) Each approved provider must appoint an individual responsible for ensuring that all driver education requirements are met and to be the contact person with the Division.

(6) Each approved provider must adopt written policies that include:

(a) Enrollment criteria;

(b) Student fees and refunds;

(c) Course failures and repeats; and

(d) Minimum and maximum course duration.

(7) Each approved provider must submit in writing all reportable motor vehicle accidents that involve a driver education motor vehicle to the Division within three working days of the accident. If a police report has been prepared, it must also be provided.

(8) An approved provider must:

(a) Notify ODOT-TSD by mail or facsimile within 10 days (excluding weekends and state holidays) of any of the following:

(A) The provider no longer meets or maintains the requirements set forth in OAR 737-015-0010 thru 737-015-0130.

(B) An instructor employed by the provider who no longer meets or maintains qualifications, responsibilities or requirements set forth in OAR 737-015-0070, including an explanation of why the instructor no longer meets the qualifications, responsibilities or requirements.

(b) Annually obtain a driving record from each out-of-state instructor. The certified driving record must be issued by the jurisdiction or foreign government that issued driving privileges during that period. The provider shall carefully review the record for compliance with Oregon Administrative Rule and maintain a copy with instructor records;

(c) Establish procedures that reasonably ensure no instructor or student is under the influence of any intoxicant during classroom or behind-the-wheel instruction;

(d) Comply with all statutes, administrative rules, and regulations related to an approved driver education program provider;

(e) Adhere to the Code of Ethics and Rules of Conduct set forth in OAR 737-015-0080;

(f) Authorize only an individual who has provided a copy of a valid approved instructor certification card to provide classroom or behind-the-wheel instruction to a student; and

(g) If requested, respond to ODOT-TSD by mail or facsimile within 10 calendar days (excluding weekends and state holidays) to any complaint received by ODOT-TSD.

(9) An approved provider may not permit any individual to:

(a) Conduct classroom or behind-the-wheel instruction with a student not in possession of a valid driver license or instruction permit.

(b) Provide behind-the-wheel instruction to any student on a driving route specifically used by DMV to test applicants for Oregon driving privileges;

(c) Allow an instructor who does not have current, valid driving privileges to conduct classroom or behind-the-wheel instruction.

(d) Allow an instructor who has not provided a copy of a valid approved instructor certification card to teach an approved course.

Stat. Auth.: ORS 184.616, 184.619, 802.345
Stats. Implemented: ORS 336.790, 336.800, 336.805, 336.810, 802.110, 802.345, 807.065
Hist.: TSD 1-2014, f. 1-22-14, cert. ef. 3-1-14

737-015-0085

Code of Ethics and Rules of Conduct

(1) Each provider and instructor accepts the responsibilities and requirements of the driver education profession and must adhere to the highest ethical standards of professional conduct.

(2) To fulfill their obligations to the public and to ODOT-TSD, the provider and instructor must:

(a) Recognize that the instruction and training of student drivers is a position of trust;

(b) Exhibit competence and wisdom in conducting professional responsibilities;

(c) Uphold and obey the law, including but not limited to the provisions of the Motor Vehicle Code; and

(d) Maintain and uphold the highest educational standards possible for instructing and training student drivers.

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(3) A provider or instructor may not engage in or knowingly allow any owner, administrator, manager, or employee of an approved program to engage in any of the following:

(a) Assist or knowingly allow a student driver to fraudulently obtain driving privileges for which the student driver is ineligible or has not qualified;

(b) Discriminate against a student because of race, religion, national origin, size, disability, age, sex, or sexual orientation;

(c) Have sexual contact with, or request sexual contact from, a student;

(d) Make sexual advances either verbally or physically or request sexual contact from any student, whether directly, indirectly or by innuendo;

(e) Use physical force or a threat of physical force against a student driver, unless such force or threat is necessary to avoid immediate danger to the safety of the student driver, the provider, or instructor, an employee of the school, a passenger in a vehicle being used for behind-the-wheel instruction, or the general public;

(f) Possess any unlawful controlled substance or intoxicating beverage or be under the influence of any intoxicating beverages, drugs or controlled substances while training or instruction is being provided to students; or

(g) Falsify any document or make a misrepresentation on an application or record.

Stat. Auth.: ORS 184.616, 184.619, 802.345
Stats. Implemented: ORS 336.790, 336.800, 336.805, 336.810, 802.110, 802.345, 807.065
Hist.: TSD 1-2014, f. 1-22-14, cert. ef. 3-1-14

737-015-0090

Recordkeeping

(1) The approved provider must maintain the following records:

(a) A record for each student who begins, regardless of whether or not the student completes, an approved course including:

(A) The dates of the course, including beginning and end date;

(B) The final grade achieved, if course is completed;

(C) Verification that the student had a valid instruction driver permit on the first day of class;

(D) The student's mailing address;

(E) The student's progress, both in-car and in the classroom;

(F) A record of five hours supervised home practice;

(G) Evaluation results, including written skill assessments;

(H) Attendance and time involvement for classroom and in-car lessons. Documentation must include date and amount of time a student participated in each lesson.

(I) Records must clearly show a minimum of 30 hours classroom instruction, 6 hours behind-the-wheel instruction, 6 hours practice driving observation and 5 hours supervised practice. Makeup sessions must be clearly documented with the date and amount of time.

(b) A record for all instructors, including current and past instructors, who have conducted the classroom or behind-the-wheel portion of a traffic safety course. Instructor records must include:

(A) A copy of a valid approved instructor certification card issued by ODOT-TSD during the period of time the instructor taught for the employer;

(B) Hire date; and

(C) Date of separation, if applicable.

(c) The curriculum guide currently in use;

(d) A copy of all accident reports for reportable accidents relating to a driver education motor vehicle owned or operated by the approved provider;

(e) Written policies and procedures required by OAR 737-015-0076 and ORS 336.805;

(f) Record of the tuition and other fees charged and received from a student; and

(g) Income, expenditure and reimbursement records, including backup documentation, that support the request for reimbursement as provided by ORS 336.805 and as required by OAR 737-015-0100 and 737-015-0105.

(2) Records must be retained for three years for instructors and five years for all other program records.

Stat. Auth.: ORS 184.616, 184.619 & 802.345
Stats. Implemented: ORS 336.800, 336.805, 336.810, 802.110, 802.345 & 807.065
Hist.: TSS 1-2000(Temp), f. 2-11-00, cert. ef. 3-1-00 thru 8-27-00; TSS 2-2000, f. 8-10-00, cert. ef. 8-28-00; TSD 1-2007, f. 3-26-07, cert. ef. 4-1-07; TSD 2-2010(Temp), f. & cert. ef. 2-25-10 thru 8-20-10; TSD 3-2010, f. & cert. ef. 7-30-10; TSD 1-2014, f. 1-22-14, cert. ef. 3-1-14

737-015-0100

Subsidy for Approved Courses

(1) ODOT-TSD will reimburse approved providers for traffic safety education courses that meet the requirements of OAR 737-015-0010 through 737-015-0130.

(2) Approved public providers amount of reimbursement shall not be greater than the net cost of conducting the course, nor shall it exceed \$210 per pupil completing the course, except as defined in 737-015-0035 or 737-015-0105. In no case shall the public provider receive more than its eligible expenses less tuition received.

(3) Approved private providers amount of reimbursement shall not be greater than the net actual cost of conducting the course, plus a profit of not more than 12% of the net actual cost of conducting the course, unless under contract to a public provider; but in no event shall it exceed \$210 per pupil completing the course, except as defined in 737-015-0035 or 737-015-0105.

(4) If funds available to ODOT-TSD for the Student Driver Training Fund are not adequate to pay all approved claims in full, approved providers will receive a pro rata reimbursement based upon the ratio of the total amount of funds available to the total amount of funds required for maximum allowable reimbursement. Calculation for pro rata reimbursement will be as follows: the total amount of funds available in the Student Driver Training Fund will be divided by the statewide total number of students eligible for reimbursement. This calculation will generate a prorated per student amount. Each approved provider's reimbursement will be determined by multiplying the prorated amount times the number of eligible students claimed by the approved provider.

(5) Accurate and complete records of the revenue and cost of conducting an approved course must be kept by the approved provider in accordance with generally accepted accounting principles, and reports must be submitted to ODOT-TSD by each approved provider seeking reimbursement on Division-approved reimbursement forms. All student fees must be received by the approved provider seeking reimbursement.

(6) Distribution of funds available in the Student Driver Training Fund shall be made no more than once a month by the ODOT-TSD Administrator based on the reimbursement form submitted by the approved provider.

(7) ODOT-TSD will reimburse costs of approved courses that comply with OAR 737-015-0010 to 737-015-0130.

(8) Approved providers shall receive reimbursement only for eligible students who have completed the approved course prior to issuance of their Oregon provisional driver license, have not reached the age of 18, and have not been previously claimed for reimbursement.

Stat. Auth.: ORS 184.616, 184.619 & 802.345
Stats. Implemented: ORS 336.800, 336.805, 336.810, 802.110, 802.345 & 807.065
Hist.: TSS 1-2000(Temp), f. 2-11-00, cert. ef. 3-1-00 thru 8-27-00; TSS 2-2000, f. 8-10-00, cert. ef. 8-28-00; TSS 2-2001, f. & cert. ef. 8-13-01; TSD 1-2007, f. 3-26-07, cert. ef. 4-1-07; TSD 2-2010(Temp), f. & cert. ef. 2-25-10 thru 8-20-10; TSD 3-2010, f. & cert. ef. 7-30-10; TSD 1-2014, f. 1-22-14, cert. ef. 3-1-14

737-015-0105

Income-Based Subsidy for Approved Courses

(1) As used in this rule, "Low income student" means a student whose household meets income eligibility guidelines for a benefit program administered by an Oregon state or federal agency that is selected by ODOT-TSD.

(2) ODOT-TSD may reimburse approved providers for traffic safety education courses that meet the requirements of OAR 737-015-0010 through 737-015-0130 in an amount above and apart from reimbursement authorized in OAR 737-015-0100 as defined in this rule.

(3) Approved providers may offer discounted tuition to low income students. If an approved provider has reduced the regular tuition cost based on income eligibility, TSD may reimburse the approved provider up to \$75 per student.

(4) An approved provider who has granted discounted tuition to a qualified low income student must complete the appropriate portion of the provided reimbursement form to obtain subsidy under this rule.

(5) The total for reimbursements under OAR 737-015-0100 and 737-015-0105 combined may not exceed the provider's eligible expenses less tuition received, except as described for private provider profit margin as described in 737-015-0100(3).

(6) The provisions of this rule are suspended if the Student Driver Training Fund reimbursement funds become prorated, as in 737-015-0100(4)

(7) Unless explicitly stated herein, all conditions stated under 737-015-0100 apply to this rule.

Stat. Auth.: ORS 184.616, 184.619, 802.345
Stats. Implemented: ORS 336.790, 336.800, 336.805, 336.810, 802.110, 802.345, 807.065
Hist.: TSD 1-2014, f. 1-22-14, cert. ef. 3-1-14

ADMINISTRATIVE RULES

737-015-0110

Inspection and Investigation

(1) As used in this rule, "Inspection" means the Division's inspections of approved providers performed on-site to ensure that providers are in compliance with OAR 737-015-0010 through 737-015-0130.

(2) ODOT-TSD may periodically inspect all approved providers to determine compliance with laws and rules pertaining to the operation of the approved provider's program and instructor certification requirements. Approved providers must make all elements of the program available for inspection by a TSD inspector. Inspections will be scheduled with prior notice.

(a) Inspections may include examination of:

(A) Student driver records for which division approved driver training was conducted by the provider regardless of whether the student driver completed or failed to complete the school's driver training course;

(B) Qualifications of current or former instructors;

(C) Curriculum, written policies and all records or items ODOT-TSD deems necessary to ensure that the program is complying with all applicable provisions of law, such as classroom and behind-the-wheel instructor observations, vehicle equipment, vehicles and instructional materials; and

(D) Financial and fiscal information used to determine the reimbursable costs and profit as outlined in 737-015-0100 and 737-015-0105.

(b) A provider must assure that all requested equipment, materials, records, vehicles and other program elements are available to the inspector.

(c) A provider must gather all records at the location of the inspection. Exceptions must be requested in advance and may be granted on a case-by-case basis.

(d) Records that are unavailable at the time of inspection must be delivered to ODOT-TSD within 10 days.

(3) ODOT-TSD may copy or require the facility to submit copies of any program materials, records, or information.

(4) A sanction may be imposed on a provider that does not fully cooperate with an inspection.

(5) An ODOT-TSD representative will prepare a written report of each inspection. A copy of the ODOT-TSD representative's report, including required corrective action, will be sent to the provider.

(6) Approved providers must correct any deficiency identified by an ODOT-TSD inspector during an on-site inspection within 30 calendar days of the date of the inspection. Until a corrective action report is received by ODOT-TSD, approved providers may not be eligible for reimbursement. When non-compliance of rules continues beyond 30 days, sanctions may be imposed pursuant to OAR 737-015-0120.

(7) ODOT-TSD may conduct re-inspection for the purpose of reviewing corrections, with or without prior notice.

(8) ODOT-TSD may investigate any complaint it receives about an approved provider or instructor. The authorized provider or provider's employees must cooperate with ODOT-TSD during the investigation. If requested by ODOT-TSD, the approved provider must provide a written response to the complaint within 10 working days by either mail or facsimile from the date ODOT-TSD notifies the provider of the complaint. ODOT-TSD will prepare a written report of each investigation.

(a) A copy of the ODOT-TSD report, including any corrective action or sanction, will be sent to the provider.

(b) The provider must correct any deficiencies identified during the investigation and provide ODOT-TSD with a detailed corrective action report addressing each deficiency within timelines set by ODOT-TSD.

(c) When a complete corrective action report has not been received within the required timeline or non-compliance of rules continues a sanction may be imposed pursuant to OAR 737-015-0120.

Stat. Auth.: ORS 184.616, 184.619, 802.345

Stats. Implemented: ORS 336.800, 336.805, 336.810, 802.110, 802.345, 807.065

Hist.: TSD 1-2007, f. 3-26-07, cert. ef. 4-1-07; TSD 2-2010(Temp), f. & cert. ef. 2-25-10 thru 8-20-10; TSD 3-2010, f. & cert. ef. 7-30-10; TSD 1-2014, f. 1-22-14, cert. ef. 3-1-14

737-015-0120

Provider and Instructor Sanctions

(1) ODOT-TSD may impose sanctions when it determines a provider has violated any provision of ORS 336.790 to 336.815, or administrative rules promulgated by ODOT-TSD.

(2) In determining an appropriate sanction, ODOT-TSD may consider the following criteria:

(a) The severity of the violation;

(b) The impact of the violation on pupils or public safety;

(c) The number of similar or related violations by the provider;

(d) Whether the violation was willful or intentional; or

(e) The history of prior sanctions imposed by ODOT-TSD.

(3) ODOT-TSD may impose progressive sanctions, when it determines violations have occurred or are occurring,

(a) Progressive sanctions begin with a written warning. If deficiencies remain uncorrected, or a complete corrective action report has not been submitted, sanction severity will increase.

(b) Sanctions may include one or more of the following:

(A) Written warning, including a correction notice or report;

(B) Reduction or denial of reimbursement;

(C) Suspension, cancellation, restriction or denial up to one year; or

(D) Revocation of approved status and the right to apply or renew the approved status for up to five years.

(4) ODOT-TSD reserves the right to impose additional sanctions to protect a student, the public or public funds. Sanctions may include, but are not limited to:

(a) Reimbursement of fees paid by students

(b) Delay of a provider's reimbursement

(5) Reasons to sanction a driver education program provider or instructor include, but are not limited to, the following:

(a) Misrepresenting information to obtain subsidy;

(A) Misrepresenting expenses or revenue;

(B) Claiming unauthorized expenses;

(C) Submitting a false reimbursement request; or

(D) Misrepresenting program location or delivery to receive additional benefit.

(b) Misrepresenting information to obtain approved provider or approved instructor status:

(A) Misrepresenting the program or its delivery;

(B) Misrepresenting qualifications;

(C) Failing to maintain eligibility requirements; or

(D) Falsely claiming to correct program deficiencies.

(c) Knowingly making a false statement or representation for the purpose of obtaining benefit for self or others;

(d) Failing to abide by terms or conditions of an approved program;

(e) Failing to correct deficiencies, or to provide a complete corrective action report addressing each deficiency, within stated timelines;

(f) Failing to abide by applicable OAR or ORS;

(g) Failing to submit required forms or information by the due date;

(h) Failing to return an approved instructor certification card when directed to do so; or

(i) Issuing a Student Completion Certificate inappropriately.

(6) Emergency action may be imposed when there is potential for serious harm to the driver education program or any person.

(7) The provider or instructor may provide ODOT-TSD with evidence of any mitigating circumstances related to 737-015-0110, which may include the opportunity or degree of difficulty to comply.

(8) ODOT-TSD may revoke its approval of a provider or instructor upon providing five days advance notice when ODOT-TSD determines, through an audit or investigation, that the safety of any person is endangered because of unsafe practices or unsafe equipment.

(9) When ODOT-TSD takes action to suspend, revoke or cancel an approved provider ODOT-TSD will send notice to the approved provider. The notice will be in writing and state that the suspension, revocation, or cancellation will begin either in five calendar days (an immediate suspension or cancellation) or in 30 calendar days from the date on the notice. The notice will be served by first class mail sent to the current address on record with ODOT-TSD.

(10) If ODOT-TSD revokes a provider, no individual who owned, operated, or knowingly participated in the violations of the provider at the time of the act may, within five years of the revocation, own, operate or participate in an ODOT-TSD approved program.

(11) A suspended or revoked provider may not schedule students, accept money or conduct classroom or behind-the-wheel lessons for an ODOT-approved program for the full term of suspension or revocation. In addition, the provider must return any ODOT-TSD issued Student Completion certificates to ODOT-TSD.

(12) A suspended or revoked provider must refund enrolled students who are monetarily affected by the suspension or revocation.

(13) When ODOT-TSD takes action to suspend, revoke or cancel an instructor approval ODOT-TSD will send notice to the instructor. The notice will be in writing and state that the suspension, revocation, or cancellation will begin either in five calendar days (for an immediate suspension or cancellation) or in 30 calendar days from the date on the notice. The notice will be served by first class mail to both the instructor and the provider on record with ODOT-TSD.

Stat. Auth.: ORS 184.616, 184.619, 802.345

Stats. Implemented: ORS 336.790, 336.800, 336.805, 336.810, 802.110, 802.345, 807.065

Hist.: TSD 1-2014, f. 1-22-14, cert. ef. 3-1-14

ADMINISTRATIVE RULES

737-015-0130

Appeal Process and Reinstatement

(1) A provider or instructor has the right to appeal a sanction or other actions.

(2) An approved provider or instructor whose approval has been suspended, revoked, or cancelled is entitled to a contested case hearing as provided in the Oregon Administrative Procedures Act under ORS 183.413 to 183.500.

(3) Upon notification of suspension, revocation, cancellation, reduction or denial of reimbursement or any other sanction, a provider or instructor may have the right to a contested case hearing as provided in the Oregon Administrative Procedures Act under ORS 183.413 to 183.500.

(4) Except as provided for in section (6) of this rule, a request for a hearing must be submitted in writing to, and received by, ODOT-TSD within 20 days of the date of the notice. If a hearing request is received in a timely manner the suspension, revocation or cancellation may not go into effect pending the outcome of the hearing, unless the approval is immediately suspended or cancelled.

(5) If the approval is immediately suspended or cancelled as set forth in OAR 737-015-0120(9) or (13), the request for hearing must be submitted in writing to, and received by, ODOT-TSD within 90 days of the date of notice of suspension. The suspension or cancellation must remain in effect pending the outcome of the hearing.

(6) Except as provided in OAR 137-003-0003, when no request for a hearing is received by the deadline, the approved provider or instructor has waived the right to a hearing, ODOT-TSD's file must constitute the record of the case, and a default order must be issued by ODOT-TSD.

(7) If a provider or instructor approval has been revoked, the provider or instructor may reapply after a period of revocation of five years and must meet all the requirements for approval.

(8) If the provider or instructor approval is cancelled, the provider or instructor may reapply when they have met all of the requirements.

(9) At the end of a suspension period, ODOT-TSD will reinstate the provider or instructor approval unless the provider or instructor does not meet the qualification requirements for the approval. If the approval has expired, the provider or instructor must reapply and must meet all the requirements for new certification.

Stat. Auth.: ORS 184.616, 184.619, 802.345
Stats. Implemented: ORS 336.790, 336.800, 336.805, 336.810, 802.110, 802.345, 807.065
Hist.: TSD 1-2014, f. 1-22-14, cert. ef. 3-1-14

Landscape Contractors Board Chapter 808

Rule Caption: Clarifies definition of compensation

Adm. Order No.: LCB 1-2014

Filed with Sec. of State: 1-28-2014

Certified to be Effective: 2-1-14

Notice Publication Date: 11-1-2013

Rules Amended: 808-002-0240

Subject: Clarifies definition of compensation

Rules Coordinator: Kim Gladwill-Rowley — (503) 967-6291, ext. 223

808-002-0240

Compensation

"Compensation" means payment made or value received in the form of money, goods, or services in return for landscape contracting. Compensation includes, but is not limited to, the following: (1) Profit from the sale or lease of property where landscaping was performed as part of developing the property for sale or lease,

(2) Salary or wages where the employee's duties included landscaping work.

Stat. Auth.: ORS 183.325 - 183.410, 670.310 & 671.670
Stats. Implemented: ORS 671.510 - 671.720
Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; LC 2-1984, f. & ef. 10-2-84; LC 1-1985, f. & ef. 7-1-85; LC 1-1986, f. & ef. 1-3-86; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0010; LCB 1-1991, f. & cert. ef. 7-22-91; LCB 3-1991(Temp), f. & cert. ef. 12-3-91; LCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; LCB 2-1992, f. 7-14-92, cert. ef. 7-15-92; LCB 3-1992(Temp), f. & cert. ef. 7-16-92; LCB 1-1993, f. & cert. ef. 1-19-93; LCB 4-1993, f. & cert. ef. 11-1-93; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 1-1998, f. & cert. ef. 2-6-98; LCB 3-1998(Temp), f. & cert. ef. 11-16-98 thru 5-15-99; LCB 1-1999, f. & cert. ef. 2-11-99; LCB 3-1999, f. & cert. ef. 11-17-99, Renumbered from 808-002-0010; LCB 1-2014, f. 1-28-14, cert. ef. 2-1-14

Oregon Criminal Justice Commission Chapter 213

Rule Caption: Amends Oregon Sentencing Guidelines to implement enactments of the 2013 Legislature

Adm. Order No.: CJC 1-2014

Filed with Sec. of State: 1-31-2014

Certified to be Effective: 2-3-14

Notice Publication Date: 1-1-2014

Rules Adopted: 213-018-0012, 213-018-0013, 213-018-0036

Rules Amended: 213-003-0001, 213-008-0002, 213-017-0004, 213-017-0005, 213-017-0006, 213-017-0008, 213-017-0009, 213-019-0008, 213-019-0010, 213-019-0012, 213-019-0015

Rules Repealed: 213-017-0005(T), 213-017-0006(T), 213-017-0008(T), 213-017-0009(T), 213-018-0012(T), 213-018-0013(T), 213-018-0036(T), 213-019-0008(T)

Subject:

These rules implement 2013 legislative enactments.

Under ORS 137.667(2), the Oregon Criminal Justice Commission (the Commission) may adopt changes to the Oregon Sentencing Guidelines. SB 124 (2013) was effective June 6, 2013. That bill states that, for sentences imposed on or after that date, the court may consider "evidence regarding the defendant's status as a service member as defined in ORS 135.881" as a mitigating factor in sentencing. SB 124 (2013). These rules incorporate that change into the Sentencing Guidelines.

Under ORS 137.667(1), the Commission is required to review legislation creating new crimes and modifying existing crimes, and adopt any necessary changes to the sentencing guidelines. SB 6 (2013) became effective August 1, 2013. That bill contains a directive to the Commission to classify felony Animal Abuse in the First Degree as crime category 6 of the sentencing guidelines grid. Section 2, SB 6 (2013). The bill also requires the Commission to classify Aggravated Animal Abuse in the First Degree as crime category 6 of the sentencing guidelines grid. Section 3, SB 6 (2013). Moreover, the bill requires the Commission to classify felony Animal Neglect in the Second Degree as a crime category 6 if 11 to 40 animals were the subject of the neglect, and as a crime category 7 if more than 40 animals were the subject of the neglect or if the offense is a felony because of circumstances described in ORS 167.325(3)(a) or (3)(c). Section 4, SB 6 (2013). Finally, the bill requires the Commission to classify felony Animal Neglect in the First Degree as a crime category 6 if 10 to 40 animals were the subject of the neglect, and at a crime category 7 if more than 40 animals were the subject of the neglect or if the offense is a felony because of circumstances described in ORS 167.330(3)(a) or (3)(c). Section 5, SB 6 (2013). HB 3194 became effective July 25, 2013, and applies to sentences imposed on or after August 1, 2013. That bill contains a directive to the Commission to classify a felony offense of Driving While Suspended or Revoked under ORS 811.182 as a crime category 4 of the sentencing guidelines. Section 3, HB 3194 (2013). The bill requires the Commission to maintain the classification of felony Driving While Suspended or Revoked under ORS 811.182 as a crime category 6 of the sentencing guidelines if the suspension or revocation resulted from either a) any degree of Murder, Manslaughter or Criminally Negligent Homicide or an Assault that causes serious physical injury, resulting from the operation of a motor vehicle, or b) Aggravated Vehicular Homicide or Aggravated Driving while Suspended or Revoked. The bill also removes certain Delivery to Minors offenses from Crime Category 8 of the sentencing guidelines and makes other changes pertaining to sentencing and supervision of offenders, and the rule changes reflect that legislative direction. The rule changes also categorize new and modified crimes as person crimes, and decide crime seriousness scale categorizations for new and modified crimes for which the Commission has not received an express legislative classification.

Rules Coordinator: Craig Prins — (503) 378-4830

ADMINISTRATIVE RULES

213-003-0001

Definitions

As used in these rules:

(1) "Bench probation" means a probationary sentence, which directs the probationer to remain under the supervision and control of the sentencing judge.

(2) "Board" means the State Board of Parole and Post-Prison Supervision.

(3) "Correctional supervision status" means any form of incarcerative or non-incarcerative supervision which is served by an offender as part of a sentence for a criminal conviction.

(4) "Department" means the Department of Corrections.

(5) "Departure" means a sentence, except an optional probationary sentence, which is inconsistent with the presumptive sentence for an offender.

(6) "Dispositional departure" means a sentence which imposes probation when the presumptive sentence is prison or prison when the presumptive sentence is probation. An optional probationary sentence is not a dispositional departure.

(7) "Dispositional line" means the solid black line on the Sentencing Guidelines Grid (Appendix 1) which separates the grid blocks in which the presumptive sentence is a term of imprisonment and post-prison supervision from the grid blocks in which the presumptive sentence is probation which may include local custodial sanctions. [Appendix not included. See ED. NOTE.]

(8) "Durational departure" means a sentence which is inconsistent with the presumptive sentence as to term of incarceration, term of supervised probation or number of sanction units which may be imposed as a condition of probation.

(9) "Grid" means the Sentencing Guidelines Grid set forth as Appendix 1. [Appendix not included. See ED. NOTE.]

(10) "Grid block" means a box on the grid formed by the intersection of the crime seriousness ranking of a current crime of conviction and an offender's criminal history classification.

(11) "Juvenile adjudication" means a formal adjudication or finding by a court that the juvenile has committed an act, which, if committed by an adult, would be punishable as a felony.

(12) "Non-person felonies" are any felonies not defined as a person felony in section (14) of this rule.

(13) "Optional probationary sentence" means any probationary sentence imposed pursuant to OAR 213-005-0006.

(14) "Person felonies" are in numerical statutory order: ORS 162.165 Escape I; ORS 162.185 Supplying Contraband as defined in Crime Categories 6 and 7 (OAR 213-018-0070(1) and (2)); ORS 163.095 Aggravated Murder; ORS 163.115 Murder; ORS 163.115 Felony Murder; ORS 163.118 Manslaughter I; ORS 163.125 Manslaughter II; ORS 163.145 Negligent Homicide; ORS 163.160(3) Felony Domestic Assault; ORS 163.165 Assault III; ORS 163.175 Assault II; ORS 163.185 Assault I; ORS 163.187(4) Felony Strangulation; ORS 163.205 Criminal Mistreatment I; ORS 163.207 Female Genital Mutilation; ORS 163.208 Assaulting a Public Safety Officer; ORS 163.213 Use of Stun Gun, Tear Gas, Mace I; ORS 163.225 Kidnapping II; ORS 163.235 Kidnapping I; ORS 163.266 Trafficking in Persons; ORS 163.275 Coercion as defined in Crime Category 7 (OAR 213-018-0035(1)); ORS 163.355 Rape III; ORS 163.365 Rape II; ORS 163.375 Rape I; ORS 163.385 Sodomy III; ORS 163.395 Sodomy II; ORS 163.405 Sodomy I; ORS 163.408 Sexual Penetration II; ORS 163.411 Sexual Penetration I; ORS 163.425 Sexual Abuse II; ORS 163.427 Sexual Abuse I; ORS 163.465 Felony Public Indecency; ORS 163.479 Unlawful Contact with a Child; ORS 163.452 Custodial Sexual Misconduct in the First Degree; ORS 163.525 Incest; ORS 163.535 Abandon Child; ORS 163.537 Buying/Selling Custody of a Minor; ORS 163.547 Child Neglect I; ORS 163.670 Using Child In Display of Sexual Conduct; ORS 163.684 Encouraging Child Sex Abuse I; ORS 163.686 Encouraging Child Sex Abuse II; ORS 163.688, Possession of Material Depicting Sexually Explicit Conduct of Child I; ORS 163.689, Possession of Material Depicting Sexually Explicit Conduct of Child II; ORS 163.732 Stalking; ORS 163.750 Violation of Court's Stalking Order; ORS 164.075 Theft by Extortion as defined in Crime Category 7 (OAR 213-018-0075(1)); ORS 164.225 Burglary I as defined in Crime Categories 8 and 9 (OAR 213-018-0025(1) and (2)); ORS 164.325 Arson I; ORS 164.395 Robbery III; ORS 164.405 Robbery II; ORS 164.415 Robbery I; ORS 164.877(3) Tree Spiking (Injury); ORS 166.070 Aggravated Harassment; ORS 166.087 Abuse of Corpse I; ORS 166.165 Intimidation I; ORS 166.220 Unlawful Use of a Weapon; ORS 166.275 Inmate In Possession of Weapon; ORS 166.385(3), Felony Possession of a Hoax Destructive

Device; ORS 166.643 Unlawful Possession of Soft Body Armor as defined in Crime Category 6 (OAR 213-018-0090(1)); ORS 167.012 Promoting Prostitution; ORS 167.017 Compelling Prostitution; ORS 167.320(4) Felony Animal Abuse I; ORS 167.322 Aggravated Animal Abuse I; ORS 468.951 Environmental Endangerment; ORS 475.908 Causing Another to Ingest a Controlled Substance as defined in Crime Categories 8 and 9 (OAR 213-019-0007 and 0008); ORS 475.910 Unlawful Administration of a Controlled Substance as defined in Crime Categories 5, 8, and 9 (OAR 213-019-0007, 0008, and 0011); ORS 609.990(3)(b) Maintaining Dangerous Dog; ORS 811.705 Hit and Run Vehicle (Injury); ORS 813.010(5), Felony Driving Under the Influence of Intoxicants (as provided in OAR 213-004-0009); 2011 Or Laws ch 598, Felony Driving Under the Influence of Intoxicants (as provided in OAR 213-004-0009); ORS 830.475(2) Hit and Run Boat; ORS 97.981 Purchase or Sale of a Body Part for Transplantation or Therapy, ORS 97.982 Alteration of a Document of Gift; Subjecting Another Person to Involuntary Servitude I ORS 163.264, and II ORS 163.422; ORS 166.149 Aggravated Vehicular Homicide; ORS 167.057 Luring a Minor; Online Sexual Corruption of a Child I ORS 163.433, and II 163.422; 163.196 Aggravated Driving While Suspended or Revoked; ORS 475.840(6)(a) Manufacturing or Delivering a Schedule IV Controlled Substance Thereby Causing Death to a Person; SB 673 (2013) Purchasing Sex With a Minor; and attempts or solicitations to commit any Class A or Class B person felonies as defined herein.

(15) "Person Class A misdemeanors" are in numerical statutory order: ORS 162.315 Resisting Arrest; ORS 163.160 Assault IV; ORS 163.187 Strangulation; ORS 163.190 Menacing; ORS 163.195 Recklessly Endanger Another; ORS 163.200 Criminal Mistreatment II; ORS 163.212 Use of Stun Gun, Tear Gas, Mace II; ORS 163.415 Sexual Abuse III; ORS 163.454 Custodial Sexual Misconduct in the Second Degree; ORS 163.465, Public Indecency; ORS 163.467 Private Indecency; ORS 163.476 Unlawfully Being in a Location Where Children Regularly Congregate; ORS 163.545 Child Neglect II; ORS 163.575 Endanger Welfare of Minor; ORS 163.687 Encouraging Child Sex Abuse III; ORS 163.700 Invasion of Personal Privacy; ORS 163.709 Unlawfully Directing a Laser Pointer; ORS 163.732(1) Stalking; ORS 163.750(1) Violating Court's Stalking Order; ORS 165.572 Interfering with Making a Police Report; ORS 166.065(4) Harassment/Offensive Sexual Contact; ORS 166.155 Intimidation II; ORS 166.385(2) Misdemeanor Possession of a Hoax Destructive Device; ORS 475.986(1)(d) Unlawful Administration of a Controlled Substance; ORS 609.990(3)(a) Maintaining Dangerous Dog; ORS 813.010, Driving Under the Influence of Intoxicants (as provided in OAR 213-004-0009); ORS 167.054 Furnishing Sexually Explicit Material to a Child; and attempts or solicitations to commit any Class C person felonies as defined in section (14) of this rule.

(16) "Presumptive sentence" means the sentence provided in a grid block for an offender classified in that grid block by the combined effect of the crime seriousness ranking of the current crime of conviction and the offender's criminal history or a sentence designated as a presumptive sentence by statute.

(17) "Primary offense" means the offense of conviction with the highest crime seriousness ranking. If more than one offense of conviction is classified in the same crime category, the sentencing judge shall designate which offense is the primary offense.

(18) "Supervisory agent" means the local community corrections agency responsible for supervising the offender.

(19) "Supervisory authority" means the state and local corrections agency or official designated in each county by that county's Board of County Commissioners or county court to operate corrections supervision services, custodial facilities or both. (20) "Straight jail" means a sentence of jail imposed instead of a presumptive probationary sentence that is not followed by a term of post-prison supervision defined in OAR 213-005-0002.

[ED. NOTE: Appendices referenced are available from the agency.]

Stat. Auth.: ORS 137.667, 475.986, 475.998 & 2003 OL Ch. 453

Stats. Implemented: ORS 137.667 - 137.669, 2001 OL Ch. 387, 510, 635, 828, 857, 884 & 2003 OL Ch. 453, 577 & 2007 OL Ch. 681, 811, 867, 869, 876 & 2009 OL Ch. 774, 783, 876, 898; 2011 OL Ch. 3 §1; 2011 OL Ch. 598; 2011 OL Ch 666; SB 6 (2013); SB 482 (2013); SB 673 (2013); HB 2334 (2013); HB 3194 (2013)

Hist.: SSGB 2-1988, f. 12-30-88, cert. ef. 9-1-89; SSGB 1-1989, f. 5-25-89, cert. ef. 9-1-89; SSGB 2-1993, f. 10-28-93, cert. ef. 11-1-93; CJC 2-1995, f. & cert. ef. 11-2-95; CJC 1-1996, f. 3-6-96, cert. ef. 3-8-96, Renumbered from 253-003-0001; CJC 3-1997, f. 10-29-97, cert. ef. 11-1-97; CJC 1-1999, f. & cert. ef. 11-1-99; CJC 2-2001, f. 12-26-01, cert. ef. 1-1-02; CJC 2-2003, f. 12-31-03, cert. ef. 1-1-04; CJC 1-2006, f. & cert. ef. 4-12-06; CJC 3-2007, f. 12-31-07 & cert. ef. 1-1-08; CJC 1-2009(Temp), f. 3-24-09, cert. ef. 1-1-10 thru 6-29-10; CJC 2-2009(Temp), f. 3-24-09, cert. ef. 1-1-10 thru 6-29-10; CJC 7-2009, f. 12-31-09, cert. ef. 1-1-10; CJC 1-2011(Temp), f. & cert. ef. 11-1-11 thru 4-27-12; CJC 2-2011(Temp), f. 12-30-11, cert. ef. 1-1-12 thru 4-27-12; DMAP 27-2012(Temp), f. & cert. ef. 5-14-12 thru 10-15-12; CJC 2-2012, f. & cert. ef. 4-27-12; CJC 1-2014, f. 1-31-14, cert. ef. 2-3-14

ADMINISTRATIVE RULES

213-008-0002

Departure Factors

(1) Subject to the provisions of sections (2) and (3) of this rule, the following nonexclusive list of mitigating and aggravating factors may be considered in determining whether substantial and compelling reasons for a departure exist:

(a) Mitigating factors:

(A) The victim was an aggressor or participant in the criminal conduct associated with the crime of conviction.

(B) The defendant acted under duress or compulsion (not sufficient as a complete defense).

(C) The defendant's mental capacity was diminished (excluding diminished capacity due to voluntary drug or alcohol abuse).

(D) The offense was principally accomplished by another and the defendant exhibited extreme caution or concern for the victim.

(E) The offender played a minor or passive role in the crime.

(F) The offender cooperated with the state with respect to the current crime of conviction or any other criminal conduct by the offender or other person. The offender's refusal to cooperate with the state shall not be considered an aggravating factor.

(G) The degree of harm or loss attributed to the current crime of conviction was significantly less than typical for such an offense.

(H) The offender's criminal history indicates that the offender lived conviction-free within the community for a significant period of time preceding his or her current crime of conviction.

(I) The offender is amenable to treatment and an appropriate treatment program is available to which the offender can be admitted within a reasonable period of time; the treatment program is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism; and the probation sentence will serve community safety interests by promoting offender reformation.

(J) The offender's status as a servicemember as defined in ORS 135.881.

(b) Aggravating factors:

(A) Deliberate cruelty to victim.

(B) The offender knew or had reason to know of the victim's particular vulnerability, such as the extreme youth, age, disability or ill health of victim, which increased the harm or threat of harm caused by the criminal conduct.

(C) Threat of or actual violence toward a witness or victim.

(D) Persistent involvement in similar offenses or repetitive assaults. This factor may be cited when consecutive sentences are imposed only if the persistent involvement in similar offenses or repetitive assaults is unrelated to the current offense.

(E) Use of a weapon in the commission of the offense.

(F) The offense involved a violation of public trust or professional responsibility.

(G) The offense involved multiple victims or incidents. This factor may not be cited when it is captured in a consecutive sentence.

(H) The crime was part of an organized criminal operation.

(I) The offense resulted in a permanent injury to the victim.

(J) The degree of harm or loss attributed to the current crime of conviction was significantly greater than typical for such an offense.

(K) The offense was motivated entirely or in part by the race, color, religion, ethnicity, national origin or sexual orientation of the victim.

(L) Disproportionate impact (for Theft I under ORS 164.055, and Aggravated Theft I under ORS 164.057).

(2) If a factual aspect of a crime is a statutory element of the crime or is used to subclassify the crime on the Crime Seriousness Scale, that aspect of the current crime of conviction may be used as an aggravating or mitigating factor only if the criminal conduct constituting that aspect of the current crime of conviction is significantly different from the usual criminal conduct captured by the aspect of the crime.

(3) Any aspect of the current crime of conviction which serves as a necessary element of a statutory mandatory sentence may not be used as an aggravating factor if that aspect is also used to impose the mandatory sentence.

(4) As used in this rule, "disproportionate impact" means:

(a) The offender caused damage to property during the commission of the theft and the cost to restore the damaged property to the condition the property was in immediately before the theft is more than three times the value of the property that was the subject of the theft; or

(b) The theft of the property creates a hazard to public health or safety or the environment.

Stat. Auth.: ORS 137.667

Stats. Implemented: ORS 137.667 - 137.669 & SB 570 (2009); SB 124 (2013)

Hist.: SSG 2-1988, f. 12-30-88, cert. ef. 9-1-89; SSG 1-1989, f. 5-25-89, cert. ef. 9-1-89; SSG 2-1989, f. 10-17-89, cert. ef. 11-1-89; SSG 2-1993, f. 10-28-93, cert. ef. 11-1-93; CJC 1-1996, f. 3-6-96, cert. ef. 3-8-96, Renumbered from 253-008-0002; CJC 1-2010(Temp), f. & cert. ef. 4-15-10 thru 10-11-10; CJC 2-2010, f. 6-30-10, cert. ef. 7-1-10; CJC 1-2014, f. 1-31-14, cert. ef. 2-3-14

213-017-0004

Crime Category 8

The following offenses are classified at crime category 8 on the Crime Seriousness Scale:

(1) AGGRAVATED DRUG OFFENSES (See division 19).

(2) ORS 163.125 — MANSLAUGHTER II — (B). (If not categorized at CC 9.)

(3) ORS 163.145 — NEGLIGENT HOMICIDE — (B). (If not categorized at CC 9.)

(4) ORS 163.165 — ASSAULT III — (B).

If offense resulted from operation of a motor vehicle and defendant was the driver of the motor vehicle and was driving while under the influence of intoxicants; otherwise CC 6.

(5) ORS 163.207 — FEMALE GENITAL MUTILATION — (B).

(6) ORS 163.365 — RAPE II — (B).

(7) ORS 163.395 — SODOMY II — (B).

(8) ORS 163.408 — SEXUAL PENETRATION II — (B).

(9) ORS 163.425(1)(a) — SEXUAL ABUSE II — (C).

If victim incapable of consent because under age 18, offender is age 21 or older, and offender was victim's coach prior to offense; otherwise CC 7.

(10) ORS 163.427 — SEXUAL ABUSE I — (B).

(11) ORS 163.433 — ONLINE SEXUAL CORRUPTION OF A CHILD I — (B).

(12) ORS 163.537 — BUYING/SELLING THE CUSTODY OF A MINOR — (B).

If the conduct is likely to endanger the health or welfare of the child, otherwise CC 5.

(13) ORS 163.670 — USING CHILD IN DISPLAY OF SEXUAL CONDUCT — (A).

(14) ORS 163.684 — ENCOURAGING CHILD SEX ABUSE I — (B).

(15) ORS 163.732 — STALKING — (C).

(16) ORS 163.750 — VIOLATE COURT STALKING ORDER — (C).

(17) ORS 164.225 — BURGLARY I — (A).

If offender did not cause, threaten or attempt physical injury and was not armed with a deadly weapon (CC 9) but the offense was committed while the dwelling was occupied; otherwise CC 7.

(18) ORS 164.325 — ARSON I — (A).

If the offense did not represent a threat of serious physical injury (CC 10) and economic loss is \$25,000 or more but less than \$50,000; otherwise CC 9 or CC 7.

(19) ORS 164.877(3) — TREE SPIKING-INJURY — (B).

(20) ORS 166.275 — INMATE POSSESSION OF WEAPON — (A).
If firearm, otherwise CC 7.

(21) ORS 167.012 — PROMOTING PROSTITUTION — (C).

(22) ORS 167.017 — COMPELLING PROSTITUTION — (B).

(23) ORS 167.262 — USING A MINOR IN CONTROLLED SUBSTANCE OFFENSE — (A).

CC 4 if minor less than 3 yrs. younger than offender.

(24) ORS 811.705 — HIT & RUN VEHICLE (DEATH/SERIOUS INJURY) — (B).

Stat. Auth.: ORS 137.667, 811.707, & 2003 OL Ch. 453, & 2009 OL Ch. 660

Stats. Implemented: ORS 137.667 - 137.669, 811.707 & 2003 OL Ch. 453, 815, & 2007 OL Ch. 876, & 2009 OL Ch. 660; HB 2334 (2013)

Hist.: CJC 1-1999, f. & cert. ef. 11-1-99; CJC 2-2001, f. 12-26-01, cert. ef. 1-1-02; CJC 2-2003, f. 12-31-03, cert. ef. 1-1-04; CJC 3-2007, f. 12-31-07 & cert. ef. 1-1-08; CJC 2-2009(Temp), f. 3-24-09, cert. ef. 1-1-10 thru 6-29-10; CJC 3-2009(Temp), f. & cert. ef. 6-17-09 thru 12-13-09; CJC 4-2009(Temp), f. & cert. ef. 9-16-09 thru 3-14-10; CJC 5-2009, f. 12-11-09, cert. ef. 12-13-09; CJC 7-2009, f. 12-31-09, cert. ef. 1-1-10; CJC 1-2014, f. 1-31-14, cert. ef. 2-3-14

213-017-0005

Crime Category 7

The following offenses are classified at crime category 7 on the Crime Seriousness Scale:

(1) ORS 162.165 — ESCAPE I — (B).

(2) ORS 162.185 — SUPPLYING CONTRABAND — (C).
(If the contraband includes one or more firearms; otherwise CC 4, 5 or 6.)

(3) ORS 163.196 — AGGRAVATED DRIVING WHILE SUSPENDED OR REVOKED — (C).

(4) ORS 163.205 — CRIMINAL MISTREATMENT I — (C).

(5) ORS 163.275 — COERCION — (C).

(If threat of physical injury; otherwise CC 6.)

(6) ORS 163.425 — SEXUAL ABUSE II — (C). (If not CC 8.)

(7) ORS 163.452 — CUSTODIAL SEXUAL MISCONDUCT I — (C).

ADMINISTRATIVE RULES

- (8) ORS 163.479 — UNLAWFUL CONTACT WITH A CHILD — (C).
- (9) ORS 163.535 — ABANDON CHILD — (C).
(If child is placed in immediate physical danger; otherwise CC 3.)
- (10) ORS 164.075 — THEFT BY EXTORTION — (B).
(If threat of physical injury; otherwise CC 2, 3, 4, 5 or 6.)
- (11) ORS 164.225 — BURGLARY I — (A).
(If the offense cannot be ranked at CC 8 or 9.)
- (12) ORS 164.325 — ARSON I — (A). (If the offense cannot be ranked at CC 8, 9 or 10.)
- (13) ORS 166.275 — INMATE IN POSSESSION OF WEAPON — (A).
(If firearm CC 8)
- (14) ORS 166.429 — FURNISHING FIREARM IN FURTHERANCE OF FELONY — (B).
- (15) ORS 167.325 — ANIMAL NEGLECT II (FELONY) — (C).
(If more than 40 animals were the subject of the neglect or if the offense is a felony because of circumstances described in ORS 167.325(3)(a) or (3)(c)).
- (16) ORS 167.330 — ANIMAL NEGLECT I (FELONY) — (C).
(If more than 40 animals were the subject of the neglect or if the offense is a felony because of circumstances described in ORS 167.330(3)(a) or (3)(c)).
- (17) ORS 323.482 — UNLAWFUL DISTRIB. CIGARETTES — (B) < 120,000.
- (18) ORS 323.632 — UNLAWFUL DISTRIB. TOBACCO PRODUCTS — (B) < \$10,000.
Stat. Auth.: ORS 137.667, 2003 OL Ch. 453 & 804, Sec. 30 & 58
Stats. Implemented: ORS 137.667 - 137.669, 2003 OL Ch. 453 & 804, 2009 OL Ch. 783, 876; SB 6 (2013)
Hist.: CJC 1-1999, f. & cert. ef. 11-1-99; CJC 2-2003, f. 12-31-03, cert. ef. 1-1-04; CJC 1-2006, f. & cert. ef. 4-12-06; CJC 7-2009, f. 12-31-09, cert. ef. 1-1-10; CJC 1-2013(Temp), f. & cert. ef. 8-7-13 thru 2-2-14; CJC 1-2014, f. 1-31-14, cert. ef. 2-3-14
- 213-017-0006**
Crime Category 6
The following offenses are classified at crime category 6 on the Crime Seriousness Scale:
- (1) Chapter 59 — BLUE SKY LAWS & SECURITIES LAWS* — (C).
- (2) MAJOR DRUG OFFENSES (See division 19.)
- (3) ORS 162.015 — BRIBERY — (B).
- (4) ORS 162.025 — BRIBE RECEIVING — (B).
- (5) ORS 162.065 — PERJURY — (C).
- (6) ORS 162.117 — PUBLIC INVESTMENT FRAUD — (B).
- (7) ORS 162.155 — ESCAPE II — (C).
- (8) ORS 162.185 — SUPPLYING CONTRABAND — (C).
(The contraband involves a dangerous weapon not a firearm CC 7; Otherwise CC 4 or 5.)
- (9) ORS 162.265 — BRIBING A WITNESS — (C).
- (10) ORS 162.275 — BRIBE RECEIVING BY WITNESS — (C).
- (11) ORS 162.285 — TAMPERING W/ WITNESS — (C).
- (12) ORS 162.325 — HINDERING PROSECUTION — (C).
- (13) ORS 163.160(3) — DOMESTIC ASSAULT (FELONY) — (C).
- (14) ORS 163.165 — ASSAULT III — (C).
(If the offense cannot be ranked at CC 8).
- (15) ORS 163.187(4) — STRANGULATION (FELONY) — (C).
- (16) ORS 163.208 — ASSAULT OF A PUBLIC SAFETY OFFICER — (C).
- (17) ORS 163.213 — USE OF A STUN GUN, TEAR GAS, MACE I — (C).
- (18) ORS 163.257 — CUSTODIAL INTERFERENCE I — (C).
- (19) ORS 163.264 — SUBJECTING ANOTHER PERSON TO INVOLUNTARY SERVITUDE I — (B).
(If offender physically restrained or threatened to physically restrain a person; otherwise CC 9.)
- (20) ORS 163.275 — COERCION — (C). (No threat of physical injury; otherwise CC 7.)
- (21) ORS 163.355 — RAPE III — (C).
- (22) ORS 163.385 — SODOMY III — (C).
- (23) ORS 163.432 — ONLINE SEXUAL CORRUPTION OF A CHILD II — (C).
- (24) ORS 163.465 — PUBLIC INDECENCY (FELONY) — (C).
- (25) ORS 163.525 — INCEST — (C).
(If one of the participants is under the age of 18; otherwise CC 1.)
- (26) ORS 163.547 — CHILD NEGLECT IN THE FIRST DEGREE — (B).
- (27) ORS 163.688 — POSSESSION OF MATERIAL DEPICTING SEX. EXPLICIT CONDUCT OF A CHILD I — (B).
- (28) ORS 164.055 — THEFT I* — (C).
- (29) ORS 164.057 — AGGRAVATED THEFT — (B).
(Economic loss was greater than \$50,000; otherwise CC 5.)
- (30) ORS 164.065 — THEFT OF LOST/MISLAID PROPERTY* — (C).
- (31) ORS 164.075 — THEFT BY EXTORTION* — (B).
- (32) ORS 164.085 — THEFT BY DECEPTION* — (C).
- (33) ORS 164.125 — THEFT OF SERVICES* — (C).
- (34) ORS 164.135 — UNAUTHORIZED USE OF VEHICLE* — (C).
- (35) ORS 164.138 — CRIMINAL POSSESSION OF A RENTED OR LEASED MOTOR VEHICLE* — (C).
- (36) ORS 164.140(4) — POSSESSION OF RENTED PROPERTY* — (C).
- (37) ORS 164.162 — MAIL THEFT OR RECEIPT OF STOLEN MAIL — (C).
(For sentences imposed prior to February 15, 2010, and for sentences imposed for crimes committed on or after January 1, 2012; otherwise a Class A misdemeanor.)
- (38) ORS 164.215 — BURGLARY II* — (C).
- (39) ORS 164.315 — ARSON II* — (C).
- (40) ORS 164.365 — CRIMINAL MISCHIEF I* — (C).
- (41) ORS 164.377 — COMPUTER FRAUD (LOTTERY)* — (C).
- (42) ORS 164.377(3) — COMPUTER CRIME* — (C).
- (43) ORS 164.868 — UNLAWFUL LABEL SOUND RECORDING* — (C).
- (44) ORS 164.869 — UNLAWFUL RECORD LIVE PERFORMANCE* — (C).
- (45) ORS 164.872 — UNLAWFUL LABEL VIDEOTAPE* — (C).
- (46) ORS 164.877(1) — TREE-SPIKING — (C).
- (47) ORS 164.889 — INTERFERE W/ AGRICULTURAL RESEARCH* — (C).
- (48) ORS 165.013 — FORGERY I* — (C).
- (49) ORS 165.022 — CRIMINAL POSSESSION OF FORGED INSTRUMENT I* — (C).
- (50) ORS 165.055(3)(A) — CREDIT CARD FRAUD* — (C).
- (51) ORS 165.065 — NEGOTIATING BAD CHECKS* — (C).
- (52) ORS 165.074 — UNLAWFUL FACTORING PAYMENT CARD* v (C).
- (53) ORS 165.692 — FILING A FALSE CLAIM FOR HEALTH CARE PAYMENT — (C).
- (54) ORS 165.800 — IDENTITY THEFT* — (C).
- (55) ORS 166.015 — RIOT — (C).
- (56) ORS 166.070 — AGGRAVATED HARRASSMENT — (C).
- (57) ORS 166.165 — INTIMIDATION I — (C).
- (58) ORS 166.220 — UNLAWFUL USE OF WEAPON — (C).
- (59) ORS 166.270 — EX-CON IN POSSESSION OF FIREARM — (C).
- (60) ORS 166.272 — UNLAWFUL POSSESSION OF FIREARM — (B).
- (61) ORS 166.370(1) — INTENT POSS. FIREARM OR DANG. WEAP. IN and (5)(a) — PUBLIC BUILDING; DISCHARGE FIREARM IN SCHOOL — (C).
- (62) ORS 166.382 — POSSESSION OF DESTRUCTIVE DEVICE — (C).
- (63) ORS 166.384 — UNLAWFUL MANUFACTURE OF DESTRUCTIVE DEVICE — (C).
- (64) ORS 166.410 — ILLEGAL MANUFACTURE, IMPORTATION OR TRANSFER OF FIREARMS — (B).
- (65) ORS 166.643 — UNLAWFUL POSSESS SOFT BODY ARMOR — (B).
(If offender committed or was attempting to commit a person felony or misdemeanor involving violence, otherwise CC 4.)
- (66) ORS 167.057 — LURING A MINOR — (C).
- (67) ORS 167.320 — ANIMAL ABUSE I (FELONY) — (C).
- (68) ORS 167.322 — AGGRAVATED ANIMAL ABUSE I — (C).
- (69) ORS 167.325 — ANIMAL NEGLECT II (FELONY) — (C).
(If 11 to 40 animals were the subject of the neglect).
- (70) ORS 167.330 — ANIMAL NEGLECT I (FELONY) — (C).
(If 10 to 40 animals were the subject of the neglect).
- (71) ORS 167.339 — ASSAULT OF A LAW ENFORCEMENT ANIMAL — (C).
- (72) ORS 167.388 — INTERFERE LIVESTOCK PRODUCTION* — (C).
- (73) ORS 647.145 — TRADEMARK COUNTERFEITING II* — (C).
- (74) ORS 647.150 — TRADEMARK COUNTERFEITING I* — (B).
- (75) ORS 811.182 — DRIVING WHILE SUSPENDED/REVOKED (FELONY) — (C).

ADMINISTRATIVE RULES

(If the suspension or revocation resulted from (a) any degree of murder, manslaughter, criminally negligent homicide, or an assault that caused serious physical injury, resulting from the operation of a motor vehicle, or (b) aggravated vehicular homicide or aggravated driving while suspended or revoked.)

(76) ORS 811.705 — HIT & RUN VEHICLE (INJURY) — (C).

(77) ORS 813.010(5) — DRIVING UNDER THE INFLUENCE (FELONY) — (C).

(78) ORS 819.300 — POSSESSION OF STOLEN VEHICLE* — (C).

(79) ORS 819.310 — TRAFFICKING IN STOLEN VEHICLES — (C).

(If part of an organized operation or if value of property taken from one or more victims was greater than \$50,000; otherwise CC 5.)

(80) ORS 830.475 — HIT AND RUN BOAT — (C).

* Property offenses marked with an asterisk shall be ranked at Crime Category 6 if the value of the property stolen or destroyed was \$50,000 or more, excluding the theft of a motor vehicle used primarily for personal rather than commercial transportation.

Stat. Auth.: ORS 137.667, 2003 OL Ch. 453, & 2009 OL Ch. 660

Stats. Implemented: ORS 137.667 - 137.669, 2001 OL Ch. 147, 635, 828 2003 2001 OL Ch. 383, 453, 543, 2005 OL Ch. 708, 2007 OL Ch. 684, 811, 869, 876, SB 1087 (2008), Ballot Measure 57 (2008), & 2009 OL Ch. 660 & HB 3508 (2009) & 2009 OL Ch. 783; 2011 OL Ch. 3 Sec. 1; 2011 OL Ch. 598; 2011 OL Ch. 666; SB 6 (2013); HB 3194 (2013)

Hist.: CJC 1-1999, f. & cert. ef. 11-1-99; CJC 2-2001, f. 12-26-01, cert. ef. 1-1-02; CJC 2-2003, f. 12-31-03, cert. ef. 1-1-04; CJC 1-2005(Temp), f. & cert. ef. 10-14-05 thru 4-12-06; CJC 1-2006, f. & cert. ef. 4-12-06; CJC 3-2007, f. 12-31-07 & cert. ef. 1-1-08; CJC 2-2008(Temp), f. 12-31-08, cert. ef. 1-1-09 thru 6-29-09; CJC 2-2009(Temp), f. 3-24-09, cert. ef. 1-1-10 thru 6-29-10; CJC 3-2009(Temp), f. & cert. ef. 6-17-09 thru 12-13-09; CJC 4-2009(Temp), f. & cert. ef. 9-16-09 thru 3-14-10; CJC 5-2009, f. 12-11-09, cert. ef. 12-13-09; CJC 7-2009, f. 12-31-09, cert. ef. 1-1-10; CJC 3-2010(Temp), f. & cert. ef. 6-30-10 thru 12-26-10; CJC 5-2010, f. 12-13-10, cert. ef. 12-26-10; CJC 1-2011(Temp), f. & cert. ef. 11-1-11 thru 4-27-12; CJC 2-2011(Temp), f. 12-30-11, cert. ef. 1-1-12 thru 4-27-12; CJC 2-2012, f. & cert. ef. 4-27-12; CJC 1-2013(Temp), f. & cert. ef. 8-7-13 thru 2-2-14; CJC 1-2014, f. 1-31-14, cert. ef. 2-3-14

213-017-0008

Crime Category 4

The following offenses are classified at crime category 4 on the Crime Seriousness Scale:

(1) Chapter 59 — BLUE SKY LAWS & SECURITIES LAWS* — (C).

(2) DRUG OFFENSES (See division 19).

(3) ORS 97.982 — ALTERATION OF A DOCUMENT OF GIFT — (C).

(4) ORS 162.185 — SUPPLYING CONTRABAND — (C). (If offense cannot be ranked at CC 5, 6 or 7.)

(5) ORS 162.205 — FAILURE TO APPEAR I — (C).

(6) ORS 163.245 — CUSTODIAL INTERFERENCE II — (C).

(7) ORS 163.689 — POSSESSION OF MATERIAL DEPICTING SEX. EXPLICIT CONDUCT OF CHILD II — (C).

(8) ORS 164.055 — THEFT I* — (C).

(9) ORS 164.065 — THEFT OF LOST/MISLAID PROPERTY* — (C).

(10) ORS 164.075 — THEFT BY EXTORTION* — (B).

(11) ORS 164.085 — THEFT BY DECEPTION* — (C).

(12) ORS 164.098 — ORGANIZED RETAIL THEFT — (B).

(13) ORS 164.125 — THEFT OF SERVICES* — (C).

(14) ORS 164.135 — UNAUTHORIZED USE OF VEHICLE* — (C).

(15) ORS 164.138 — CRIMINAL POSSESSION OF A RENTED OR LEASED MOTOR VEHICLE* — (C).

(16) ORS 164.140(4) — POSSESSION OF RENTED PROPERTY* — (C).

(17) ORS 164.215 — BURGLARY II* — (C).

(18) ORS 164.315 — ARSON II* — (C).

(19) ORS 164.365 — CRIMINAL MISCHIEF I* — (C). (Except ORS 164.365(1)(e).)

(20) ORS 164.377(5) — COMPUTER FRAUD (LOTTERY)* — (C).

(21) ORS 164.377(5) — COMPUTER CRIME* — (C).

(22) ORS 164.868 — UNLAWFUL LABEL SOUND RECORDING* — (C).

(23) ORS 164.869 — UNLAWFUL RECORD LIVE PERFORMANCE* — (C).

(24) ORS 164.872 — UNLAWFUL LABEL VIDEOTAPE* — (C).

(25) ORS 165.013 — FORGERY I* — (C).

(26) ORS 165.022 — CRIMINAL POSSESSION OF FORGED INSTRUMENT I* — (C).

(27) ORS 165.032 — CRIMINAL POSSESSION OF FORGERY DEVICE — (C).

(28) ORS 165.055(3)(A) — CREDIT CARD FRAUD* — (C).

(29) ORS 165.065 — NEGOTIATING BAD CHECKS* — (C).

(30) ORS 165.074 — UNLAWFUL FACTORING PAYMENT CARD* — (C).

(31) ORS 165.581 — CELLULAR COUNTERFEITING I — (B).

(32) ORS 165.800 — IDENTITY THEFT* — (C).

(33) ORS 165.810 — UNLAWFUL POSSESSION PERSONAL ID DEVICE. — (C).

(34) ORS 166.023 — DISORDERLY CONDUCT I — (C).

(35) ORS 166.643 — UNLAWFUL POSSESS SOFT BODY ARMOR — (B). (If not categorized at CC 6)

(36) ORS 167.262 — USING A MINOR IN CONTROLLED SUBSTANCE OFFENSE — (A).

(CC 8 if minor 3 or more yrs. Younger than offender.)

(37) ORS 167.388 — INTERFERE LIVESTOCK PRODUCTION* — (C).

(38) ORS 181.599 — FAIL/REPORT SEX OFFENDER — (C).

(39) ORS 647.145 — TRADEMARK COUNTERFEITING II* — (C).

(40) ORS 647.150 — TRADEMARK COUNTERFEITING I* — (B).

(41) ORS 811.182 — DRIVING WHILE SUSPENDED/REVOKED (FELONY) — (C).

(If the offense cannot be ranked at CC 6.)

(42) ORS 813.011 — DRIVING UNDER THE INFLUENCE (FELONY) — (C).

(43) ORS 819.300 — POSSESSION OF STOLEN VEHICLE* — (C).

* Property offenses marked with an asterisk shall be ranked at Crime Category 4 if either of the following factors was included in the commission of the offense:

(a) The value of the property stolen or destroyed was \$5,000 or more but less than \$10,000; or

(b) The property stolen was a vehicle valued at \$10,000 or more and used primarily for personal rather than commercial transportation.

Stat. Auth.: ORS 137.667 & 2003 OL Ch. 453

Stats. Implemented: ORS 137.667 - 137.669, 164.889, 166.643 & 2003 OL Ch. 383, 453, 543, 632, 2005 OL Ch. 708, 2007 OL Ch. 498, 681 & 684; 2011 OL Ch. 3 ; 2011 OL Ch. 598; HB 3194 (2013)

Hist.: CJC 1-1999, f. & cert. ef. 11-1-99; CJC 2-2001, f. 12-26-01, cert. ef. 1-1-02; CJC 2-2003, f. 12-31-03, cert. ef. 1-1-04; CJC 1-2005(Temp), f. & cert. ef. 10-14-05 thru 4-12-06; CJC 1-2006, f. & cert. ef. 4-12-06; CJC 3-2007, f. 12-31-07 & cert. ef. 1-1-08; CJC 1-2011(Temp), f. & cert. ef. 11-1-11 thru 4-27-12; CJC 2-2012, f. & cert. ef. 4-27-12; CJC 1-2013(Temp), f. & cert. ef. 8-7-13 thru 2-2-14; CJC 1-2014, f. 1-31-14, cert. ef. 2-3-14

213-017-0009

Crime Category 3

The following offenses are classified at crime category 3 on the Crime Seriousness Scale:

(1) ORS Chapter 59 — BLUE SKY LAWS & SECURITIES LAWS* — (C).

(2) ORS 162.305(2)(b) — TAMPER LOTTERY RECORDS — (C).

(3) ORS 162.355 — SIMULATING LEGAL PROCESS — (C).

(4) ORS 162.365(3)(b) — CRIMINAL IMPERSONATION OF PEACE OFFICER, JUDGE OR JUSTICE OF THE PEACE — (C).

(5) ORS 162.367 — FALSE LAW ENFORCEMENT ID — (C).

(6) ORS 163.535 — ABANDON CHILD — (C). (If not ranked at CC 7.)

(7) ORS 163.555 — CRIMINAL NONSUPPORT — (C).

(8) ORS 164.055 — THEFT I* — (C).

(9) ORS 164.065 — THEFT OF LOST/MISLAID PROPERTY* — (C).

(10) ORS 164.075 — THEFT BY EXTORTION* — (B).

(11) ORS 164.085 — THEFT BY DECEPTION* — (C).

(12) ORS 164.095 — THEFT BY RECEIVING — (C). (If not ranked at CC 5.)

(13) ORS 164.125 — THEFT OF SERVICES* — (C).

(14) ORS 164.135 — UNAUTHORIZED USE OF VEHICLE* — (C).

(15) ORS 164.138 — CRIMINAL POSSESSION OF A RENTED OR LEASED MOTOR VEHICLE* — (C).

(16) ORS 164.140(4) — POSSESSION OF RENTED PROPERTY* — (C).

(17) ORS 164.215 — BURGLARY II* — (C).

(18) ORS 164.315 — ARSON II* — (C).

(19) ORS 164.365 — CRIMINAL MISCHIEF I* — (C).

(20) ORS 164.377(5) — COMPUTER FRAUD (LOTTERY)* — (C).

(21) ORS 164.377(5) — COMPUTER CRIME* — (C).

(22) ORS 164.868 — UNLAWFUL LABEL SOUND RECORDING* — (C).

ADMINISTRATIVE RULES

(23) ORS 164.869 — UNLAWFUL RECORD LIVE PERFORMANCE* — (C).

(24) ORS 164.872 — UNLAWFUL LABEL VIDEOTAPE* — (C).

(25) ORS 164.889 — INTERFERE W/ AGRICULTURAL RESEARCH* — (C).

(26) ORS 165.013 — FORGERY I* — (C).

(27) ORS 165.022 — CRIMINAL POSSESSION OF FORGED INSTRUMENT I* — (C).

(28) ORS 165.055(4)(B) — CREDIT CARD FRAUD* — (C).

(29) ORS 165.065 — NEGOTIATING BAD CHECKS* — (C).

(30) ORS 165.070 — POSSESSION OF FAKE COMMUNICATIONS DEVICE — (C).

(31) ORS 165.074 — UNLAWFUL FACTORING PAYMENT CARD * — (C).

(32) ORS 165.800 — IDENTITY THEFT* — (C).

(33) ORS 166.085 — ABUSE OF CORPSE II — (C).

(34) ORS 167.062(4) — PROMOTING LIVE SEX SHOW — (C).

(35) ORS 167.137 — UNLAWFUL GAMBLING I — (C).

(36) ORS 167.137 — POSSESSION OF GAMBLING RECORDS I — (C).

(37) ORS 167.388 — INTERFERE LIVESTOCK PRODUCTION* — (C).

(38) ORS 647.145 — TRADEMARK COUNTERFEITING II* — (C).

(39) ORS 647.150 — TRADEMARK COUNTERFEITING I* — (B).

(40) ORS 819.300 — POSSESSION OF STOLEN VEHICLE* — (C).

(41) ORS 323.482 — UNLAWFUL DISTRIB. CIGARETTES — (C) < 60,000.

(42) ORS 323.632 — UNLAWFUL DISTRIB. TOBACCO PRODUCTS — (C) < \$5,000

* Property offenses marked with an asterisk shall be ranked at Crime Category 3 if either of the following factors was included in the commission of the offense:

(a) The value of the property stolen or destroyed was \$1,000 or more but less than \$5,000; or

(b) The property stolen was a vehicle valued at more than \$1,000 but less than \$10,000 and used primarily for personal rather than commercial transportation.

Stat. Auth.: ORS 137.667 & 2003 OL Ch. 453

Stats. Implemented: ORS 137.667 - 137.669, 164.889, 166.642, 2003 OL Ch. 383, 453, 550, 632, 633, & 2007 OL Ch. 684; SB 6 (2013); SB 141 (2013)

Hist.: CJC 1-1999, f. & cert. ef. 11-1-99; CJC 2-2001, f. 12-26-01, cert. ef. 1-1-02; CJC 2-2003, f. 12-31-03, cert. ef. 1-1-04; CJC 3-2007, f. 12-31-07 & cert. ef. 1-1-08; CJC 2-2009(Temp), f. 3-24-09, cert. ef. 1-1-10 thru 6-29-10; Suspended by CJC 6-2009(Temp), f. 12-11-09, cert. ef. 1-1-10 thru 6-29-10; CJC 3-2009(Temp), f. & cert. ef. 6-17-09 thru 12-13-09; CJC 1-2013(Temp), f. & cert. ef. 8-7-13 thru 2-2-14; CJC 1-2014, f. 1-31-14, cert. ef. 2-3-14

213-018-0012

Animal Neglect II (Felony) (ORS 167.325)

(1) **CRIME CATEGORY 7:** Animal Neglect II (Felony) shall be ranked at Crime Category 7 if more than 40 animals were the subject of the neglect or if the offense is a felony because of circumstances described in ORS 167.325(3)(a) or (3)(c).

(2) **CRIME CATEGORY 6:** Animal Neglect II (Felony) shall be ranked at Crime Category 6 if 11 to 40 animals were the subject of the neglect.

Stat. Auth.: ORS 137.667

Stats. Implemented: ORS 137.667; SB 6 (2013)

Hist.: CJC 1-2013(Temp), f. & cert. ef. 8-7-13 thru 2-2-14; CJC 1-2014, f. 1-31-14, cert. ef. 2-3-14

213-018-0013

Animal Neglect I (Felony) (ORS 167.330)

(1) **CRIME CATEGORY 7:** Animal Neglect I (Felony) shall be ranked at Crime Category 7 if more than 40 animals were the subject of the neglect or if the offense is a felony because of circumstances described in ORS 167.330(3)(a) or (3)(c).

(2) **CRIME CATEGORY 6:** Animal Neglect I (Felony) shall be ranked at Crime Category 6 if 10 to 40 animals were the subject of the neglect.

Stat. Auth.: ORS 137.667

Stats. Implemented: ORS 137.667; SB 6 (2013)

Hist.: CJC 1-2013(Temp), f. & cert. ef. 8-7-13 thru 2-2-14; CJC 1-2014, f. 1-31-14, cert. ef. 2-3-14

213-018-0036

Driving While Suspended/Revoked (Felony) (ORS 811.182)

(1) **CRIME CATEGORY 6:** Driving While Suspended/Revoked (Felony) shall be ranked at Crime Category 6 if the suspension or revocation resulted from:

(a) Any degree of murder, manslaughter, criminally negligent homicide, or an assault that caused serious physical injury, resulting from the operation of a motor vehicle; or

(b) Aggravated vehicular homicide or aggravated driving while suspended or revoked.

(2) **CRIME CATEGORY 4:** Driving While Suspended/Revoked (Felony) shall be ranked at Crime Category 4 if it cannot be ranked at Crime Category 6.

Stat. Auth.: ORS 137.667

Stats. Implemented: ORS 137.667; HB 3194 (2013)

Hist.: CJC 1-2013(Temp), f. & cert. ef. 8-7-13 thru 2-2-14; CJC 1-2014, f. 1-31-14, cert. ef. 2-3-14

213-019-0008

Crime Category 8 — Aggravated Drug Offenses

(1) **MANUFACTURE OR DELIVERY OF CONTROLLED SUBSTANCE WITHIN 1000 FEET OF SCHOOL** — As specified in ORS 475.900(1)(c).

(2) **DELIVERY TO MINORS** — ORS 475.860(4)(a) and 475.906(1) or (2) — As specified in ORS 475.900(1)(e).

(3) **ORS 167.262 USING A MINOR IN A CONTROLLED SUBSTANCE OFFENSE:** Using a minor in a drug offense shall be ranked in Crime Category 8 unless the minor is less than three (3) years younger than the offender, in which case the offense will be ranked in Crime Category 4.

(4) **MANUFACTURE AND DELIVERY OF A CONTROLLED SUBSTANCE — SUBSTANTIAL QUALITIES:** As specified in ORS 475.900(1)(a).

(5) **COMMERCIAL DRUG OFFENSE:** As specified in ORS 475.900(1)(b).

(6) **CAUSING ANOTHER TO INGEST A CONTROLLED SUBSTANCE:** ORS 475.902(1) is incorporated herein by reference.

(7) **UNLAWFUL ADMINISTRATION OF A CONTROLLED SUBSTANCE:** ORS 475.910(1)(b) is incorporated herein by reference.

(8) **MANUFACTURE OF METHAMPHETAMINE:** ORS 475.900(1)(d) is incorporated herein by reference.

(9) **DISTRIBUTION OF EQUIPMENT, SOLVENT, REAGENT, OR PRECURSOR SUBSTANCE WITH THE INTENT TO FACILITATE THE MANUFACTURE OF A CONTROLLED SUBSTANCE:** Violation of ORS 475.962 shall be classified at Crime Category 8.

Stat. Auth.: ORS 137.667, 475.986, 475.998 & 2003 OL, Ch. 453, HB 3194 (2013)

Stats. Implemented: ORS 137.667 - 137.669, 475.986, 475.998, 2003 OL, Ch. 453, 2005 OL, Ch. 706 (HB 2485), 2005 OL, Ch. 708 (SB 907); HB 3194 (2013)

Hist.: CJC 1-1999, f. & cert. ef. 11-1-99; CJC 2-2001, f. 12-26-01, cert. ef. 1-1-02, Renumbered from 213-019-0001; CJC 2-2003, f. 12-31-03, cert. ef. 1-1-04; CJC 1-2005(Temp), f. & cert. ef. 10-14-05 thru 4-12-06; CJC 1-2006, f. & cert. ef. 4-12-06; CJC 1-2013(Temp), f. & cert. ef. 8-7-13 thru 2-2-14; CJC 1-2014, f. 1-31-14, cert. ef. 2-3-14

213-019-0010

Crime Category 6 — Major Drug Offenses

(1) **DELIVERY OF A CONTROLLED SUBSTANCE FOR CONSIDERATION:** ORS 475.900(2)(a) is incorporated herein by reference.

(2) **POSSESSION OF SUBSTANTIAL QUANTITY OF CONTROLLED SUBSTANCE:** As specified in ORS 475.900(2)(b).

(3) **ORS 475.967 POSSESSION OF A PRECURSOR WITH THE INTENT TO MANUFACTURE:** Possession of a Precursor Substance with the Intent to Manufacture a Controlled Substance shall be ranked at Crime Category 6.

Stat. Auth.: ORS 137.667, 475.986, 475.998 & 2003 OL, Ch. 453, 2005 OL, Ch. 708 (SB 907); HB 3194 (2013)

Stats. Implemented: ORS 137.667 - 137.669, 475.967, 475.996 & 2003 OL, Ch. 453, HB 3194 (2013)

Hist.: CJC 1-1999, f. & cert. ef. 11-1-99; CJC 2-2001, f. 12-26-01, cert. ef. 1-1-02, Renumbered from 213-019-0002; CJC 2-2003, f. 12-31-03, cert. ef. 1-1-04; CJC 1-2005(Temp), f. & cert. ef. 10-14-05 thru 4-12-06; CJC 1-2006, f. & cert. ef. 4-12-06; CJC 1-2014, f. 1-31-14, cert. ef. 2-3-14

213-019-0012

Crime Category 4 — Drug Offenses

(1) **DELIVERY OR MANUFACTURE OF CONTROLLED SUBSTANCE:** As specified in ORS 475.900(3)(a).

(2) **ORS 167.262 USING A MINOR IN A DRUG OFFENSE:** Using a minor in a drug offense shall be ranked at Crime Category 4 if the minor is less than three (3) years younger than the offender. In all other cases this offense shall be ranked in Crime Category 8.

ADMINISTRATIVE RULES

(3) POSSESSION OR DISPOSAL OF METHAMPHETAMINE MANUFACTURING WASTE: Violation of ORS 475.977 shall be ranked at Crime Category 4.

Stat. Auth.: ORS 137.667 & 475.900, HB 3194 (2013)
Stats. Implemented: ORS 137.667 - 137.669, 475.967, 475.996 & 2005 OL Ch. 706, 2005 OL Ch. 708; HB 3194 (2013)
Hist.: CJC 1-1999, f. & cert. ef. 11-1-99; CJC 2-2001, f. 12-26-01, cert. ef. 1-1-02, Renumbered from 213-019-0003; CJC 1-2005(Temp), f. & cert. ef. 10-14-05 thru 4-12-06; CJC 1-2006, f. & cert. ef. 4-12-06; CJC 1-2014, f. 1-31-14, cert. ef. 2-3-14

213-019-0015

Crime Category 1 — Drug Offenses

POSSESSION OF CONTROLLED SUBSTANCE: As specified in ORS 475.900(3)(b).

Stat. Auth.: ORS 137.667, 2005 OL, Ch. 708 (SB 907) & ORS 475.900, HB 3194 (2013)
Stats. Implemented: ORS 137.667 - 137.669; HB 3194 (2013)
Hist.: CJC 1-1999, f. & cert. ef. 11-1-99; CJC 2-2001, f. 12-26-01, cert. ef. 1-1-02, Renumbered from 213-019-0004; CJC 1-2005(Temp), f. & cert. ef. 10-14-05 thru 4-12-06; CJC 1-2006, f. & cert. ef. 4-12-06; CJC 1-2014, f. 1-31-14, cert. ef. 2-3-14

Oregon Health Authority Chapter 943

Rule Caption: Requirements for contracting Business Associates to comply with federal security and privacy statutes, rules.

Adm. Order No.: OHA 1-2014

Filed with Sec. of State: 2-12-2014

Certified to be Effective: 2-18-14

Notice Publication Date: 1-1-2014

Rules Adopted: 943-014-0400, 943-014-0410, 943-014-0415, 943-014-0420, 943-014-0430, 943-014-0435, 943-014-0440, 943-014-0445, 943-014-0450, 943-014-0455, 943-014-0460, 943-014-0465

Rules Repealed: 943-014-0050

Subject: In January 2013, the Department of Health and Human Services issued new guidelines for the Health Insurance Portability and Accountability Act. These guidelines affect the Oregon Health Authority as the state's Medicaid agency as well as some of the Authority's other functions and many of the Authority's partners and associates. The Authority needs to adopt these rules to meet compliance requirements for partners meeting the business associates definition.

The Authority is repealing OAR 943-014-0050 because the requirements of that rule being replaced by the new rules.

Rules Coordinator: Keely L. West—(503) 945-6292

943-014-0400

Purpose

These rules set requirements for contractors who are business associates of the health care component of the Oregon Health Authority (Authority) as described in OAR 943-014-0015. Business associates must comply with these rules, the business associate provisions of the Health Insurance Portability and Accountability Act (HIPAA) and HIPAA's implementing regulations. HIPAA requires covered entities to comply with the requirements set forth in 45 CFR 164.502(e) and 164.504(e) by obtaining certain written assurances from the business associates.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 179.505, 192.553, 192.556 - 192.581, 413.032, 413.042 & 414.065
Hist.: OHA 1-2013(Temp), f. & cert. ef. 8-23-13 thru 2-18-14; OHA 1-2014, f. 2-12-14, cert. ef. 2-18-14

943-014-0410

Definitions

As used in OAR 943-014-0400 through 943-014-0465 the following definitions apply. Terms not defined here shall have the same meaning given those terms in the Privacy Rule and the Security Rule, 45 CFR 160 and 164.

- (1) "Authority" means the Oregon Health Authority.
- (2) "Breach" has the meaning given that term in 45 CFR 164.402.
- (3) "Business associate" has the meaning given that term in 45 CFR 160.103.
- (4) "Contract" means the written agreement between the Authority and a contractor describing the rights and obligations of the parties.
- (5) "Covered entity" has the meaning given that term in 45 CFR 160.103.
- (6) "Electronic media" means:
 - (a) Data stored in electronic format; and

(b) Transmission media used to exchange information already stored in electronic format.

(7) "Electronic protected health information" (E PHI) has the meaning given that term in 45 CFR 160.103.

(8) "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, 42 USC 1320d - 1320d-8, Public Law 104-191, sec. 262 and sec. 264.

(9) "HITECH Act" means the Health Information Technology for Economic and Clinical Health Act, Title XIII of division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, including any implementing regulations.

(10) "Privacy rule" means the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.

(11) "Protected health information" (PHI) has the meaning given that term in 45 CFR 160.103.

(12) "Required by law" has the meaning given that term in 45 CFR 164.103.

(13) "Secretary" means the Secretary of Health and Human Services (HHS) or designee.

(14) "Security rule" means the security standards for electronic protected health information found at 45 CFR Parts 160, and 164.

(15) "Unsecured protected health information" has the meaning given that term in 45 CFR 164.402

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 179.505, 192.553, 192.556 - 192.581, 413.032, 413.042 & 414.065
Hist.: OHA 1-2013(Temp), f. & cert. ef. 8-23-13 thru 2-18-14; OHA 1-2014, f. 2-12-14, cert. ef. 2-18-14

943-014-0415

General Business Associate Requirements

A contractor who is a business associate of the Authority shall:

(1) Not use or disclose protected health information or electronic protected health information except as permitted or required by these rules and the contract, or as required by law.

(2) Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information to prevent use or disclosure of protected health information other than as provided for by these rules and the contract.

(3) Mitigate, to the extent practicable, any known harmful effect of a use or disclosure of protected health information or electronic protected health information by the business associate in violation of the requirements of these rules and the contract.

(4) Report to the Authority any use or disclosure of protected health information or electronic protected health information not provided for by these rules and the contract as soon as possible after the contractor becomes aware of the use or disclosure.

(5) Ensure that any agent or subcontractor that creates, receives, maintains or transmits protected health information on behalf of the contractor, agrees to the same restrictions and conditions that apply to the business associate through these rules and the contract with respect to the information created, received, maintained or transmitted on behalf of the contractor.

(6) Provide access, as directed by the Authority and in the time and manner designated by the Authority, to protected health information or electronic protected health information in a designated record set to the Authority or to an individual in compliance with the requirements of 45 CFR 164.524.

(7) Make any amendment to protected health information or electronic protected health information in a designated record set that the Authority directs or agrees to pursuant to 45 CFR 164.526. These amendments will be made in the manner designated by the Authority within 10 business days of receiving direction from the Authority.

(8) Make available internal practices, books, and records, including policies and procedures relating to the use and disclosure of protected health information and electronic protected health information created, received, maintained or transmitted by the business associate on behalf of the Authority. These items must be available to the Authority and to the Secretary, in a time and manner designated by the Authority or the Secretary, for purposes of the Secretary determining the Authority's compliance with the Privacy Rule or Security Rule.

(9) Document disclosures of protected health information and electronic protected health information and information related to such disclosures as may be required for the Authority to respond to a request by an individual for an accounting of disclosures in accordance with 45 CFR 164.528.

ADMINISTRATIVE RULES

(10) Provide the Authority or an individual, within 10 business days of receiving direction from the Authority in a manner designated by the Authority, information collected in accordance with OAR 943-014-0415(9) to permit the Authority to respond to an individual's request for an accounting of disclosures in accordance with 45 CFR 164.528.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 179.505, 192.553, 192.556 - 192.581, 413.032, 413.042 & 414.065
Hist.: OHA 1-2013(Temp), f. & cert. ef. 8-23-13 thru 2-18-14; OHA 1-2014, f. 2-12-14, cert. ef. 2-18-14

943-014-0420

Uses and Disclosures of Protected Health Information by Business Associate

(1) Except as otherwise limited or prohibited by the contract or these rules, a contractor who is a business associate of the Authority may:

(a) Use or disclose protected health information and electronic protected health information to perform functions, activities, or services as specified in the contract and these rules on behalf of the Authority.

(b) Use protected health information and electronic protected health information for the proper management and administration of the business associate contract or to carry out the business associate's legal responsibilities.

(c) Disclose protected health information and electronic protected health information for the proper management and administration of the business associate, provided disclosures are required by law.

(d) Disclose protected health information and electronic protected health information to a subcontractor if the business associate and subcontractor enter into a business associate agreement that complies with this rule.

(e) Use or disclose protected health information and electronic protected health information to report violations of law to appropriate federal and state authorities, consistent with 45 CFR 164.502(j)(1).

(2) All other use or disclosure of protected health information and electronic protected health information are prohibited.

(3) A contractor who is a business associate of the Authority may not aggregate or compile the Authority's protected health information or electronic protected health information with the protected health information or electronic protected health information of other covered entities unless the contract permits data aggregation services.

(a) If the contract permits a business associate to provide data aggregation services, a business associate may use protected health information to provide data aggregation services requested by the Authority as permitted by 45 CFR 164.504(e)(2)(i)(B) and subject to any limitations contained in these rules.

(b) If the Authority requests data aggregation services, a business associate may aggregate the Authority's protected health information with protected health information of other covered entities that the business associate has in its possession through its capacity as a business associate to other covered entities.

(c) The business associate may only aggregate data for the purpose of providing the Authority with analysis relating to the Authority's health care operations.

(4) Business associates may not disclose the Authority's protected health information to another covered entity without the Authority's express authorization.

(5) Use or disclosure of protected health information or electronic protected health information in accordance with any section of this rule may not violate the Privacy Rule, Security Rule, the HITECH Act, or other applicable federal or state laws or regulations or the minimum necessary policies and procedures of the Authority.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 179.505, 192.553, 192.556 - 192.581, 413.032, 413.042 & 414.065
Hist.: OHA 1-2013(Temp), f. & cert. ef. 8-23-13 thru 2-18-14; OHA 1-2014, f. 2-12-14, cert. ef. 2-18-14

943-014-0430

Authority Obligations

(1) To the extent that a business associate's use or disclosure of protected health information and electronic protected health information may be affected, the Authority shall notify business associate of:

(a) Limitations in its notice of privacy practices in accordance with 45 CFR 164.520. The Authority may satisfy this obligation by providing business associate with the Authority's most current Notices of Privacy Practices.

(b) Changes in, or revocation of, permission by an individual to use or disclose protected health information or electronic protected health information.

(c) Restrictions to the use or disclosure of protected health information or electronic protected health information that the Authority has agreed to in accordance with 45 CFR 164.522.

(2) The Authority may not request that a business associate use or disclose protected health information or electronic protected health information in any manner that is not permissible under the Privacy Rule or Security Rule if done by the Authority, except as permitted by OAR 943-014-0420.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 179.505, 192.553, 192.556 - 192.581, 413.032, 413.042 & 414.065
Hist.: OHA 1-2013(Temp), f. & cert. ef. 8-23-13 thru 2-18-14; OHA 1-2014, f. 2-12-14, cert. ef. 2-18-14

943-014-0435

Contractor Security Requirements

(1) Contractors must comply with the Security Rule's business associate requirements for electronic protected health information and must comply with both the Privacy Rule and the Security Rule requirements applicable to a business associate.

(2) Contractors must:

(a) Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the protected health information and electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Authority.

(b) Develop and enforce policies, procedures, and documentation standards (including designation of a security official) related to the administrative, physical, and technical safeguards that protect electronic protected health information.

(c) When required by OAR 943-014-0415(5), enter into a business associate agreement with any agent or subcontractor to ensure the agent or subcontractor agrees to implement reasonable and appropriate safeguards to protect electronic protected health information the contractor provides.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 179.505, 192.553, 192.556 - 192.581, 413.032, 413.042 & 414.065
Hist.: OHA 1-2013(Temp), f. & cert. ef. 8-23-13 thru 2-18-14; OHA 1-2014, f. 2-12-14, cert. ef. 2-18-14

943-014-0440

Breach

(1) For the purposes of this rule a breach is considered "discovered" in accordance with 45 CFR 164.404(a)(2) and 45 CFR 164.410(2).

(2) In the event a breach of unsecured protected health information is discovered, a contractor must:

(a) Notify the Authority of the breach.

(A) The notification must be made as soon as possible and business associate shall confer with the Authority as soon as practicable thereafter.

(B) The notification must be made to the Authority no later than 30 calendar days after the discovery of breach.

(C) Notification shall include identification of each individual whose unsecured protected health information has been, or is reasonably believed to have been accessed, acquired, or disclosed during the breach.

(D) Notification shall include steps taken to mitigate harm, steps taken to reasonably ensure a like breach will not occur in the future, and any other information that may be reasonably required by the Authority for the Authority to meet its obligations.

(b) Confer with the Authority regarding preparing and issuing an appropriate notice to each individual whose unsecured protected health information has been, or is reasonably believed to have been accessed, acquired, or disclosed as a result of a breach.

(c) Confer with the Authority regarding preparing and issuing an appropriate notice to prominent media outlets within the state or local jurisdictions when the breach involves more than 500 individuals.

(d) Make the appropriate notification to media outlets and individuals affected by the breach as necessary.

(e) Confer with the Authority regarding preparing and issuing notice of the breach to the Secretary.

(A) If the breach involves 500 or more individuals, the notice to the Secretary must be provided immediately.

(B) Any breach involving less than 500 individuals shall be documented in a log and the log provided to the Secretary annually, no later than 60 calendar days after December 31 of each year.

(3) Except as set forth in section (5) of this rule, notifications required by this rule must be made without unreasonable delay and no later than 60 calendar days after the discovery of a breach.

(4) Notice must be provided in the manner and content required by 45 CFR 164.404 through 164.410.

ADMINISTRATIVE RULES

(5) Any notification required by this rule may be delayed by a law enforcement official in accordance with the 45 CFR 164.412.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 179.505, 192.553, 192.556 - 192.581, 413.032, 413.042 & 414.065
Hist.: OHA 1-2013(Temp), f. & cert. ef. 8-23-13 thru 2-18-14; OHA 1-2014, f. 2-12-14, cert. ef. 2-18-14

943-014-0445

Violations

(1) When the Authority learns about a business associate's failure to comply with these rules the Authority shall notify the business associate of the rule violation and provide a reasonable opportunity for the business associate to remedy or end the violation.

(2) The Authority may terminate the contract if business associate does not cure the breach or end the violation within the time specified by the Authority.

(3) The Authority shall immediately terminate the contract if business associate has violated these rules and remedy is not possible in the Authority's reasonable judgment.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 179.505, 192.553, 192.556 - 192.581, 413.032, 413.042 & 414.065
Hist.: OHA 1-2013(Temp), f. & cert. ef. 8-23-13 thru 2-18-14; OHA 1-2014, f. 2-12-14, cert. ef. 2-18-14

943-014-0450

Termination of Contract

(1) Except as provided in section (2) of this rule, upon termination of the contract for any reason, the business associate shall, at the request of the Authority, return or destroy all protected health information and electronic protected health information created, maintained or received by the business associate from the Authority or on the Authority's behalf.

(a) This section shall apply to protected health information and electronic protected health information that is in the possession of subcontractors or agents of the business associate.

(b) Business associate may not retain copies of the protected health information and electronic protected health information.

(2) If the business associate determines that returning or destroying the protected health information or electronic protected health information is not feasible, the business associate shall provide the Authority notification of the conditions that make return or destruction not feasible.

(a) Upon the Authority's written acknowledgement that return or destruction of protected health information or electronic protected health information is not feasible, the business associate shall continue to provide the protections to the information required by these rules and the contract.

(b) Business associate shall limit further uses and disclosures of the information to those purposes that make the return or destruction not feasible, for as long as the business associate maintains the protected information.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 179.505, 192.553, 192.556 - 192.581, 413.032, 413.042 & 414.065
Hist.: OHA 1-2013(Temp), f. & cert. ef. 8-23-13 thru 2-18-14; OHA 1-2014, f. 2-12-14, cert. ef. 2-18-14

943-014-0455

Order of Precedence

(1) These rules shall be interpreted as broadly as necessary to implement and comply with HIPAA, the Privacy Rule, the Security Rule, and the HITECH Act.

(2) Any ambiguity in these rules shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the Privacy Rule, the Security Rule, and the HITECH Act.

(3) Any ambiguity in the contract shall be resolved to permit the Authority and business associate to implement and comply with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule.

(4) If a conflict arises between these rules and the provisions of the contract, these rules shall control.

(5) If a conflict arises between the provisions of the contract and the Privacy Rule, the Security Rule, or the HITECH Act, the Privacy Rule, the Security Rule, and the HITECH Act shall control.

(6) If conflict arises between these rules and the Privacy Rule, Security Rule, or HITECH Act, the Privacy Rule, Security Rule, and the HITECH Act shall control.

(7) These rules shall not supersede any other federal or state law or regulation governing the legal relationship of the parties, or the confidentiality of records or information, except to the extent that HIPAA and the HITECH Act preempt those laws or regulations.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 179.505, 192.553, 192.556 - 192.581, 413.032, 413.042 & 414.065

Hist.: OHA 1-2013(Temp), f. & cert. ef. 8-23-13 thru 2-18-14; OHA 1-2014, f. 2-12-14, cert. ef. 2-18-14

943-014-0460

Authority Compliance Methods

The Authority may comply with these rules:

(1) By incorporating the business associate requirements contained in this rule into its contracts with business associates or by referencing these rules.

(2) By entering into a memorandum of understanding that accomplishes the objectives of these rules and meets the business associate requirements of the Privacy Rule and Security Rule, if the business associate is a government entity.

(3) By executing an amendment or rider that contains the contract provisions required by these rules or references to these rules and that amends the Authority's contract with the business associate.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 179.505, 192.553, 192.556 - 192.581, 413.032, 413.042 & 414.065
Hist.: OHA 1-2013(Temp), f. & cert. ef. 8-23-13 thru 2-18-14; OHA 1-2014, f. 2-12-14, cert. ef. 2-18-14

943-014-0465

Standards in Individual Contracts

(1) The Authority and a business associate may enter into a contract that contains more strict standards than those set forth in these rules as long as the standards do not violate the requirements of the Privacy Rule, Security Rule, or the HITECH Act, and the contract receives approval from the Oregon Department of Justice.

(2) If the Authority and a business associate enter into a contract containing more strict standards than those set forth in these rules, the business associate shall require subcontractors who are business associates to comply with the stricter standards.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 179.505, 192.553, 192.556 - 192.581, 413.032, 413.042 & 414.065
Hist.: OHA 1-2013(Temp), f. & cert. ef. 8-23-13 thru 2-18-14; OHA 1-2014, f. 2-12-14, cert. ef. 2-18-14

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

Rule Caption: Temporary amendments to OAR 415-012-0000, regarding the licensing of alcohol and other drug abuse programs.

Adm. Order No.: ADS 1-2014(Temp)

Filed with Sec. of State: 1-28-2014

Certified to be Effective: 1-28-14 thru 7-21-14

Notice Publication Date:

Rules Amended: 415-012-0000

Subject: These rules establish procedures for the approval of specific service providers (as detailed in the rules) of alcohol and other drug abuse treatment and prevention services

Rules Coordinator: Nola Russell—(503) 945-7652

415-012-0000

Purpose and Scope

Purpose. These rules establish procedures for approval of the following:

(1) Any substance use disorder service provider which is, or seeks to be, contractually affiliated with the Addictions and Mental Health Division (AMH), a Coordinated Care Organization, or local mental health authority for the purpose of providing alcohol and other drug abuse treatment and prevention services;

(2) Any service provider using public funds in the provision of substance use disorder prevention, intervention, or treatment services in Oregon;

(3) Performing providers under AMH rules under OAR 309-016-0000 through 309-016-0120;

(4) Organizations that provide substance use disorder treatment services seeking approval from the Division to establish eligibility for insurance reimbursement as provided in ORS 430.065;

(5) Organizations seeking approval from the Division for provision of residential services as provided in ORS 430.010 and 443.400 or detoxification services under ORS 430.306; or

(6) Alcohol and drug evaluation specialists designated to do Driving Under the Influence of Intoxicants (DUII) diagnostic screenings and assessments under ORS 813.020 and 813.260.

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(7) Scope.

(a) These rules do not establish procedures for regulating behavioral health care practitioners that are otherwise licensed to render behavioral healthcare services in accordance with applicable statutes.

(b) These rules do not establish procedures for regulating practices exclusively comprised of behavioral healthcare practitioners that are otherwise licensed to render behavioral healthcare services in accordance with applicable statutes.

Stat. Auth.: ORS 413.042 & 430.256

Stats. Implemented: ORS 430.010, 430.306, 430.397, 430.405, 430.450, 430.590, 430.630, 430.850, 443.400, 813.020, 813.260 & 813.500

Hist.: ADAP 2-1993, f. & cert. ef. 11-5-93; ADS 2-2008, f. & cert. ef. 11-13-08; ADS 2-2013(Temp), f. & cert. ef. 1-14-13 thru 7-12-13; ADS 4-2013, f. & cert. ef. 5-3-13; ADS 1-2014(Temp), f. & cert. ef. 1-28-14 thru 7-21-14

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

Rule Caption: Permanent repeals to OAR 309-011-0070 through 0095 regarding Non Discrimination on the Basis of Handicap.

Adm. Order No.: MHS 1-2014

Filed with Sec. of State: 1-28-2014

Certified to be Effective: 1-28-14

Notice Publication Date: 1-1-2014

Rules Repealed: 309-011-0070, 309-011-0075, 309-011-0080, 309-011-0085, 309-011-0090, 309-011-0095

Subject: These rules prescribe the procedures to be followed by the Addictions and Mental Health Division and its contractors to prevent discrimination on the basis of physical or mental handicap.

These rules are being repealed because they are superseded by Oregon Health Authority rules of the same subject, which apply to the Addictions and Mental Health Authority and its contractors.

Rules Coordinator: Nola Russell—(503) 945-7652

Rule Caption: Permanent Repeals to OAR 309-100-0000 entitled Patient and Resident Rights.

Adm. Order No.: MHS 2-2014

Filed with Sec. of State: 1-28-2014

Certified to be Effective: 1-28-14

Notice Publication Date:

Rules Repealed: 309-100-0000

Subject: This rule addresses non-discriminatory admission requirements for the Oregon State Hospital system and facilities in contract with the Addictions and Mental Health Authority.

This rule is being repealed because it is superseded by Oregon Health Authority rules of the same subject, which apply to the Addictions and Mental Health authority and its contractors.

Rules Coordinator: Nola Russell—(503) 945-7652

Rule Caption: Permanent adoption of OAR 309-018 regarding residential addictions' treatment and recovery services.

Adm. Order No.: MHS 3-2014

Filed with Sec. of State: 2-3-2014

Certified to be Effective: 2-3-14

Notice Publication Date: 1-1-2014

Rules Adopted: 309-018-0100, 309-018-0105, 309-018-0110, 309-018-0115, 309-018-0120, 309-018-0125, 309-018-0130, 309-018-0135, 309-018-0140, 309-018-0145, 309-018-0150, 309-018-0155, 309-018-0160, 309-018-0165, 309-018-0170, 309-018-0175, 309-018-0180, 309-018-0185, 309-018-0190, 309-018-0195, 309-018-0200, 309-018-0205, 309-018-0210, 309-018-0215

Rules Repealed: 309-018-0100(T), 309-018-0105(T), 309-018-0110(T), 309-018-0115(T), 309-018-0120(T), 309-018-0125(T), 309-018-0130(T), 309-018-0135(T), 309-018-0140(T), 309-018-0145(T), 309-018-0150(T), 309-018-0155(T), 309-018-0160(T), 309-018-0165(T), 309-018-0170(T), 309-018-0175(T), 309-018-0180(T), 309-018-0185(T), 309-018-0190(T), 309-018-0195(T), 309-018-0200(T), 309-018-0205(T), 309-018-0210(T), 309-018-0215(T), 309-018-0220(T)

Subject: These rules prescribe minimum standards for services and supports provided by addictions and mental health providers approved by the Addictions and Mental Health Division of the Oregon Health Authority.

In addition to applicable requirements in OAR 410-120-0000 through 410-120-1980 and 943-120-0000 through 943-120-1550, these rules specify standards for services and supports provided in:

(a) Residential Substance Use Disorders Treatment and Recovery Services; and

(b) Residential Problem Gambling Treatment and Recovery Services.

Rules Coordinator: Nola Russell—(503) 945-7652

309-018-0100

Purpose and Scope

(1) Purpose: These rules prescribe minimum standards for services and supports provided by addictions and mental health providers approved by the Addictions and Mental Health Division of the Oregon Health Authority.

(2) Scope: In addition to applicable requirements in OAR 410-120-0000 through 410-120-1980 and 943-120-0000 through 943-120-1550, these rules specify standards for services and supports provided in:

(a) Residential Substance Use Disorders Treatment and Recovery Services; and

(b) Residential Problem Gambling Treatment and Recovery Services.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 109.675, 179.505, 413.520 - 413.522, 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 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14

309-018-0105

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 including but not limited to, Outpatient Community Mental Health Services and Supports for Children and Adults, Intensive Treatment Services for Children, Outpatient and Residential Substance Use Disorders 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) "Assessment" means the process of obtaining sufficient information, through a face-to-face interview to determine a diagnosis and to plan individualized services and supports.

(7) "ASAM PPC" means the most current publication of the American Society of Addiction Medicine Patient Placement Criteria for the Treatment of Substance-related Disorders, which is a clinical guide used in matching individuals to appropriate levels of care, and incorporated by reference in these rules.

(8) "Authority" means the Oregon Health Authority.

(9) "Behavioral Health" means mental health, mental illness, addictive health and addiction disorders.

(10) "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.

(11) "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.

(12) "Clinical Supervision" means oversight by a qualified Clinical Supervisor of addictions and mental health services and supports provided

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according to this rule, including ongoing evaluation and improvement of the effectiveness of those services and supports.

(13) “Clinical Supervisor” means a person qualified to oversee and evaluate addictions or mental health services and supports.

(14) “Co-occurring substance use and mental health disorders (COD)” means the existence of both a substance use disorder and a mental health disorder.

(15) “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.

(16) “Court” means the last convicting or ruling court unless specifically noted.

(17) “Criminal Records Check” means the Oregon Criminal Records Check and the processes and procedures required by OAR 407-007-0000 through 407-007-0370.

(18) “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.

(19) “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.

(20) “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.

(21) “Deputy Director” means the Deputy Director of the Addictions and Mental Health Division, or that person’s designee.

(22) “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 are the medically appropriate reason for services.

(23) “Director” means the Director of the Addictions and Mental Health Division, or that person’s designee.

(24) “Division” means the Addictions and Mental Health Division.

(25) “DSM” means the most recent version of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association.

(26) “Emergent” means the onset of symptoms requiring attention within 24 hours to prevent serious deterioration in mental or physical health or threat to safety.

(27) “Entry” means the act or process of acceptance and enrollment into services regulated by this rule.

(28) “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.

(29) “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.

(30) “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.

(31) “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.

(32) “Guardian” means a person appointed by a court of law to act as guardian of a minor or a legally incapacitated person.

(33) “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).

(34) “Incident Report” means a written description of any incident involving an individual, or child of an individual receiving services, occurring on the premises of the program, or involving program staff or a Service Plan 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.

(35) “Individual” means any person being considered for or receiving services and supports regulated by these rules.

(36) “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.

(37) “Interim Referral and Information Services” means services provided by an substance use disorders 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 substance use, promote the health of the individual and reduce the risk of disease transmission.

(38) “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.

(39) “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.

(40) “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.

(41) “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.

(42) “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.

(43) “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.

(44) “Medical Director” means a physician licensed to practice medicine in the State of Oregon and who is designated by a substance use disorders treatment program to be responsible for the program’s medical services, either as an employee or through a contract.

(45) “Medically Appropriate” means services and medical supplies required for prevention, diagnosis or treatment of a physical or behavioral 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.

(46) “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 acting within the scope of his or her license.

(47) “Oregon Health Authority” means the Oregon Health Authority of the State of Oregon.

(48) “Outreach” means the delivery of behavioral 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.

(49) “Peer” means any person supporting an individual, or a family member of an individual, who has similar life experience, either as a cur-

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rent 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.

(50) "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.

(51) "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 as required by OAR 410-180-0300 through 410-180-0300 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 substance use disorders or gambling treatment and recovery programs; or

(c) A family member of an individual who is a current or former recipient of addictions or mental health services.

(52) "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 a Service Plan, group and family counseling.

(53) "Program" means a particular type or level of service that is organizationally distinct.

(54) "Program Administrator" or "Program Director" means a person with appropriate professional qualifications and experience, who is designated to manage the operation of a program.

(55) "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.

(56) "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.

(57) "Publicly Funded" means financial support, in part or in full, with revenue generated by a local, state or federal government.

(58) "Quality Assessment and Performance Improvement" means the structured, internal monitoring and evaluation of services to improve processes, service delivery and service outcomes.

(59) "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.

(60) "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.

(61) "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.

(62) "Residential Substance Use Disorders 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.

(63) "Residential Problem Gambling Treatment Program" means a publicly or privately operated program that is licensed in accordance with OAR 415-021-0100 through 415-021-0225, that provides assessment, treatment, rehabilitation, and twenty-four hour observation and monitoring for individuals with gambling related problems.

(64) "Screening" means the process to determine whether the individual needs further assessment to identify circumstances requiring referrals or additional services and supports.

(65) "Service Plan" 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.

(66) "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 Service Plan.

(67) "Service Record" means the documentation, written or electronic, regarding an individual and resulting from entry, assessment, orientation, services and supports planning, services and supports provided, and transfer.

(68) "Services" means those activities and treatments described in the Service Plan 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.

(69) "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.

(70) "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.

(71) "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.

(72) "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.

(73) "Substance Use Disorders Treatment and Recovery Services" means outpatient, intensive outpatient, and residential services and supports for individuals with substance use disorders.

(74) "Substance Use Disorders Treatment Staff" means a person certified or licensed by a health or allied provider agency to provide substance use disorders treatment services that include assessment, development of a Service Plan, and individual, group and family counseling.

(75) "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.

(76) "Transfer" means the process of assisting an individual to transition from the current services to the next appropriate setting or level of care.

(77) "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.

(78) "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 Service Plan.

(79) "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.

(80) "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.

(81) "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.

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(82) "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.

(83) "Wellness" means an approach to healthcare that emphasizes good physical and mental health, preventing illness, and prolonging life.

Stat. Auth.: ORS 161.390, 413.042, 409.410, 428.205 - 428.270, 430.640 & 443.450
Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 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 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14

309-018-0110

Provider Policies

(1) All providers must develop and implement written policies and procedures, compliant with these rules.

(2) Policies must be available to individuals, guardians, and family members upon request.

(3) Providers must develop and implement written policies and procedures including, but not limited to:

(a) Personnel Qualifications and Credentialing;

(b) Criminal Records Checks, compliant with ORS 181.533 through 181.575 and 407-007-0000 through 407-007-0370; and

(c) Fraud, waste and abuse in Federal Medicaid and Medicare programs compliant with OAR 410-120-1380 and 410-120-1510;

(d) Fee agreements;

(e) 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;

(f) Compliance with Title 2 of the Americans with Disabilities Act of 1990 (ADA);

(g) Grievances and Appeals;

(h) Individual Rights;

(i) Quality Assessment and Performance Improvement;

(j) Crisis Prevention and Response;

(k) Incident Reporting;

(l) Family Involvement;

(m) Trauma-informed service delivery, consistent with the AMH Trauma Informed Services Policy;

(n) Provision of culturally and linguistically appropriate services;

(o) Medical Protocols;

(p) Medication Administration, Storage and Disposal;

(q) Facility Standards; and

(r) General Safety and Emergency Procedures.

(4) Additionally, providers 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 receiving services by another.

Stat. Auth.: ORS 161.390, 413.042, 428.205 - 428.270, 430.640 & 443.450
Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 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 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14

309-018-0115

Individual Rights

(1) In addition to all applicable statutory and constitutional rights, every individual receiving services has the right to:

(a) Choose from available services and supports, those that are consistent with the Service Plan, culturally competent, provided in the most integrated setting in the community and under conditions that are least restrictive to the individual's liberty, that are least intrusive to the individual and that provide for the greatest degree of independence;

(b) Be treated with dignity and respect;

(c) Participate in the development of a written Service Plan, receive services consistent with that plan and participate in periodic review and reassessment of service and support needs, assist in the development of the plan, and to receive a copy of the written Service Plan;

(d) Have all services explained, including expected outcomes and possible risks;

(e) Confidentiality, and the right to consent to disclosure in accordance with ORS 107.154, 179.505, 179.507, 192.515, 192.507, 42 CFR Part 2 and 45 CFR Part 205.50.

(f) Give informed consent in writing prior to the start of services, except in a medical emergency or as otherwise permitted by law. Minor children may give informed consent to services in the following circumstances:

(A) Under age 18 and lawfully married;

(B) Age 16 or older and legally emancipated by the court; or

(C) Age 14 or older for outpatient services only. For purposes of informed consent, outpatient service does not include service provided in residential programs or in day or partial hospitalization programs;

(g) Inspect their Service Record in accordance with ORS 179.505;

(h) Refuse participation in experimentation;

(i) Receive medication specific to the individual's diagnosed clinical needs;

(j) Receive prior notice of transfer, unless the circumstances necessitating transfer pose a threat to health and safety;

(k) Be free from abuse or neglect and to report any incident of abuse or neglect without being subject to retaliation;

(l) Have religious freedom;

(m) Be free from seclusion and restraint;

(n) Be informed at the start of services, and periodically thereafter, of the rights guaranteed by this rule;

(o) Be informed of the policies and procedures, service agreements and fees applicable to the services provided, and to have a custodial parent, guardian, or representative, assist with understanding any information presented;

(p) Have family and guardian involvement in service planning and delivery;

(q) Make a declaration for mental health treatment, when legally an adult;

(r) File grievances, including appealing decisions resulting from the grievance;

(s) Exercise all rights set forth in ORS 109.610 through 109.697 if the individual is a child, as defined by these rules;

(t) Exercise all rights set forth in ORS 426.385 if the individual is committed to the Authority; and

(u) Exercise all rights described in this rule without any form of reprisal or punishment.

(2) In addition to the rights specified in (1) of this rule, every individual receiving residential services has the right to:

(a) A safe, secure and sanitary living environment;

(b) A humane service environment that affords reasonable protection from harm, reasonable privacy and daily access to fresh air and the outdoors;

(c) Keep and use personal clothing and belongings, and to have an adequate amount of private, secure storage space. Reasonable restriction of the time and place of use, of certain classes of property may be implemented if necessary to prevent the individual or others from harm, provided that notice of this restriction is given to individuals and their families, if applicable, upon entry to the program, documented, and reviewed periodically;

(d) Express sexual orientation, gender identity and gender presentation;

(e) Have access to and participate in social, religious and community activities;

(f) Private and uncensored communications by mail, telephone and visitation, subject to the following restrictions:

(A) This right may be restricted only if the provider documents in the individual's record that there is a court order to the contrary, or that in the absence of this restriction, significant physical or clinical harm will result to the individual or others. The nature of the harm must be specified in reasonable detail, and any restriction of the right to communicate must be no broader than necessary to prevent this harm; and

(B) The individual and his or her guardian, if applicable, must be given specific written notice of each restriction of the individual's right to private and uncensored communication. The provider must ensure that correspondence can be conveniently received and mailed, that telephones are reasonably accessible and allow for confidential communication, and that space is available for visits. Reasonable times for the use of telephones and visits may be established in writing by the provider;

(g) Communicate privately with public or private rights protection programs or rights advocates, clergy, and legal or medical professionals;

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(h) Have access to and receive available and applicable educational services in the most integrated setting in the community;

(i) Participate regularly in indoor and outdoor recreation;

(j) Not be required to perform labor;

(k) Have access to adequate food and shelter; and

(l) A reasonable accommodation if, due to a disability, the housing and services are not sufficiently accessible.

(3) Notification of Rights: The provider must give to the individual and, if appropriate, the guardian, a document that describes the applicable individual's rights as follows:

(a) Information given to the individual must be in written form or, upon request, in an alternative format or language appropriate to the individual's need;

(b) The rights, and how to exercise them, must be explained to the individual, and if appropriate, to her or his guardian; and

(c) Individual rights must be posted in writing in a common area.

Stat. Auth.: ORS 161.390, 413.042, 409.410, 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 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 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14

309-018-0120

Licensing and Credentialing

Program staff in the following positions must meet applicable credentialing or licensing standards, including those outlined in these rules:

(1) Substance Use Disorders Treatment Staff;

(2) Clinical Supervisors;

(3) LMPs;

(4) Medical Directors;

(5) Peer Support Specialists; and

(6) Problem Gambling Treatment Staff.

Stat. Auth.: ORS 430.640 & 443.450

Stats. Implemented: ORS 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 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14

309-018-0125

Specific Staff Qualifications and Competencies

(1) Program Administrators or Program Directors must demonstrate competence in leadership, program planning and budgeting, fiscal management, supervision of program staff, personnel management, program staff performance assessment, use of data, reporting, program evaluation, quality assurance, and developing and coordinating community resources.

(2) All Clinical Supervisors must demonstrate competence in leadership, wellness, oversight and evaluation of services, staff development, service planning, case management and coordination, utilization of community resources, group, family and individual therapy or counseling, documentation and rationale for services to promote intended outcomes and implementation of all provider policies.

(3) Clinical Supervisors in substance use disorders treatment and recovery programs must be certified or licensed by a health or allied provider agency as follows:

(a) For supervisors 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 holding a health or allied provider license, the 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 substance use 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.

(c) Additionally, clinical supervisors in substance use disorders programs must have one of the following qualifications:

(A) Five years of paid full-time experience in the field of substance use disorders counseling; or

(B) A Bachelor's degree and four years of paid full-time experience in the social services field, with a minimum of two years of direct substance use disorders counseling experience; or

(C) A Master's degree and three years of paid full-time experience in the social services field with a minimum of two years of direct substance use disorders counseling experience;

(4) Clinical Supervisors in problem gambling treatment and recovery programs must meet the requirements for clinical supervisors in either mental health or substance use disorders treatment and recovery programs, and have completed 10 hours of gambling specific training within two years of designation as a problem gambling services supervisor.

(5) Substance use disorders treatment staff must:

(a) Demonstrate competence in treatment of substance-use disorders including individual assessment and individual, group, family and other counseling techniques, program policies and procedures for service delivery and documentation, and identification, implementation and coordination of services identified to facilitate intended outcomes; and

(b) Be certified or licensed by a health or allied provider agency, as defined in these rules, to provide addiction treatment within two years of the first hire date and must make application for certification no later than six months following that date. The two years is not renewable if the person ends employment with a provider and becomes re-employed with another provider.

(c) 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.

(d) 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 substance use disorders 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.

(6) Problem gambling treatment staff must demonstrate competence in treatment of problem gambling including individual assessment and individual, group, family and other counseling techniques, program policies and procedures for service delivery and documentation, and identification, implementation and coordination of services identified to facilitate intended outcomes.

(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.

(7) Peer support specialists must demonstrate knowledge of approaches to support others in recovery and resiliency, and demonstrate efforts at self-directed recovery.

(8) Recovering Staff: Program staff, contractors, volunteers and interns recovering from a substance use disorder, providing treatment services or peer support services in substance use disorders treatment and recovery programs, must be able to document continuous abstinence under independent living conditions or recovery housing for the immediate past two years.

Stat. Auth.: ORS 430.640 & 443.450

Stats. Implemented: ORS 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168, 813.010 - 813.052 & 813.200 - 813.270

ADMINISTRATIVE RULES

Hist.: MHS 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14

309-018-0130

Documentation, Training and Supervision

(1) Providers must maintain personnel records for each program staff which contains all of the following documentation:

- (a) Where required, verification of a criminal record check consistent with OAR 407-007-000 through 407-007-0370;
- (b) A current job description that includes applicable competencies;
- (c) Copies of relevant licensure or certification, diploma, or certified transcripts from an accredited college, indicating that the program staff meets applicable qualifications;
- (d) Periodic performance appraisals;
- (e) Staff orientation documentation;
- (f) Disciplinary documentation; and
- (g) Results of a Tuberculosis screening as per OAR 333-071-0057(7)(b)(A).

(2) Providers must maintain the following documentation for contractors, interns or volunteers, as applicable:

- (a) A contract or written agreement;
- (b) A signed confidentiality agreement;
- (c) Orientation documentation;
- (d) For subject individuals, verification of a criminal records check consistent with OAR 407-007-0000 through 407-007-0370; and
- (e) Results of a Tuberculosis screening as per OAR 333-071-0057(7)(b)(A).

(3) Training: Providers must ensure that program staff receives training applicable to the specific population for whom services are planned, delivered, or supervised as follows:

(a) Orientation training: The program must document appropriate orientation training for each program staff, or person providing services, within 30 days of the hire date. At minimum, orientation training for all program staff must include, but not be limited to,

- (A) A review of crisis prevention and response procedures;
- (B) A review of emergency evacuation procedures;
- (C) A review of program policies and procedures;
- (D) A review of rights for individuals receiving services and supports;
- (E) Mandatory abuse reporting procedures; and
- (F) HIPAA, and Fraud, Waste and Abuse;

(4) Clinical Supervision: Persons providing direct services must receive supervision by a qualified Clinical Supervisor, as defined in these rules, related to the development, implementation and outcome of services.

(a) Clinical supervision must be provided to assist program staff and volunteers to increase their skills, improve quality of services to individuals, and supervise program staff and volunteers' compliance with program policies and procedures, including:

(b) Documentation of two hours per month of supervision for each person supervised. The two hours must include one hour of individual face-to-face contact for each person supervised, or a proportional level of supervision for part-time program staff. Individual face-to-face contact may include real time, two-way audio visual conferencing; or

(c) Documentation of two hours of quarterly supervision for program staff holding a health or allied provider license, including at least one hour of individual face-to-face contact for each person supervised.

Stat. Auth.: ORS 430.640 & 443.450

Stats. Implemented: ORS 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 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14

309-018-0135

Entry

(1) Entry Process: The program must utilize an 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; and

(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 docu-

ment the reason and provide interim referral and informational services as defined in these rules, within 48 hours.

(2) 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) 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.

(4) The provider must develop and maintain adequate clinical records and other documentation which supports the specific care, items, or services for which payment has been requested.

(5) The provider must report the entry of all individuals on the mandated state data system.

(6) 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.

(7) 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;
- (b) Policies concerning grievances;
- (c) Notice of privacy practices; and
- (d) An opportunity to register to vote.

Stat. Auth.: ORS 161.390, 413.042, 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 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 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14

309-018-0140

Assessment

(1) At the time of entry, an assessment must be completed.
(2) The assessment must be completed by qualified program staff as follows:

(a) Supervisory or treatment staff in substance use disorders treatment and recovery programs, and

(b) Supervisory or treatment staff in problem gambling treatment and recovery programs.

(3) Each assessment must include:

(a) Sufficient information and documentation to justify the presence of a diagnosis that is the medically appropriate reason for services
(b) Screening for the presence of substance use, problem gambling, mental health conditions, and chronic medical conditions.

(c) Screening for the presence of symptoms related to psychological and physical trauma.

(d) Suicide potential must be assessed and individual service records must contain follow-up actions and referrals when an individual reports symptoms indicating risk of suicide.

(4) Each assessment must be consistent with the dimensions described in the ASAM PPC, and must document a diagnosis and level of care determination consistent with the DSM and ASAM PPC.

(5) When the assessment process determines the presence of co-occurring substance use and mental health disorders, or any significant risk to health and safety, 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.

(6) Providers must periodically update assessments as applicable, when there are changes in clinical circumstances.

Stat. Auth.: ORS 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 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 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14

309-018-0145

Service Plan and Service Notes

(1) The Service Plan must be a written, individualized plan to improve the individual's condition to the point where the individual's continued participation in the program is no longer necessary. The Service Plan is included in the individual's service records and must:

- (a) Be completed prior to the start of services;
- (b) Reflect the assessment and the level of care to be provided;

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- (c) Include the participation of the individual;
 - (d) Include the participation of family members as applicable; and
 - (e) Be completed by qualified program staff as follows:
 - (A) Supervisory or treatment staff in substance use disorders treatment and recovery programs; and
 - (B) Supervisory or treatment staff in problem gambling treatment and recovery programs.
 - (2) At minimum, each Service Plan must include:
 - (a) Individualized treatment objectives;
 - (b) The specific services and supports that will be used to meet the treatment objectives;
 - (c) A projected schedule for service delivery, including the expected frequency and duration of each type of planned therapeutic session or encounter;
 - (d) The type of personnel that will be furnishing the services; and
 - (e) A projected schedule for re-evaluating the Service Plan.
 - (3) Service Notes:
 - (a) Providers must document each service and support. A Service Note, at minimum, must include:
 - (A) The specific services rendered
 - (B) The date, time of service, and the actual amount of time the services were rendered;
 - (C) Who rendered the services;
 - (D) The setting in which the services were rendered;
 - (E) The relationship of the services to the treatment regimen described in the Service Plan; and
 - (F) Periodic Updates describing the individual's progress.
- Stat. Auth.: ORS 428.205 - 428.270, 430.640 & 443.450
Stats. Implemented: ORS 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 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14

309-018-0150

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 a 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; and
 - (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) A Service Plan;
 - (g) 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.
 - (k) 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;
- (l) Documentation indicating that the individual and guardian, as applicable, were provided with the required orientation information upon entry;
 - (m) 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;
 - (n) 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;

- (o) Copies of documents relating to guardianship or any other legal considerations, as applicable;
 - (p) A copy of the individual's most recent Service Plan, 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;
 - (q) 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;
 - (r) Documentation of any safety risks; and
 - (s) Incident reports, when required.
- (3) Medical Service Records: When medical services are provided, the following documents must be part of the Service Record as applicable:
- (a) Medication Administration Records as per these rules;
 - (b) Laboratory reports; and
 - (c) LMP orders for medication, protocols or procedures.
- Stat. Auth.: ORS 428.205 - 428.270, 430.640 & 443.450
Stats. Implemented: ORS 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 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14

309-018-0155

Transfer and Continuity of Care

- (1) Planned Transfer: Providers must meet the following requirements for planned transfer:
 - (a) Decisions to transfer individuals must be documented in a transfer summary; and
 - (b) The documentation must include the reason for transfer and must be consistent with ASAM criteria established in the assessment.
 - (2) Transfer Process and Continuity of Care: Prior to transfer, providers must:
 - (a) When applicable, coordinate and provide appropriate referrals for medical care and medication management. The transferring provider must assist the individual to identify the medical provider who will provide continuing care and to arrange an initial appointment with that provider;
 - (b) Coordinate recovery and ongoing support services for individuals and their families including identifying resources and facilitating linkage to other service systems necessary to sustain recovery, including peer delivered services;
 - (c) Complete a Transfer Summary;
 - (d) When services are transferred due to the absence of the individual, the provider must document outreach efforts made to re-engage the individual, or document the reason why such efforts were not made; and
 - (f) The provider must report all instances of Transfer on the mandated state data system.
 - (3) Transfer Summary:
 - (a) A Transfer Summary must include:
 - (A) The date and reason for the transfer;
 - (B) A summary statement that describes the effectiveness of services in assisting the individual and his or her family to achieve intended outcomes identified in the Service Plan;
 - (C) Where appropriate, a plan for personal wellness and resilience, including relapse prevention; and
 - (D) Identification of resources to assist the individual and family, if applicable, in accessing recovery and resiliency services and supports.
 - (4) If the transfer is to services with another provider, all documentation contained in the Service Record requested by the receiving provider must be furnished, compliant with applicable confidentiality policies and procedures, within 14 days of receipt of a written request for the documentation.
 - (5) A complete transfer summary must be sent to the receiving provider within 30 days of the transfer.
- Stat. Auth.: ORS 428.205 - 428.270, 430.640 & 443.450
Stats. Implemented: ORS 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 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14

309-018-0160

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, Service Plan and Service Record.
- Stat. Auth.: ORS 430.640 & 443.450

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Stats. Implemented: ORS 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 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14

309-018-0165

Residential 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 unwelcome delay, as follows:

(A) Individual must be currently enrolled in the problem gambling treatment program;

(B) Phone counseling must be provided by a qualified program staff within their scope of practice;

(C) Service Notes for phone counseling 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.

(f) A financial assessment must be included in the entry process and documented in the assessment; and

(g) The service plan must include a financial component, consistent with the financial assessment.

Stat. Auth.: ORS 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 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 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14

309-018-0170

Residential Substance Use Disorders Treatment and Recovery Services

(1) 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 substance 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.

(2) Culturally Specific Services: Programs approved and designated as culturally specific programs must meet the following criteria:

(a) Serve a majority of individuals representing culturally specific populations;

(b) Maintain a current demographic and cultural profile of the community;

(c) Ensure that individuals from the identified cultural group receive effective and respectful care that is provided in a manner compatible with their cultural health beliefs, practices, and preferred language;

(d) Implement strategies to recruit, retain, and promote a diverse staff at all levels of the organization that are representative of the population being served;

(e) Ensure that staff at all levels and across all disciplines receive ongoing education and training in culturally and linguistically appropriate service delivery;

(f) Ensure that a majority of the substance use disorders treatment staff be representative of the specific culture being served;

(g) Ensure that individuals are offered customer satisfaction surveys that address all areas of service and that the results of the surveys are used for quality improvement;

(h) Consider race, ethnicity, and language data in measuring customer satisfaction;

(i) Develop and implement cultural competency policies;

(j) Ensure that data on individual's race, ethnicity, and spoken and written language are collected in health records, integrated into the organization's management information systems, and periodically updated;

(k) Develop and maintain a Governing or Advisory Board as follows:

(A) Have a majority representation of the culturally specific group being served;

(B) Receive training concerning the significance of culturally relevant services and supports;

(C) Meet at least quarterly; and

(D) Monitor agency quality improvement mechanisms and evaluate the ongoing effectiveness and implementation of culturally relevant services (CLAS) and supports within the organization.

(1) Maintain accessibility to culturally specific populations including:

(A) The physical location of the program must be within close proximity to the culturally specific populations;

(B) Where available, public transportation must be within close proximity to the program; and

(C) Hours of service, telephone contact, and other accessibility issues must be appropriate for the population.

(m) The physical facility where the culturally specific services are delivered must be psychologically comfortable for the group including:

(A) Materials displayed must be culturally relevant; and

(B) Mass media programming (radio, television, etc.) must be sensitive to cultural background;

(n) 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; and

(o) Ensure that grievance processes are culturally and linguistically sensitive and capable of identifying, preventing and resolving cross-cultural conflicts or complaints.

Stat. Auth.: ORS 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 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 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14

309-018-0175

Residential Adolescent Substance Use Disorders Treatment and Recovery Services

Programs approved to provide adolescent substance use disorders treatment services or those with adolescent-designated service funding must meet the following standards:

(1) Development of Service Plans and case management services must include participation of parents, other family members, schools, children's services agencies, and juvenile corrections, as appropriate;

(2) Services, or appropriate referrals, must include:

(a) Family counseling;

(b) Education services;

(c) Community and social skills training; and

(d) Smoking cessation service.

(3) Continuing care services must be of appropriate duration and designed to maximize recovery opportunities. The services must include:

(a) Reintegration services and coordination with family and schools;

(b) Youth dominated self-help groups where available;

(c) Linkage to emancipation services when appropriate; and

(d) Linkage to physical or sexual abuse counseling and support services when appropriate.

Stat. Auth.: ORS 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 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

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Hist.: MHS 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14

309-018-0180

Residential Women's Substance Use Disorders Treatment and Recovery Programs

(1) Programs approved to provide women's substance use disorders treatment services or those with women-specific designated service funding 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 service plan must address all areas identified in the assessment and applicable service coordination details to address the identified needs;

(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; and

(d) The program must provide, or coordinate, the following services and supports unless clinically contraindicated:

(A) Gender-specific services and supports;

(B) Family services, including therapeutic services for children in the custody of women in treatment;

(C) Reintegration with family;

(D) Peer delivered supports;

(E) Smoking cessation;

(F) Housing; and

(G) Transportation.

(2) Services must include the participation of family and other agencies as appropriate, such as social service, child welfare, or corrections agencies;

(3) Referral Services: The program must coordinate services with the following, if indicated:

(a) Agencies providing services to women who have experienced physical abuse, sexual abuse or other types of domestic violence; and

(b) Parenting training; and

(c) Continuing care treatment services must be consistent with the ASAM PPC and must include referrals to female dominated support groups where available; and

(4) 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:

(a) Primary medical care for women, including referral for prenatal care and, while the women are receiving such services, child care;

(b) Primary pediatric care, including immunizations for their children;

(c) Gender specific substance abuse treatment and other therapeutic interventions for women which may include, but are not limited to:

(A) Relationship issues;

(B) Sexual and physical abuse;

(C) Parenting;

(D) Access to child care while the women are receiving these services; and

(E) Therapeutic interventions for children in the custody of women in treatment which may include, but are not limited to:

(i) Their developmental needs;

(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.

Stat. Auth.: ORS 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 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 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14

309-018-0185

Medical Protocols in Residential Substance Use Disorders 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:

(1) Require a medical history be included in the Assessment;

(2) Designate those medical symptoms that, when found, require further investigation, physical examinations, service, or laboratory testing;

(3) Require that individuals admitted to the program who are currently injecting or intravenously using a drug, or have injected or intravenous-

ly 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;

(4) Require pregnant women be referred for prenatal care within two weeks of entry to the program;

(5) 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

(6) 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.

Stat. Auth.: ORS 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 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 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14

309-018-0190

Administration of Medications

The following guidelines must be followed in policies on administration of medications in residential programs:

(1) Medications prescribed for one individual must not be administered to or self-administered by another individual or program staff;

(2) 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;

(3) 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;

(4) 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.

(5) 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

(6) 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:

(A) Observed side effects including laboratory findings; and

(B) Medication allergies and adverse reaction.

Stat. Auth.: ORS 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 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 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14

309-018-0195

Building Requirements

All substance use disorders treatment and recovery programs must:

(1) Comply with all applicable state and local building, electrical, plumbing, fire, safety, and zoning codes;

(2) 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;

(3) 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;

(4) Provide rest rooms for individuals, visitors, and staff that are accessible to persons with disabilities pursuant to Title II of the Americans

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with Disabilities Act if the program receives any public funds or Title III of the Act if no public funds are received; and

(5) 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.

Stat. Auth.: ORS 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 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 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14

309-018-0200

Facility Standards for Substance Use Disorders Residential Treatment and Recovery Programs

(1) Building Requirements: In addition to the building requirements for outpatient Alcohol and Other Drug treatment and recovery programs, residential programs must meet the following standards:

(a) Prior to construction of a new building or major alteration or addition to an existing building:

(b) One set of plans and specifications must be submitted to the State Fire Marshal for approval;

(c) Plans must be in accordance with the State of Oregon Structural Specialty Code and Fire and Life Safety Regulations;

(d) Plans for construction containing 4,000 square feet or more must be prepared and bear the stamp of an Oregon licensed architect or engineer; and

(e) The water supply, sewage, and garbage disposal system must be approved by the agency having jurisdiction.

(2) Interiors: All rooms used by individuals must have floors, walls, and ceilings that meet the interior finish requirements of the State of Oregon Structural Specialty Code and Fire and Life Safety Regulations:

(a) A separate dining room or area must be provided for exclusive use of individuals, program staff, and invited guests, and must:

(A) Seat at least one-half of the individuals at a time with a minimum of 15 square feet per occupant; and

(B) Be provided with adequate ventilation.

(b) A separate living room or lounge area must be provided for the exclusive use of individuals, program staff, and invited guests and must:

(A) Provide a minimum of 15 square feet per occupant; and

(B) Be provided with adequate ventilation.

(c) Bedrooms must be provided for all individuals and must:

(A) Be separate from the dining, living, multi-purpose, laundry, kitchen, and storage areas;

(B) Be an outside room with a window that can be opened, and is at least the minimum required by the State Fire Marshal;

(C) Have a ceiling height of at least seven feet, six inches;

(D) Provide a minimum of 60 square feet per individual, with at least three feet between beds;

(E) Provide permanently wired light fixtures located and maintained to give light to all parts of the room; and

(F) Provide a curtain or window shade at each window to assure privacy.

(d) Bathrooms must be provided and conveniently located in each building containing a bedroom and must:

(A) Provide a minimum of one toilet and one hand-washing sink for each eight individuals, and one bathtub or shower for each ten individuals;

(B) Provide one hand-washing sink convenient to every room containing a toilet;

(C) Provide permanently wired light fixtures located and maintained to give adequate light to all parts of the room;

(D) Provide arrangements for personal privacy for individuals;

(E) Provide a privacy screen at each window;

(F) Provide a mirror; and

(G) Be provided with adequate ventilation.

(e) A supply of hot and cold water installed and maintained in compliance with rules of, the Authority, Health Services, Office of Public Health Systems, must be distributed to taps conveniently located throughout the residential program;

(f) All plumbing must comply with applicable codes;

(g) Laundry facilities, when provided, must be separate from:

(A) Resident living areas, including bedrooms;

(B) Kitchen and dining areas; and

(C) Areas used for the storage of unrefrigerated perishable foods.

(h) Storage areas must be provided appropriate to the size of the residential program. Separate storage areas must be provided for:

(A) Food, kitchen supplies, and utensils;

(B) Clean linens;

(C) Soiled linens and clothing;

(D) Cleaning compounds and equipment; and

(E) Poisons, chemicals, insecticides, and other toxic materials, which must be properly labeled, stored in the original container, and kept in a locked storage area.

(i) Furniture must be provided for each individual and must include:

(A) A bed with a frame and a clean mattress and pillow;

(B) A private dresser or similar storage area for personal belongings which is readily accessible to the individual; and

(C) Access to a closet or similar storage area for clothing and

(j) Linens must be provided for each individual and must include:

(A) Sheets and pillowcases;

(B) Blankets, appropriate in number and type for the season and the individual's comfort; and

(C) Towel and washcloth.

(3) Food Service and Storage: The residential program must meet the requirements of the State of Oregon Sanitary Code for Eating and Drinking Establishments relating to the preparation, storage, and serving of food. At minimum:

(a) Menus must be prepared in advance to provide a sufficient variety of foods served in adequate amounts for each resident at each meal;

(b) Records of menus as served must be filed and maintained in the residential program records for at least 30 days;

(c) All modified or special diets must be ordered by a physician;

(d) At least three meals must be provided daily;

(e) Supplies of staple foods for a minimum of one week and of perishable foods for a minimum of a two-day period must be maintained on the premises;

(f) Food must be stored and served at proper temperature;

(g) All utensils, including dishes, glassware, and silverware used in the serving or preparation of drink or food for individuals must be effectively washed, rinsed, sanitized, and stored after each individual use to prevent contamination in accordance with Health Division standards; and

(h) Raw milk and home-canned vegetables, meats, and fish must not be served or stored in a residential program.

(4) Safety: The residential program must meet the following safety requirements:

(a) At no time must the number of individuals served exceed the approved capacity;

(b) A written emergency plan must be developed and posted next to the telephone used by program staff and must include:

(A) Instructions for the program staff or designated resident in the event of fire, explosion, accident, death, or other emergency and the telephone numbers of the local fire department, law enforcement agencies, hospital emergency rooms, and the residential program's designated physician and on-call back-up program staff;

(B) The telephone number of the administrator or clinical supervisor and other persons to be contacted in case of emergency; and

(C) Instructions for the evacuation of individuals and program staff in the event of fire, explosion, or other emergency.

(c) The residential program must provide fire safety equipment appropriate to the number of individuals served, and meeting the requirements of the State of Oregon Structural Specialty Code and Fire and Life Safety Regulations:

(A) Fire detection and protection equipment must be inspected as required by the State Fire Marshal;

(B) All flammable and combustible materials must be properly labeled and stored in the original container in accordance with the rules of the State Fire Marshal; and

(C) The residential program must conduct unannounced fire evacuation drills at least monthly. At least once every three months the monthly drill must occur between 10 p.m. and 6 a.m. Written documentation of the dates and times of the drills, time elapsed to evacuate, and program staff conducting the drills must be maintained.

(d) At least one program staff who is trained in First Aid and CPR must be onsite at all times; and

(5) Sanitation: The residential program must meet the following sanitation requirements:

(a) All floors, walls, ceilings, window, furniture, and equipment must be kept in good repair, clean, neat, orderly, and free from odors;

(b) Each bathtub, shower, hand-washing sink, and toilet must be kept clean and free from odors;

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(c) The water supply in the residential program must meet the requirements of the rules of the Health Division governing domestic water supplies;

(d) Soiled linens and clothing must be stored in an area separate from kitchens, dining areas, clean linens and clothing and unrefrigerated food;

(e) All measures necessary to prevent the entry into the program of mosquitoes and other insects must be taken;

(f) All measures necessary to control rodents must be taken;

(g) The grounds of the program must be kept orderly and free of litter, unused articles, and refuse;

(h) Garbage and refuse receptacles must be clean, durable, water-tight, insect- and rodent proof and kept covered with a tight-fitting lid;

(i) All garbage solid waste must be disposed of at least weekly and in compliance with the rules of the Department of Environmental Quality; and

(j) Sewage and liquid waste must be collected, treated and disposed of in compliance with the rules of the Department of Environmental Quality.

Stat. Auth.: ORS 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 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 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14

309-018-0205

Quality Assessment, Grievances and Variances

Providers must develop and implement a structured and ongoing process to assess, monitor, and improve the quality and effectiveness of services provided to individuals and their families.

Stat. Auth.: ORS 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 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 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14

309-018-0210

Grievances and Appeals

(1) Any individual receiving services, or the parent or guardian of the individual receiving services, may file a grievance with the provider, the individual's managed care plan or the Division.

(2) For individuals whose services are funded by Medicaid, grievance and appeal procedures outlined in OAR 410-141-0260 through 410-141-0266, must be followed.

(3) For individuals whose services are not funded by Medicaid, providers must:

(a) Notify each individual, or guardian, of the grievance procedures by reviewing a written copy of the policy upon entry;

(b) Assist individuals and parents or guardians, as applicable, to understand and complete the grievance process; and notify them of the results and basis for the decision;

(c) Encourage and facilitate resolution of the grievance at the lowest possible level;

(d) Complete an investigation of any grievance within 30 calendar days;

(e) Implement a procedure for accepting, processing and responding to grievances including specific timelines for each;

(f) Designate a program staff person to receive and process the grievance;

(g) Document any action taken on a substantiated grievance within a timely manner; and

(h) Document receipt, investigation and action taken in response to the grievance.

(4) Grievance Process Notice. The provider must have a Grievance Process Notice, which must be posted in a conspicuous place stating the telephone number of:

(a) The Division;

(b) The CMHP;

(c) Disability Rights Oregon; and

(d) The applicable managed care organization.

(5) Expedited Grievances: In circumstances where the matter of the grievance is likely to cause harm to the individual before the grievance procedures outlined in these rules are completed, the individual, or guardian of the individual, may request an expedited review. The program administrator must review and respond in writing to the grievance within 48 hours of receipt of the grievance. The written response must include information about the appeal process.

(6) Retaliation: A grievant, witness or staff member of a provider must not be subject to retaliation by a provider for making a report or being interviewed about a grievance or being a witness. Retaliation may include,

but is not limited to, dismissal or harassment, reduction in services, wages or benefits, or basing service or a performance review on the action.

(7) Immunity: The grievant is immune from any civil or criminal liability with respect to the making or content of a grievance made in good faith.

(8) Appeals: Individuals and their legal guardians, as applicable, must have the right to appeal entry, transfer and grievance decisions as follows:

(a) If the individual or guardian, if applicable, is not satisfied with the decision, the individual or guardian may file an appeal in writing within ten working days of the date of the program administrator's response to the grievance or notification of denial for services as applicable. The appeal must be submitted to the CMHP Director in the county where the provider is located or to the Division as applicable;

(b) If requested, program staff must be available to assist the individual;

(c) The CMHP Director or Division, must provide a written response within ten working days of the receipt of the appeal; and

(d) If the individual or guardian, if applicable, is not satisfied with the appeal decision, he or she may file a second appeal in writing within ten working days of the date of the written response to the Director.

Stat. Auth.: ORS 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 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 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14

309-018-0215

Variances

(1) Criteria for a Variance: Variances may be granted to a LMHA, CMHP or provider holding a certificate directly with the Division, by the Division:

(a) If there is a lack of resources to implement the standards required in these rules; or

(b) If implementation of the proposed alternative services, methods, concepts or procedures would result in improved outcomes for the individual.

(2) Application for a Variance:

(a) CMHPs and other providers may submit their variance request directly to the Division;

(b) Providers who hold Certificates of Approval jointly with CMHP's and the Division must submit their variance requests to the CMHP. The CMHP must then submit the variance request, along with the CMHP's written recommendation;

(c) The LMHA, CMHP or provider requesting a variance must submit a written application to the Deputy Director; and

(d) Variance requests must contain the following:

(A) The section of the rule from which the variance is sought;

(B) The reason for the proposed variance;

(C) The alternative practice, service, method, concept or procedure proposed;

(D) A proposal for the duration of the variance; and

(E) A plan and timetable for compliance with the section of the rule for which the variance applies.

(3) Division Review and Notification: The Deputy Director of the Division must approve or deny the request for a variance and must notify the LMHA, CMHP or provider in writing of the decision to approve or deny the requested variance, within 30 days of receipt of the variance. The written notification must include the specific alternative practice, service, method, concept or procedure that is approved and the duration of the approval.

(4) Appeal Application: Appeal of the denial of a variance request must be made in writing to the Director of the Division, whose decision will be final and must be provided in writing within 30 days of receipt of the appeal.

(5) Written Approval: The LMHA, CMHP or provider may implement a variance only after written approval from the Division.

(6) Duration of Variance: It is the responsibility of the LMHA, CMHP or the provider to submit a request to extend a variance in writing prior to a variance expiring. Extension must be approved in writing by the Division.

(7) Granting a variance for one request does not set a precedent that must be followed by the Division when evaluating subsequent requests for variance.

Stat. Auth.: ORS 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 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 10-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 3-2014, f. & cert. ef. 2-3-14

ADMINISTRATIVE RULES

Rule Caption: Permanent adoption of OAR 309-019 entitled Outpatient Addictions and Mental Health Services.

Adm. Order No.: MHS 4-2014

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Rules Repealed: 309-019-0100(T), 309-019-0105(T), 309-019-0115(T), 309-019-0120(T), 309-019-0125(T), 309-019-0130(T), 309-019-0135(T), 309-019-0140(T), 309-019-0145(T), 309-019-0150(T), 309-019-0155(T), 309-019-0160(T), 309-019-0165(T), 309-019-0170(T), 309-019-0175(T), 309-019-0180(T), 309-019-0185(T), 309-019-0190(T), 309-019-0195(T), 309-019-0200(T), 309-019-0205(T), 309-019-0210(T), 309-019-0215(T), 309-019-0220(T)

Subject: These rules prescribe minimum standards for services and supports provided by addictions and mental health providers approved by the Addictions and Mental Health Division of the Oregon Health Authority.

In addition to applicable requirements in OAR 410-120-0000 through 410-120-1980 and 943-120-0000 through 943-120-1550, these rules specify standards for addictions and mental health services and supports provided in:

(a) Outpatient Community Mental Health Services and Supports for Children and Adults;

(b) Outpatient Substance Use Disorders Treatment Services; and

(c) Outpatient Problem Gambling Treatment Services.

Rules Coordinator: Nola Russell—(503) 945-7652

309-019-0100

Purpose and Scope

(1) Purpose: These rules prescribe minimum standards for services and supports provided by addictions and mental health providers approved by the Addictions and Mental Health Division of the Oregon Health Authority.

(2) Scope: In addition to applicable requirements in OAR 410-120-0000 through 410-120-1980 and 943-120-0000 through 943-120-1550, these rules specify standards for addictions and mental health services and supports provided in:

(a) Outpatient Community Mental Health Services and Supports for Children and Adults;

(b) Outpatient Substance Use Disorders Treatment Services; and

(c) Outpatient Problem Gambling Treatment Services.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 428.205 - 428.270, 430.640

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 413.520 - 413.522, 430.010, 430.205-430.210, 430.240 - 430.640, 430.850 - 430.955, 461.549, 743A.168, 813.010 - 813.052 & 813.200 - 813.270

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14

309-019-0105

Definitions

(1) "Abuse of an adult" means the circumstances defined in 943-045-0250 through 943-045-0370 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 including but not limited to, Outpatient Community Mental Health Services and Supports for Children and Adults, Intensive Treatment Services for Children, Outpatient and Residential Substance Use Disorders 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) "Assessment" means the process of obtaining sufficient information, through a face-to-face interview to determine a diagnosis and to plan individualized services and supports.

(7) "ASAM PPC" means the most current publication of the American Society of Addiction Medicine Patient Placement Criteria for the Treatment of Substance-related Disorders, which is a clinical guide used in matching individuals to appropriate levels of care, and incorporated by reference in these rules.

(8) "Authority" means the Oregon Health Authority.

(9) "Behavioral Health" means mental health, mental illness, addictive health and addiction disorders.

(10) "Behavior Support Plan" means the individualized proactive support strategies that are used to support positive behavior.

(11) "Behavior Support Strategies" means proactive supports designed to replace challenging behavior with functional, positive behavior. The strategies address environmental, social, neuro-developmental and physical factors that affect behavior.

(12) "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 young adults in transition to adult services.

(13) "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.

(14) "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.

(15) "Child and Family Team" means the people who are responsible for creating, implementing, reviewing, and revising the service coordination section of the Service Plan 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.

(16) "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.

(17) "Clinical Supervisor" means a person qualified to oversee and evaluate addictions or mental health services and supports.

(18) "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.

(19) "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.

(20) "Coordinated Care Organization (CCO)" is a network of all types of health care providers (physical health care, addictions and mental health care and sometimes dental care providers) who have agreed to work together in their local communities to serve people who receive health care coverage under the Oregon Health Plan (Medicaid).

(21) "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.

(22) "Court" means the last convicting or ruling court unless specifically noted.

(23) "Criminal Records Check" means the Oregon Criminal Records Check and the processes and procedures required by OAR 407-007-0000 through 407-007-0370.

(24) "Crisis" means either an actual or perceived urgent or emergent situation that occurs when an individual's stability or functioning is dis-

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rupted 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.

(25) "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.

(26) "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.

(27) "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.

(28) "Deputy Director" means the Deputy Director of the Addictions and Mental Health Division, or that person's designee.

(29) "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.

(30) "Director" means the Director of the Addictions and Mental Health Division, or that person's designee.

(31) "Division" means the Addictions and Mental Health Division.

(32) "DSM" means the most recent version of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association.

(33) "Driving Under the Influence of Intoxicants (DUII) Substance Use Disorders 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.

(34) "Emergent" means the onset of symptoms requiring attention within 24 hours to prevent serious deterioration in mental or physical health or threat to safety.

(35) "Enhanced Care Services (ECS)" and "Enhanced Care Outreach Services (ECOS)" means intensive behavioral and rehabilitative mental health services to eligible individuals who reside in Aging and People with Disabilities (APD) licensed homes or facilities.

(36) "Entry" means the act or process of acceptance and enrollment into services regulated by this rule.

(37) "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.

(38) "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.

(39) "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.

(40) "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.

(41) "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.

(42) "Guardian" means a person appointed by a court of law to act as guardian of a minor or a legally incapacitated person.

(43) "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).

(44) "Individual" means any person being considered for or receiving services and supports regulated by these rules.

(45) "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.

(46) "Intensive Outpatient Substance Use Disorders 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.

(47) "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.

(48) "Interim Referral and Information Services" means services provided by an substance use disorders 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 substance use, promote the health of the individual and reduce the risk of disease transmission.

(49) "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.

(50) "Juvenile Psychiatric Security Review Board (JPSRB)" means the entity described in ORS 161.385.

(51) "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.

(52) "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.

(53) "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.

(54) "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.

(55) "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.

(56) "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.

(57) "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.

(58) "Medical Director" means a physician licensed to practice medicine in the State of Oregon and who is designated by a substance use disorders treatment program to be responsible for the program's medical services, either as an employee or through a contract.

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(59) "Medical Supervision" means an LMP's review and approval, at least annually, of the medical appropriateness of services and supports identified in the Service Plan for each individual receiving mental health services for one or more continuous years.

(60) "Medically Appropriate" means services and medical supplies required for prevention, diagnosis or treatment of a physical or behavioral 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.

(61) "Mental Health Intern" means a person who meets qualifications for QMHA but does not have the necessary graduate degree in psychology, social work or behavioral science field to meet the educational requirement of QMHP. The person must:

(a) Be currently enrolled in a graduate program for a master's degree in psychology, social work or in a behavioral science field;

(b) Have a collaborative educational agreement with the CMHP, or other provider, and the graduate program;

(c) Work within the scope of his/her practice and competencies identified by the policies and procedures for credentialing of clinical staff as established by provider; and

(d) Receive, at minimum, weekly supervision by a qualified clinical supervisor employed by the provider of services.

(62) "Mental Health Organization (MHO)" means an approved organization that provides most mental health services through a capitated payment mechanism under the Oregon Health Plan. MHOs may be fully capitated health plans, community mental health programs, private mental health organizations or combinations thereof.

(63) "Oregon Health Authority" means the Oregon Health Authority of the State of Oregon.

(64) "Outpatient Substance Use Disorders Treatment Program" means a 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.

(65) "Outpatient Community Mental Health Services and Supports" means all outpatient mental health services and supports provided to children, youth and adults.

(66) "Outpatient Problem Gambling Treatment Services" means all outpatient treatment services and supports provided to individuals with gambling related problems and their families.

(67) "Outreach" means the delivery of behavioral 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.

(68) "Peer" means any person supporting an individual, or a family member of an individual, who has similar life experience, either as a current or former recipient of addictions or mental health services, or as a family member of an individual who is a current or former recipient of addictions or mental health services.

(69) "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.

(70) "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 as required by OAR 410-180-0300 to 0380 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 substance use disorders 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.

(71) "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 a Service Plan, group and family counseling.

(72) "Program" means a particular type or level of service that is organizationally distinct.

(73) "Program Administrator" or "Program Director" means a person with appropriate professional qualifications and experience, who is designated to manage the operation of a program.

(74) "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.

(75) "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.

(76) "Psychiatric Security Review Board (PSRB)" means the entity described in ORS 161.295 through 161.400.

(77) "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.

(78) "Psychologist" means a psychologist licensed by the Oregon Board of Psychologist Examiners.

(79) "Publicly Funded" means financial support, in part or in full, with revenue generated by a local, state or federal government.

(80) "Qualified Mental Health Associate (QMHA)" means a person delivering services under the direct supervision of a QMHP who meets the minimum qualifications as authorized by the LMHA, or designee, and specified in 309-019-0125(7).

(81) "Qualified Mental Health Professional (QMHP)" means a LMP or any other person meeting the minimum qualifications as authorized by the LMHA, or designee, and specified in 309-019-0125(8).

(82) "Qualified Person" means a person who is a QMHP, or a QMHA, and is identified by the PSRB and JPSRB 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.

(83) "Quality Assessment and Performance Improvement" means the structured, internal monitoring and evaluation of services to improve processes, service delivery and service outcomes.

(84) "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.

(85) "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.

(86) "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.

(87) "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 Service Plan.

(88) "Screening" means the process to determine whether the individual needs further assessment to identify circumstances requiring referrals or additional services and supports.

(89) "Screening Specialist" means a person who possesses valid certification issued by the Division to conduct DUII evaluations.

(90) "Service Plan" 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.

(91) "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 Service Plan.

(92) "Service Record" means the documentation, written or electronic, regarding an individual and resulting from entry, assessment, orienta-

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tion, services and supports planning, services and supports provided, and transfer.

(93) “Services” means those activities and treatments described in the Service Plan 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.

(94) “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.

(95) “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.

(96) “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.

(97) “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.

(98) “Substance Use Disorders Treatment and Recovery Services” means outpatient, intensive outpatient, and residential services and supports for individuals with substance use disorders.

(99) “Substance Use Disorders Treatment Staff” means a person certified or licensed by a health or allied provider agency to provide substance use disorders treatment services that include assessment, development of a Service Plan, and individual, group and family counseling.

(100) “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;
- (b) Met the terms of the fee agreement between the provider and the individual; and
- (c) Demonstrated 90 days of continuous abstinence prior to completion.

(101) “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.

(102) “Transfer” means the process of assisting an individual to transition from the current services to the next appropriate setting or level of care.

(103) “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.

(104) “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 Service Plan.

(105) “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.

(106) “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.

(107) “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.

(108) “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.

(109) “Wellness” means an approach to healthcare that emphasizes good physical and mental health, preventing illness, and prolonging life.

(110) “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, 428.205 - 428.270, 430.640
Stats. Implemented: ORS 109.675, 161.390 - 161.400, 409.430 - 409.435, 430.010, 430.205-430.210, 430.240 - 430.640, 430.850 - 430.955, 461.549, 743A.168, 813.010 - 813.052 & 813.200 - 813.270
Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14

309-019-0110

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 OAR 943-045-0250 through 943-045-0370. ;
- (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 service delivery policies and procedures, compliant with these rules.

(a) Service delivery 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;
- (G) Trauma Informed Service Delivery, consistent with the AMH Trauma Informed Services Policy;
- (H) Provision of culturally and linguistically appropriate services;
- (I) Crisis Prevention and Response; and
- (J) Incident Reporting.

(3) Behavior Support Policies: Providers of ECS Services must develop policies consistent with 309-019-0155 (3) of these rules.

Stat. Auth.: ORS 161.390, 413.042, 409.410, 409.420, 428.205 - 428.270, 430.640
Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 409.430 - 409.435, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 461.549, 743A.168, 813.010 - 813.052 & 813.200 - 813.270
Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14

309-019-0115

Individual Rights

(1) In addition to all applicable statutory and constitutional rights, every individual receiving services has the right to:

(a) Choose from available services and supports, those that are consistent with the Service Plan, culturally competent, provided in the most integrated setting in the community and under conditions that are least restrictive to the individual’s liberty, that are least intrusive to the individual and that provide for the greatest degree of independence;

(b) Be treated with dignity and respect;

(c) Participate in the development of a written Service Plan, receive services consistent with that plan and participate in periodic review and

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Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14

reassessment of service and support needs, assist in the development of the plan, and to receive a copy of the written Service Plan;

(d) Have all services explained, including expected outcomes and possible risks;

(e) Confidentiality, and the right to consent to disclosure in accordance with ORS 107.154, 179.505, 179.507, 192.515, 192.507, 42 CFR Part 2 and 45 CFR Part 205.50.

(f) Give informed consent in writing prior to the start of services, except in a medical emergency or as otherwise permitted by law. Minor children may give informed consent to services in the following circumstances:

(A) Under age 18 and lawfully married;

(B) Age 16 or older and legally emancipated by the court; or

(C) Age 14 or older for outpatient services only. For purposes of informed consent, outpatient service does not include service provided in residential programs or in day or partial hospitalization programs;

(g) Inspect their Service Record in accordance with ORS 179.505;

(h) Refuse participation in experimentation;

(i) Receive medication specific to the individual's diagnosed clinical needs;

(j) Receive prior notice of transfer, unless the circumstances necessitating transfer pose a threat to health and safety;

(k) Be free from abuse or neglect and to report any incident of abuse or neglect without being subject to retaliation;

(l) Have religious freedom;

(m) Be free from seclusion and restraint;

(n) Be informed at the start of services, and periodically thereafter, of the rights guaranteed by this rule;

(o) Be informed of the policies and procedures, service agreements and fees applicable to the services provided, and to have a custodial parent, guardian, or representative, assist with understanding any information presented;

(p) Have family and guardian involvement in service planning and delivery;

(q) Make a declaration for mental health treatment, when legally an adult;

(r) File grievances, including appealing decisions resulting from the grievance;

(s) Exercise all rights set forth in ORS 109.610 through 109.697 if the individual is a child, as defined by these rules;

(t) Exercise all rights set forth in ORS 426.385 if the individual is committed to the Authority; and

(u) Exercise all rights described in this rule without any form of reprisal or punishment.

(2) Notification of Rights: The provider must give to the individual and, if appropriate, the guardian, a document that describes the applicable individual's rights as follows:

(a) Information given to the individual must be in written form or, upon request, in an alternative format or language appropriate to the individual's need;

(b) The rights, and how to exercise them, must be explained to the individual, and if appropriate, to her or his guardian; and

(c) Individual rights must be posted in writing in a common area.

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

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

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14

309-019-0120

Licensing and Credentialing

Program staff in the following positions must meet applicable credentialing or licensing standards, including those outlined in these rules:

(1) Substance Use Disorders Treatment Staff;

(2) Clinical Supervisors;

(3) LMPs;

(4) Medical Directors;

(5) Peer Support Specialists;

(6) Problem Gambling Treatment Staff;

(7) QMHAs; and

(8) QMHPs.

Stat. Auth.: ORS 428.205 - 428.270, 430.256, 430.640

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 413.520 - 413.522, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 461.549, 743A.168, 813.010 - 813.052 & 813.200 - 813.270

309-019-0125

Specific Staff Qualifications and Competencies

(1) Program Administrators or Program Directors must demonstrate competence in leadership, program planning and budgeting, fiscal management, supervision of program staff, personnel management, program staff performance assessment, use of data, reporting, program evaluation, quality assurance, and developing and coordinating community resources.

(2) Clinical Supervisors in all programs must demonstrate competence in leadership, wellness, oversight and evaluation of services, staff development, service planning, case management and coordination, utilization of community resources, group, family and individual therapy or counseling, documentation and rationale for services to promote intended outcomes and implementation of all provider policies.

(3) Clinical supervisors in mental health programs must meet QMHP requirements and have completed two years of post-graduate clinical experience in a mental health treatment setting.

(4) Clinical Supervisors in substance use disorders treatment programs must be certified or licensed by a health or allied provider agency as follows:

(a) For supervisors 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 holding a health or allied provider license, the 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 substance use 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.

(c) Additionally, clinical supervisors in substance use disorders programs must have one of the following qualifications:

(A) Five years of paid full-time experience in the field of substance use disorders counseling; or

(B) A Bachelor's degree and four years of paid full-time experience in the social services field, with a minimum of two years of direct substance use disorders counseling experience; or

(C) A Master's degree and three years of paid full-time experience in the social services field with a minimum of two years of direct substance use disorders counseling experience;

(5) Clinical Supervisors in problem gambling treatment programs must be a Certified Gambling Addiction Counselor level 2 for a minimum of two years, and have completed a minimum of 10 hours of clinical supervision training.

(6) Substance use disorders treatment staff must:

(a) Demonstrate competence in treatment of substance-use disorders including individual assessment and individual, group, family and other counseling techniques, program policies and procedures for service delivery and documentation, and identification, implementation and coordination of services identified to facilitate intended outcomes; and

(b) Be certified or licensed by a health or allied provider agency, as defined in these rules, to provide addiction treatment within two years of the first hire date and must make application for certification no later than six months following that date. The two years is not renewable if the person ends employment with a provider and becomes re-employed with another provider.

(c) 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.

(d) 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

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hours of academic or continuing professional education in substance use disorders 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.
- (6) Problem Gambling treatment staff must:

(a) Demonstrate competence in treatment of problem gambling including individual assessment and individual, group, family and other counseling techniques, program policies and procedures for service delivery and documentation, and identification, implementation and coordination of services identified to facilitate intended outcomes.

(b) Be certified or licensed by a health or allied provider agency, as defined in these rules, to provide problem gambling treatment within two years of the first hire date and must make application for certification no later than six months following that date. The two years is not renewable if the person ends employment with a provider and becomes re-employed with another provider.

(a) For treatment staff holding certification in problem gambling counseling, qualifications for the certificate must have included at least:

- (A) 500 hours of supervised experience in problem gambling counseling;
- (B) 60 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.

(7) QMHAs must demonstrate the ability to communicate effectively, understand mental health assessment, treatment and service terminology and apply each of these concepts, implement skills development strategies, and identify, implement and coordinate the services and supports identified in a Service Plan.

(a) QMHAs must meet the follow minimum qualifications:

- (A) Bachelor's degree in a behavioral science field; or
- (B) A combination of at least three years of relevant work, education, training or experience; or
- (C) A qualified Mental Health Intern, as defined in 309-019-0105 (61).

(8) QMHPs must demonstrate the ability to conduct an assessment, including identifying precipitating events, gathering histories of mental and physical health, substance use, past mental health services and criminal justice contacts, assessing family, cultural, social and work relationships, and conducting a mental status examination, complete a DSM diagnosis, write and supervise the implementation of a Service Plan and provide individual, family or group therapy within the scope of their training.

(a) QMHPs must meet the following minimum qualifications:

- (A) Bachelor's degree in nursing and licensed by the State or 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;
- (F) Graduate degree in a behavioral science field; or
- (G) A qualified Mental Health Intern, as defined in 309-019-0105 (61).

(9) Peer support specialists must demonstrate knowledge of approaches to support others in recovery and resiliency, and demonstrate efforts at self-directed recovery.

(10) Recovering Staff: Program staff, contractors, volunteers and interns recovering from a substance use disorder, providing treatment services or peer support services in substance use disorders treatment programs, must be able to document continuous abstinence under independent living conditions or recovery housing for the immediate past two years.

Stat. Auth.: ORS 161.390, 413.042, 428.205 - 428.270, 430.256, 430.640

Stats. Implemented: ORS 109.675, 413.520 - 413.522, 426.380, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 461.549, 743A.168, 813.010 - 813.052 & 813.200 - 813.270
Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14

309-019-0130

Personnel Documentation, Training and Supervision

(1) Providers must maintain personnel records for each program staff which contains all of the following documentation:

- (a) Where required, verification of a criminal record check consistent with OAR 407-007-0000 through 407-007-0370;
- (b) A current job description that includes applicable competencies;
- (c) Copies of relevant licensure or certification, diploma, or certified transcripts from an accredited college, indicating that the program staff meets applicable qualifications;
- (d) Periodic performance appraisals;
- (e) Staff orientation documentation; and
- (f) Disciplinary documentation.

(2) Providers utilizing contractors, interns or volunteers must maintain the following documentation, as applicable:

- (a) A contract or written agreement;
- (b) A signed confidentiality agreement;
- (c) Orientation documentation; and
- (d) For subject individuals, verification of a criminal records check consistent with OAR 407-007-0000 through 407-007-0370.

(3) Training: Providers must ensure that program staff receives training applicable to the specific population for whom services are planned, delivered, or supervised as follows:

(a) Orientation training: The program must document appropriate orientation training for each program staff, or person providing services, within 30 days of the hire date. At minimum, orientation training for all program staff must include, but not be limited to,

- (A) A review of crisis prevention and response procedures;
- (B) A review of emergency evacuation procedures;
- (C) A review of program policies and procedures;
- (D) A review of rights for individuals receiving services and supports;
- (E) Mandatory abuse reporting procedures;
- (F) HIPAA, and Fraud, Waste and Abuse; and
- (G) For Enhanced Care Services, positive behavior support training.

(4) Clinical Supervision: Persons providing direct services must receive supervision by a qualified Clinical Supervisor, as defined in these rules, related to the development, implementation and outcome of services.

(a) Clinical supervision must be provided to assist program staff and volunteers to increase their skills, improve quality of services to individuals, and supervise program staff and volunteers' compliance with program policies and procedures, including:

(b) Documentation of two hours per month of supervision for each person supervised. The two hours must include one hour of individual face-to-face contact for each person supervised, or a proportional level of supervision for part-time program staff. Individual face-to-face contact may include real time, two-way audio visual conferencing;

(c) Documentation of two hours of quarterly supervision for program staff holding a health or allied provider license, including at least one hour of individual face-to-face contact for each person supervised; or

(d) Documentation of weekly supervision for program staff meeting the definition of Mental Health Intern.

Stat. Auth.: ORS 161.390, 413.042, 428.205 - 428.270, 430.256, 430.640
Stats. Implemented: ORS 109.675, 413.520 - 413.522, 426.380, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 461.549, 743A.168, 813.010 - 813.052 & 813.200 - 813.270
Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14

309-019-0135

Entry and Assessment

(1) Entry Process: The program must utilize an 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) Written informed consent for services must be obtained from the individual or guardian, if applicable, prior to the start of services. If such

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consent is not obtained, the reason must be documented and further attempts to obtain informed consent must be made as appropriate.

(d) The provider must develop and maintain adequate clinical records and other documentation which supports the specific care, items, or services for which payment has been requested.

(e) The provider must report the entry of all individuals on the mandated state data system.

(f) 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.

(g) 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) An opportunity to complete a declaration for mental health treatment with the individual's participation and informed consent;

(B) A description of individual rights consistent with these rules;

(C) Policies concerning grievances;

(D) Notice of privacy practices; and

(E) An opportunity to register to vote.

(2) Entry Priority: 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) At the time of entry, an assessment must be completed.

(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 substance use disorders treatment programs, and

(C) Supervisory or treatment staff in problem gambling treatment programs.

(c) Each assessment must include sufficient information and documentation to justify the presence of a diagnosis that is the medically appropriate reason for services.

(d) For Substance Use Disorders services, each assessment must be consistent with the dimensions described in the ASAM PPC, and must document a diagnosis and level of care determination consistent with the DSM and ASAM PPC.

(e) When the assessment process determines the presence of co-occurring substance use and mental health disorders, or any significant risk to health and safety, 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) Providers must periodically update assessments as applicable, when there are changes in clinical circumstances; and

(f) Any individual continuing to receive mental health services for one or more continuous years, must receive an annual assessment by a QMHP.

Stat. Auth.: ORS 161.390, 413.042, 409.410, 409.420, 428.205 - 428.270, 430.640
Stats. Implemented: ORS 109.675, 161.390 - 161.400, 409.430 - 409.435, 430.010, 430.205-430.210, 430.240 - 430.640, 430.850 - 430.955, 461.549, 743A.168, 813.010 - 813.052 & 813.200 - 813.270
Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14

309-019-0140

Service Plan and Service Notes

(1) The Service Plan must be a written, individualized plan to improve the individual's condition to the point where the individual's continued participation in the program is no longer necessary. The Service Plan is included in the individual's service record and must:

(a) Be completed prior to the start of services;

(b) Reflect the assessment and the level of care to be provided;

(c) Include the participation of the individual and family members, as applicable;

(d) Be completed by qualified program staff as follows:

(A) A QMHP in mental health programs;

(B) Supervisory or treatment staff in substance use disorders treatment programs, and

(C) Supervisory or treatment staff in problem gambling treatment programs.

(e) For mental health services, a QMHP, who is also a licensed health care professional, must recommend the services and supports by signing the Service plan within ten (10) business days of the start of services; and

(f) A LMP must approve the Service Plan at least annually for each individual receiving mental health services for one or more continuous years. The LMP may designate annual clinical oversight by documenting the designation to a specific licensed health care professional.

(2) At minimum, each Service Plan must include:

(a) Individualized treatment objectives;

(b) The specific services and supports that will be used to meet the treatment objectives;

(c) A projected schedule for service delivery, including the expected frequency and duration of each type of planned therapeutic session or encounter;

(d) The type of personnel that will be furnishing the services; and

(e) A projected schedule for re-evaluating the Service Plan.

(3) Service Notes:

(a) Providers must document each service and support. A Service Note, at minimum, must include:

(A) The specific services rendered

(B) The date, time of service, and the actual amount of time the services were rendered;

(C) Who rendered the services;

(D) The setting in which the services were rendered;

(E) The relationship of the services to the treatment regimen described in the Service Plan; and

(F) Periodic Updates describing the individual's progress.

(4) Decisions to transfer individuals must be documented, including the reason for the transfer.

Stat. Auth.: ORS 161.390, 413.042, 409.410, 409.420, 428.205 - 428.270, 430.640
Stats. Implemented: ORS 109.675, 161.390 - 161.400, 409.430 - 409.435, 430.010, 430.205-430.210, 430.240 - 430.640, 430.850 - 430.955, 461.549, 743A.168, 813.010 - 813.052 & 813.200 - 813.270
Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14

309-019-0145

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, gambling disorder, and mental health diagnosis, including integrated assessment, Service Plan and Service Record.

Stat. Auth.: ORS 430.640
Stats. Implemented: ORS 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955
Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14

309-019-0150

Outpatient Mental Health Services to Children and Adults

(1) 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 a Service Plan that includes the crisis services necessary to assist the individual and family to stabilize and transition to the appropriate level of care.

(2) Available case management services must be provided, 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; and

(b) Referral and coordination to help individuals gain access to services and supports identified in the Service Plan;

(3) 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.

Stat. Auth.: ORS 161.390, 413.042, 409.410, 409.420, 428.205 - 428.270, 430.640
Stats. Implemented: ORS 109.675, 161.390 - 161.400, 409.430 - 409.435, 430.010, 430.205-430.210, 430.240 - 430.640, 430.850 - 430.955, 461.549, 743A.168, 813.010 - 813.052 & 813.200 - 813.270
Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14

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309-019-0155

Enhanced Care Services and Enhanced Care Outreach Services

(1) Services will be provided in a facility or program approved by the Department of Human Services (DHS), Aging and People with Disabilities (APD) as follows:

(a) Enhanced Care Services (ECS) must be provided in designated DHS licensed facilities that have a multipurpose room, an environment with low stimulation, an accessible outdoor space with a covered area, security doors, 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; and

(b) Enhanced Care Outreach Services (ECOS) must be provided to residents of DHS licensed facilities and include individualized wrap-around rehabilitative mental health services.

(2) To be eligible for ECS/ECOS an individual must:

(a) Be APD service eligible;

(b) Meet the diagnostic criteria of severe mental illness with problematic behavior or be approved by the Enhanced Care Services Team;

(c) Require intensive community mental health services to transition to a lower level of care;

(d) Have a history of multiple APD placements due to problematic behavior; and

(e) Be currently or have been a patient at Oregon State Hospital or have received in-patient services in an acute psychiatric unit for over 14 days and have been referred to non-enhanced APD facilities and denied admission due to severe mental illness with problematic behavior and be currently exhibiting two or more of the following: self-endangering behavior, aggressive behavior, intrusive behavior, intractable psychiatric symptoms, medication needs, sexually inappropriate behavior and elopement behavior.

(3) ECS/ECOS providers must:

(a) For ECS, provide a minimum of 12 hours per day, 7 days per week of mental health services, provided or arranged for by the contracted mental health provider. Services must include a minimum of 3 hours rehabilitative services per day;

(b) For ECOS, services based on the assessed need of the individual will not exceed 5 days per week;

(c) Coordinate Interdisciplinary team meetings (IDT) to develop the Service Plan, review the behavior support plan and to coordinate care planning with the DHS licensed provider staff, APD case manager, QMHP, prescriber and related professionals such as DHS licensed facility/program direct care staff, DHS licensed facility RN and facility administrator. IDTs in ECS programs must be held weekly and at least quarterly for ECOS;

(d) Conduct quarterly mental health in-service trainings for DHS-licensed providers and related program staff providing services to ECS/ECOS recipients; and

(e) Ensure the availability of crisis services staffed by a QMHP, or the local CMHP, available to the ECS/ECOS provider and DHS licensed facility direct care staff 24-hours per day.

(4) Behavior support services must be designed to facilitate positive alternatives to challenging behavior, and to assist the individual in developing adaptive and functional living skills. Providers 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 Service Plan;

(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 individual or guardian, if one is appointed, in the use of behavior support strategies and communicate both verbally and in writing the information to the individual or guardian, if one is appointed, in a language understood;

(e) Establish outcome-based tracking methods to measure the effectiveness of behavior support strategies in:

(A) The use of least restrictive interventions possible; and

(B) Increasing positive behavior.

(f) Require all program staff to receive quarterly mental health in-service training in Evidence-based Practices to promote positive behavior support and related to needs of each individual; and

(g) Review and update behavior support policies, procedures, and practices annually.

(5) Providers must develop a transition plan for each individual as part of the initial assessment process. Each individual's mental health service plan will reflect their transition goal and the supports necessary to achieve transition.

(6) Staffing requirements:

(a) Each ECS/ECOS program must have a minimum of 1 FTE QMHP for programs serving five or more individuals who is responsible for coordinating entries, transitions and required IDT's, assuring the completion of individual assessments, mental health service and behavior support plans; providing supervision of QMHP's and QMHA's and to coordinate services and trainings with facility staff;

(b) Each ECS/ECOS program must have psychiatric consultation available. For ECS programs serving more than 10 individuals, the psychiatrist must participate.

(7) In ECS programs, the CMHP and the DHS licensed provider must develop a written collaborative agreement that addresses at minimum: risk management, census management, staff levels, training, treatment and activity programs, entry and transition procedures, a process for reporting and evaluating critical incidents, record keeping, policy and procedure manuals, dispute resolution and service coordination.

Stat. Auth.: ORS 161.390, 413.042, 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 430.010, 430.205 - 430.210, 430.240-430.640, 430.850 - 430.955, 743A.168, 813.010 - 813.052

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14

309-019-0160

Psychiatric Security Review Board and Juvenile Psychiatric Security Review Board

(1) 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.

(2) 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:

(A) Within 15 days of receipt of the Order, schedule an interview with the individual for the purpose of initiating or conducting the evaluation;

(B) Appoint a QMHP to conduct the evaluation and to provide an evaluation report to the PSRB or JPSRB;

(C) 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

(D) 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:

(A) 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;

(B) Upon noting major symptoms requiring psychiatric stabilization or hospitalization;

(C) Upon noting any other major change in the individual's Service Plan;

(D) Upon learning of any violations of the Conditional Release Order; and

(E) At any other time when, in the opinion of the Qualified Person, such an interim report is needed to assist the individual.

(3) PSRB and JPSRB providers must submit copies of all monthly reports and interim reports to both the PSRB or JPSRB and the Division.

(4) When the individual is under the jurisdiction of the PSRB or JPSRB, providers must include the following additional documentation in the Service Record:

(a) Monthly reports to the PSRB or JPSRB;

(b) Interim reports, as applicable;

(c) The PSRB or JPSRB Initial Evaluation; and

(d) A copy of the Conditional Order of Release.

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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
Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14

309-019-0165

Intensive Community-Based Treatment and Support Services (ICTS) for Children

(1) 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 Service Plan 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) A Proactive safety and crisis plan developed by the child and family team, including:

(A) Strategies designed to facilitate positive alternatives to challenging behavior and to assist the individual in developing adaptive and functional living skills;

(B) Strategies to avert potential crisis without placement disruptions;

(C) Professional and natural supports to provide 24 hours, seven days per week flexible response; and

(D) Documented informed consent from the parent or guardian.

(2) ICTS providers must include the following additional documentation in the 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;

(d) A summary and review of service coordination planning by the participating team members; and

(e) A proactive safety and crisis plan.

Stat. Auth.: ORS 161.390, 413.042, 409.410, 409.420, 428.205 - 428.270, 430.640

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 430.010, 430.205 - 430.210, 430.240-430.640, 430.850 - 430.955

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14

309-019-0170

Outpatient Problem Gambling Treatment Services

These services include group, individual and family treatment consistent with the following requirements:

(1) The first offered service appointment must be five business days or less from the date of request for services;

(2) Service sessions must address the challenges of the individual as they relate, directly or indirectly, to the problem gambling behavior;

(3) 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 program staff within their scope of practice;

(c) Service Notes for phone counseling 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.

(4) 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.

(5) 24-hour crisis response accomplished through agreement with other crisis services, on-call program staff or other arrangement acceptable to the Division.

(6) A financial assessment must be included in the entry process and documented in the assessment; and

(7) The service plan must include a financial component, consistent with the financial assessment.

Stat. Auth.: ORS 161.390, 428.205 - 428.270, 430.640, 461.549

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

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14

309-019-0175

Outpatient Substance Use Disorders Treatment and Recovery Services

(1) 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 substance 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.

(2) Culturally Specific Services: Programs approved and designated as culturally specific programs must meet the following criteria:

(a) Serve a majority of individuals representing culturally specific populations;

(b) Maintain a current demographic and cultural profile of the community;

(c) Ensure that individuals from the identified cultural group receive effective and respectful care that is provided in a manner compatible with their cultural health beliefs, practices, and preferred language;

(d) Implement strategies to recruit, retain, and promote a diverse staff at all levels of the organization that are representative of the population being served;

(e) Ensure that staff at all levels and across all disciplines receive ongoing education and training in culturally and linguistically appropriate service delivery;

(f) Providers should ensure that a majority of the substance use disorders treatment staff be representative of the specific culture being served;

(g) Ensure that individuals are offered customer satisfaction surveys that address all areas of service and that the results of the surveys are used for quality improvement;

(h) Consider race, ethnicity, and language data in measuring customer satisfaction;

(i) Develop and implement cultural competency policies;

(j) Ensure that data on individual's race, ethnicity, and spoken and written language are collected in health records, integrated into the organization's management information systems, and periodically updated;

(k) Develop and maintain a Governing or Advisory Board as follows:

(A) Have a majority representation of the culturally specific group being served;

(B) Receive training concerning the significance of culturally relevant services and supports;

(C) Meet at least quarterly; and

(D) Monitor agency quality improvement mechanisms and evaluate the ongoing effectiveness and implementation of culturally relevant services (CLAS) and supports within the organization.

(1) Maintain accessibility to culturally specific populations including:

(A) The physical location of the program must be within close proximity to the culturally specific populations;

(B) Where available, public transportation must be within close proximity to the program; and

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(C) Hours of service, telephone contact, and other accessibility issues must be appropriate for the population.

(m) The physical facility where the culturally specific services are delivered must be psychologically comfortable for the group including:

(A) Materials displayed must be culturally relevant; and

(B) Mass media programming (radio, television, etc.) must be sensitive to cultural background;

(n) 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; and

(o) Ensure that grievance processes are culturally and linguistically sensitive and capable of identifying, preventing and resolving cross-cultural conflicts or complaints.

Stat. Auth.: ORS 413.042, 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14

309-019-0180

Outpatient Adolescent Substance Use Disorders Treatment and Recovery Services

Programs approved to provide adolescent substance use disorders treatment services or those with adolescent-designated service funding must meet the following standards:

(1) Development of Service Plans and case management services must include participation of parents, other family members, schools, children's services agencies, and juvenile corrections, as appropriate;

(2) Services, or appropriate referrals, must include:

(a) Family counseling;

(b) Community and social skills training; and

(c) Smoking cessation service.

(3) Continuing care services must be of appropriate duration and designed to maximize recovery opportunities. The services must include:

(a) Reintegration services and coordination with family and schools;

(b) Youth dominated self-help groups where available;

(c) Linkage to emancipation services when appropriate; and

(d) Linkage to physical or sexual abuse counseling and support services when appropriate.

Stat. Auth.: ORS 161.390, 413.042, 428.205 - 428.270, 430.640

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 743A.168, 813.010 - 813.052 & 813.200 - 813.270

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14

309-019-0185

Outpatient Women's Substance Use Disorders Treatment and Recovery Programs

(1) Programs approved to provide women's substance use disorders treatment services or those with women-specific designated service funding 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 service plan must address all areas identified in the assessment and applicable service coordination details to address the identified needs;

(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; and

(d) The program must provide, or coordinate, the following services and supports unless clinically contraindicated:

(A) Gender-specific services and supports;

(B) Family services, including therapeutic services for children in the custody of women in treatment;

(C) Reintegration with family;

(D) Peer delivered supports;

(E) Smoking cessation;

(F) Housing; and

(G) Transportation.

(2) Services must include the participation of family and other agencies as appropriate, such as social service, child welfare, or corrections agencies;

(3) Referral Services: The program must coordinate services with the following, if indicated:

(a) Agencies providing services to women who have experienced physical abuse, sexual abuse or other types of domestic violence; and

(b) Parenting training; and

(c) Continuing care treatment services must be consistent with the ASAM PPC and must include referrals to female dominated support groups where available; and

(4) 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:

(a) Primary medical care for women, including referral for prenatal care and, while the women are receiving such services, child care;

(b) Primary pediatric care, including immunizations for their children;

(c) Gender specific substance abuse treatment and other therapeutic interventions for women which may include, but are not limited to:

(A) Relationship issues;

(B) Sexual and physical abuse;

(C) Parenting;

(D) Access to child care while the women are receiving these services; and

(E) Therapeutic interventions for children in the custody of women in treatment which may include, but are not limited to:

(i) Their developmental needs;

(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.

Stat. Auth.: ORS 161.390, 413.042, 428.205 - 428.270, 430.640

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 743A.168, 813.010 - 813.052 & 813.200 - 813.270

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14

309-019-0190

Community-Based Substance Use Treatment Programs for Individuals in the Criminal Justice System

(1) 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.

(2) Services and supports must incorporate interventions and strategies that target criminogenic risk factors and include:

(a) Cognitive behavioral interventions;

(b) Motivational interventions;

(c) Relapse prevention; and

(d) Healthy relationships education;

(3) Providers must demonstrate coordination of services with criminal justice partners through written protocols, program staff activities, and individual record documentation.

(4) 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 substance use disorders treatment services to individuals in the criminal justice system;

(5) Within the first six months of hire, program staff must:

(a) Receive training on effective principles of evidenced-based practices for individuals with criminogenic risk factors; and

(b) Have documented knowledge, skills, and abilities demonstrating treatment strategies for individuals with criminogenic risk factors.

Stat. Auth.: ORS 161.390, 413.042, 428.205 - 428.270, 430.640

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 743A.168, 813.010 - 813.052 & 813.200 - 813.270

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14

309-019-0195

DUII Rehabilitation Programs

(1) In addition to the general standards for substance use disorders 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 screening specialist. Placement, continued stay and transfer of individuals must be based on the criteria described in the ASAM PPC, subject to the following additional terms and conditions:

(A) Abstinence: Individuals must demonstrate continuous abstinence for a minimum of 90 days prior to completion as documented by urinalysis tests and other evidence;

(B) Treatment Completion: Only DUII rehabilitation programs may certify treatment completion;

(C) Residential Treatment: Using the criteria from the ASAM PPC, the DUII program's assessment may indicate that the individual requires

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treatment in a residential program. When the individual is in residential treatment, 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.

(2) Urinalysis Testing: A minimum of one urinalysis sample per month must be collected during the period of service, the total number deemed necessary to be determined by an individual's DUII rehabilitation program:

(a) Using the process defined in these rules, the samples must be tested for at least five controlled drugs, including alcohol;

(b) 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;

(c) 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

(d) 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.

(3) Reporting: The program must report:

(a) To the Division on forms prescribed by the Division;

(b) To the screening specialist within 30 days from the date of the referral by the screening 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

(c) To the appropriate screening specialist, case manager, court, or other agency as required when requested concerning individual cooperation, attendance, treatment progress, utilized modalities, and fee payment.

(4) 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:

(a) Met the completion criteria approved by the Division;

(b) Met the terms of the fee agreement between the provider and the individual; and

(c) Demonstrated 90 days of continuous abstinence prior to completion.

(5) Records: The DUII rehabilitation program must maintain in the permanent Service Record, urinalysis results and all information necessary to determine whether the program is being, or has been, successfully completed.

(6) Separation of Screening 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 screening. 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.

Stat. Auth.: ORS 161.390, 413.042, 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 161.390 - 161.400, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 743A.168, 813.010 - 813.052 & 813.200 - 813.270

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14

309-019-0200

Medical Protocols in Outpatient Substance Use Disorders Treatment and Recovery 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:

(1) Require a medical history be included in the Assessment;

(2) Designate those medical symptoms that, when found, require further investigation, physical examinations, service, or laboratory testing;

(3) 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;

(4) Require pregnant women be referred for prenatal care within two weeks of entry to the program;

(5) 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

(6) 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.

Stat. Auth.: ORS 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 109.675, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14

309-019-0205

Building Requirements in Outpatient Substance Use Disorders Treatment Programs

All substance use disorders treatment programs must:

(1) Comply with all applicable state and local building, electrical, plumbing, fire, safety, and zoning codes;

(2) 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;

(3) 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;

(4) 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;

(5) 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

(6) Tobacco Use: Outpatient programs must not allow tobacco use in program facilities and on program grounds.

Stat. Auth.: ORS 413.042, 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14

309-019-0210

Quality Assessment and Performance Improvement

Providers must develop and implement a structured and ongoing process to assess, monitor, and improve the quality and effectiveness of services provided to individuals and their families.

Stat. Auth.: ORS 430.640

Stats. Implemented: ORS 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14

309-019-0215

Grievances and Appeals

(1) Any individual receiving services, or the parent or guardian of the individual receiving services, may file a grievance with the provider, the individual's managed care plan or the Division.

(2) For individuals whose services are funded by Medicaid, grievance and appeal procedures outlined in OAR 410-141-0260 through 410-141-0266, must be followed.

(3) For individuals whose services are not funded by Medicaid, providers must:

(a) Notify each individual, or guardian, of the grievance procedures by reviewing a written copy of the policy upon entry;

(b) Assist individuals and parents or guardians, as applicable, to understand and complete the grievance process; and notify them of the results and basis for the decision;

(c) Encourage and facilitate resolution of the grievance at the lowest possible level;

(d) Complete an investigation of any grievance within 30 calendar days;

(e) Implement a procedure for accepting, processing and responding to grievances including specific timelines for each;

(f) Designate a program staff person to receive and process the grievance;

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(g) Document any action taken on a substantiated grievance within a timely manner; and

(h) Document receipt, investigation and action taken in response to the grievance.

(4) Grievance Process Notice. The provider must have a Grievance Process Notice, which must be posted in a conspicuous place stating the telephone number of:

- (a) The Division;
- (b) The CMHP;
- (c) Disability Rights Oregon; and
- (d) The applicable managed care organization.

(5) Expedited Grievances: In circumstances where the matter of the grievance is likely to cause harm to the individual before the grievance procedures outlined in these rules are completed, the individual, or guardian of the individual, may request an expedited review. The program administrator must review and respond in writing to the grievance within 48 hours of receipt of the grievance. The written response must include information about the appeal process.

(6) Retaliation: A grievant, witness or staff member of a provider must not be subject to retaliation by a provider for making a report or being interviewed about a grievance or being a witness. Retaliation may include, but is not limited to, dismissal or harassment, reduction in services, wages or benefits, or basing service or a performance review on the action.

(7) Immunity: The grievant is immune from any civil or criminal liability with respect to the making or content of a grievance made in good faith.

(8) Appeals: Individuals and their legal guardians, as applicable, must have the right to appeal entry, transfer and grievance decisions as follows:

(a) If the individual or guardian, if applicable, is not satisfied with the decision, the individual or guardian may file an appeal in writing within ten working days of the date of the program administrator's response to the grievance or notification of denial for services as applicable. The appeal must be submitted to the CMHP Director in the county where the provider is located or to the Division as applicable;

(b) If requested, program staff must be available to assist the individual;

(c) The CMHP Director or Division, must provide a written response within ten working days of the receipt of the appeal; and

(d) If the individual or guardian, if applicable, is not satisfied with the appeal decision, he or she may file a second appeal in writing within ten working days of the date of the written response to the Director.

Stat. Auth.: ORS 161.390, 413.042, 409.410, 409.420, 428.205 - 428.270, 430.640
Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 409.430 - 409.435, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 461.549, 743A.168, 813.010 - 813.052 & 813.200 - 813.270
Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14

309-019-0220 Variances

(1) Criteria for a Variance: Variances may be granted to a LMHA, CMHP or provider holding a certificate directly with the Division, by the Division:

(a) If there is a lack of resources to implement the standards required in these rules; or

(b) If implementation of the proposed alternative services, methods, concepts or procedures would result in improved outcomes for the individual.

(2) Application for a Variance:

(a) CMHPs and other providers may submit their variance request directly to the Division;

(b) Providers who hold Certificates of Approval jointly with CMHP's and the Division must submit their variance requests to the CMHP. The CMHP must then submit the variance request, along with the CMHP's written recommendation;

(c) The LMHA, CMHP or provider requesting a variance must submit a written application to the Deputy Director; and

(d) Variance requests must contain the following:

(A) The section of the rule from which the variance is sought;

(B) The reason for the proposed variance;

(C) The alternative practice, service, method, concept or procedure proposed;

(D) A proposal for the duration of the variance; and

(E) A plan and timetable for compliance with the section of the rule for which the variance applies.

(3) Division Review and Notification: The Deputy Director of the Division must approve or deny the request for a variance and must notify

the LMHA, CMHP or provider in writing of the decision to approve or deny the requested variance, within 30 days of receipt of the variance. The written notification must include the specific alternative practice, service, method, concept or procedure that is approved and the duration of the approval.

(4) Appeal Application: Appeal of the denial of a variance request must be made in writing to the Director of the Division, whose decision will be final and must be provided in writing within 30 days of receipt of the appeal.

(5) Written Approval: The LMHA, CMHP or provider may implement a variance only after written approval from the Division.

(6) Duration of Variance: It is the responsibility of the LMHA, CMHP or the provider to submit a request to extend a variance in writing prior to a variance expiring. Extension must be approved in writing by the Division.

(7) Granting a variance for one request does not set a precedent that must be followed by the Division when evaluating subsequent requests for variance.

Stat. Auth.: ORS 161.390, 413.042, 409.410, 409.420, 428.205 - 428.270, 430.640
Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 409.430 - 409.435, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 461.549, 743A.168, 813.010 - 813.052 & 813.200 - 813.270
Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14

Rule Caption: Permanent adoption of OAR 309-022 entitled Intensive Treatment Services for Children and Adolescents.

Adm. Order No.: MHS 5-2014

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Rules Repealed: 309-022-0100(T), 309-022-0105(T), 309-022-0110(T), 309-022-0115(T), 309-022-0120(T), 309-022-0125(T), 309-022-0130(T), 309-022-0135(T), 309-022-0140(T), 309-022-0145(T), 309-022-0150(T), 309-022-0155(T), 309-022-0160(T), 309-022-0165(T), 309-022-0170(T), 309-022-0175(T), 309-022-0180(T), 309-022-0185(T), 309-022-0190(T), 309-022-0195(T), 309-022-0200(T), 309-022-0205(T), 309-022-0210(T), 309-022-0215(T), 309-022-0220(T), 309-022-0225(T), 309-022-0230(T), 309-022-0192(T)

Subject: These rules prescribe minimum standards for services and supports provided by addictions and mental health providers who are approved by the Addictions and Mental Health Division of the Oregon Health Authority.

In addition to applicable requirements in OAR 410-120-0000 through 410-120-1980 and 943-120-0000 through 943-120-1550, these rules specify standards for services and supports provided in Intensive Treatment Services (ITS) for Children and Adolescents.

Rules Coordinator: Nola Russell—(503) 945-7652

309-022-0100

Purpose and Scope

(1) Purpose: These rules prescribe minimum standards for services and supports provided by addictions and mental health providers approved by the Addictions and Mental Health Division of the Oregon Health Authority.

(2) Scope: In addition to applicable requirements in OAR 410-120-0000 through 410-120-1980 and 943-120-0000 through 943-120-1550, these rules specify standards for services and supports provided in Intensive Treatment Services (ITS) for Children and Adolescents.

Stat. Auth.: ORS 161.390, 413.042, 430.256, 426.490 - 426.500, 428.205 - 428.270, 430.640 & 443.450
Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 413.520 - 413.522, 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, 743A.168
Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14

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309-022-0105

Definitions

(1) "Abuse of a child" means the circumstances defined in ORS 419B.005.

(2) "Addictions and Mental Health Services and Supports" means all services and supports including but not limited to, Outpatient Community Mental Health Services and Supports for Children and Adults, Intensive Treatment Services for Children, Outpatient and Residential Substance Use Disorders Treatment Services and Outpatient and Residential Problem Gambling Treatment Services.

(3) "Adolescent" means an individual from 12 through 17 years of age, or those individuals who are determined to be developmentally appropriate for youth services.

(4) "Assessment" means the process of obtaining sufficient information, through a face-to-face interview to determine a diagnosis and to plan individualized services and supports.

(5) "Authority" means the Oregon Health Authority.

(6) "Behavioral Health" means mental health, mental illness, addictive health and addiction disorders.

(7) "Behavior Support Plan" means the individualized proactive support strategies that are used to support positive behavior.

(8) "Behavior Support Strategies" means proactive supports designed to replace challenging behavior with functional, positive behavior. The strategies address environmental, social, neuro-developmental and physical factors that affect behavior.

(9) "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 young adults in transition to adult services.

(10) "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.

(11) "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.

(12) "Child and Family Team" means those persons who are responsible for creating, implementing, reviewing, and revising the service coordination section of the Service Plan 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.

(13) "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 less than 21 years of age.

(14) "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.

(15) "Clinical Supervisor" means a person qualified to oversee and evaluate addictions or mental health services and supports.

(16) "Community Mental Health Program" (CMHP) means an entity that is responsible for planning and delivery of services for individuals with substance use or mental illness diagnoses, operated in a specific geographic area of the state under an intergovernmental agreement or a direct contract with the Addictions and Mental Health Division (AMH).

(17) "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.

(18) "Coordinated Care Organization (CCO)" is a network of all types of health care providers (physical health care, addictions and mental health care and sometimes dental care providers) who have agreed to work together in their local communities to serve people who receive health care coverage under the Oregon Health Plan (Medicaid).

(19) "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.

(20) "Criminal Records Check" means the Oregon Criminal Records Check and the processes and procedures required by OAR 407-007-0000 through 407-007-0370.

(21) "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.

(22) "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.

(23) "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.

(24) "Deputy Director" means the Deputy Director of the Addictions and Mental Health Division, or that person's designee.

(25) "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 are the medically appropriate reason for services.

(26) "Director" means the Director of the Addictions and Mental Health Division, or that person's designee.

(27) "Division" means the Addictions and Mental Health Division.

(28) "DSM" means the most recent version of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association.

(29) "Emergency Safety Intervention" means the use of seclusion or personal restraint under OAR 309-021-0175 of these rules, as an immediate response to an unanticipated threat of violence or injury to an individual, or others.

(30) "Emergency Safety Intervention Training" means a Division approved course that includes an identified instructor, a specific number of face-to-face instruction hours, a component to assess competency of the course materials, and an established curriculum including the following:

(a) Prevention of emergency safety situations using positive behavior support strategies identified in the individual's behavior support plan;

(b) Strategies to safely manage emergency safety situations; and

(c) De-escalation and debriefing.

(31) "Emergency Safety Situation" means an unanticipated behavior that places the individual or others at serious threat of violence or injury if no intervention occurs and that calls for an emergency safety intervention as defined in this section.

(32) "Emergent" means the onset of symptoms requiring attention within 24 hours to prevent serious deterioration in mental or physical health or threat to safety.

(33) "Entry" means the act or process of acceptance and enrollment into services regulated by this rule.

(34) "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.

(35) "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.

(36) "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.

(37) "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.

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(38) "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.

(39) "Guardian" means a person appointed by a court of law to act as guardian of a minor or a legally incapacitated person.

(40) "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).

(41) "Individual" means any person being considered for or receiving services and supports regulated by these rules.

(42) "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.

(43) "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.

(44) "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.

(45) "Interdisciplinary Team" means the group of people designated to advise in the planning and provision of services and supports to individuals receiving ITS 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.

(46) "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.

(47) "Juvenile Psychiatric Security Review Board (JPSRB)" means the entity described in ORS 161.385.

(48) "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.

(49) "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.

(50) "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.

(51) "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.

(52) "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.

(53) "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.

(54) "Mechanical restraint" means any device attached or adjacent to the resident's body that he or she cannot easily remove that restricts freedom of movement or normal access to his or her body. Mechanical restraint is prohibited in the services regulated by these rules.

(55) "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. (56) "Medical Supervision" means an LMP's review and approval, at least annually, of the medical appropriateness of services and supports identified in the Service Plan for each individual receiving mental health services for one or more continuous years.

(56) "Medically Appropriate" means services and medical supplies required for prevention, diagnosis or treatment of a physical or behavioral 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.

(57) "Mental Health Intern" means a person who meets qualifications for QMHA but does not have the necessary graduate degree in psychology, social work or behavioral science field to meet the educational requirement of QMHP. The person must:

(a) Be currently enrolled in a graduate program for a master's degree in psychology, social work or in a behavioral science field;

(b) Have a collaborative educational agreement with the CMHP, or other provider, and the graduate program;

(c) Work within the scope of his/her practice and competencies identified by the policies and procedures for credentialing of clinical staff as established by provider; and

(d) Receive, at minimum, weekly supervision by a qualified clinical supervisor employed by the provider of services.

(58) "Mental Health Organization (MHO)" means an approved organization that provides most mental health services through a capitated payment mechanism under the Oregon Health Plan. MHOs may be fully capitated health plans, community mental health programs, private mental health organizations or combinations thereof.

(59) "Oregon Health Authority" means the Oregon Health Authority of the State of Oregon.

(60) "Outreach" means the delivery of behavioral 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.

(61) "Peer" means any person supporting an individual, or a family member of an individual, who has similar life experience, either as a current or former recipient of addictions or mental health services, or as a family member of an individual who is a current or former recipient of addictions or mental health services.

(62) "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.

(63) "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 as required in OAR 410-180-0300 to 0380 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 substance use disorders 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.

(64) "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 with-

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out 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 309-021-0175.

(65) "Program" means a particular type or level of service that is organizationally distinct.

(66) "Program Administrator" or "Program Director" means a person with appropriate professional qualifications and experience, who is designated to manage the operation of a program.

(67) "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.

(68) "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.

(69) "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.

(70) "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.

(71) "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.

(72) "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.

(73) "Psychologist" means a psychologist licensed by the Oregon Board of Psychologist Examiners.

(74) "Publicly Funded" means financial support, in part or in full, with revenue generated by a local, state or federal government.

(75) "Qualified Mental Health Associate (QMHA)" means a person delivering services under the direct supervision of a QMHP who meets the minimum qualifications as authorized by the LMHA, or designee, and specified in 309-022-0125.

(76) "Qualified Mental Health Professional (QMHP)" means a LMP or any other person meeting the minimum qualifications as authorized by the LMHA, or designee, and specified in 309-022-0125.

(77) "Quality Assessment and Performance Improvement" means the structured, internal monitoring and evaluation of services to improve processes, service delivery and service outcomes.

(78) "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.

(79) "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.

(80) "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.

(81) "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.

(82) "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 Service Plan.

(83) "Screening" means the process to determine whether the individual needs further assessment to identify circumstances requiring referrals or additional services and supports.

(84) "Seclusion" means the involuntary confinement of a resident alone in a room or an area from which the resident is physically prevented from leaving. Seclusion can be used only in approved ITS programs as an emergency safety intervention specified in OAR 309-022-0175.

(85) "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.

(86) "Service Plan" 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.

(87) "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 Service Plan.

(88) "Service Record" means the documentation, written or electronic, regarding an individual and resulting from entry, assessment, orientation, services and supports planning, services and supports provided, and transfer.

(89) "Services" means those activities and treatments described in the Service Plan 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.

(90) "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.

(91) "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.

(92) "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.

(93) "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.

(94) "Transfer" means the process of assisting an individual to transition from the current services to the next appropriate setting or level of care.

(95) "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.

(96) "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 Service Plan.

(97) "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.

(98) "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.

(99) "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.

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(100) "Wellness" means an approach to healthcare that emphasizes good physical and mental health, preventing illness, and prolonging life.

(101) "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, 743A.168

Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14

309-022-0110

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 OAR 943-045-0250 through 943-045-0370;

(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.

(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;

(G) Crisis Prevention and Response;

(H) Incident Reporting;

(I) Family Involvement;

(J) Trauma-informed Service Delivery, consistent with the AMH Trauma Informed Services Policy; and

(K) Provision of culturally and linguistically appropriate services.

(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) General Safety and Emergency Procedures;

(d) Emergency Safety Interventions in ITS Programs; and

(e) Behavior Support Policies consistent with 309-022-0165.

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, 743A.168

Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14

309-022-0115

Individual Rights

(1) In addition to all applicable statutory and constitutional rights, every individual receiving services has the right to:

(a) Choose from available services and supports, those that are consistent with the Service Plan, culturally competent, provided in the most integrated setting in the community and under conditions that are least restrictive to the individual's liberty, that are least intrusive to the individual and that provide for the greatest degree of independence;

(b) Be treated with dignity and respect;

(c) Participate in the development of a written Service Plan, receive services consistent with that plan and participate in periodic review and reassessment of service and support needs, assist in the development of the plan, and to receive a copy of the written Service Plan;

(d) Have all services explained, including expected outcomes and possible risks;

(e) Confidentiality, and the right to consent to disclosure in accordance with ORS 107.154, 179.505, 179.507, 192.515, 192.507, 42 CFR Part 2 and 45 CFR Part 205.50.

(f) Give informed consent in writing prior to the start of services, except in a medical emergency or as otherwise permitted by law. Minor children may give informed consent to services in the following circumstances:

(A) Under age 18 and lawfully married;

(B) Age 16 or older and legally emancipated by the court; or

(C) Age 14 or older for outpatient services only. For purposes of informed consent, outpatient service does not include service provided in residential programs or in day or partial hospitalization programs;

(g) Inspect their Service Record in accordance with ORS 179.505;

(h) Refuse participation in experimentation;

(i) Receive medication specific to the individual's diagnosed clinical needs;

(j) Receive prior notice of transfer, unless the circumstances necessitating transfer pose a threat to health and safety;

(k) Be free from abuse or neglect and to report any incident of abuse or neglect without being subject to retaliation;

(l) Have religious freedom;

(m) Be free from seclusion and restraint, except as regulated in OAR 309-021-0175.

(n) Be informed at the start of services, and periodically thereafter, of the rights guaranteed by this rule;

(o) Be informed of the policies and procedures, service agreements and fees applicable to the services provided, and to have a custodial parent, guardian, or representative, assist with understanding any information presented;

(p) Have family and guardian involvement in Service Planning and delivery;

(q) Make a declaration for mental health treatment, when legally an adult;

(r) File grievances, including appealing decisions resulting from the grievance;

(s) Exercise all rights set forth in ORS 109.610 through 109.697 if the individual is a child, as defined by these rules;

(t) Exercise all rights set forth in ORS 426.385 if the individual is committed to the Authority; and

(u) Exercise all rights described in this rule without any form of reprisal or punishment.

(2) In addition to the rights specified in (1) of this rule, every individual receiving residential services has the right to:

(a) A safe, secure and sanitary living environment;

(b) A humane service environment that affords reasonable protection from harm, reasonable privacy and daily access to fresh air and the outdoors;

(c) Keep and use personal clothing and belongings, and to have an adequate amount of private, secure storage space. Reasonable restriction of the time and place of use, of certain classes of property may be implemented if necessary to prevent the individual or others from harm, provided that notice of this restriction is given to individuals and their families, if applicable, upon entry to the program, documented, and reviewed periodically;

(d) Express sexual orientation, gender identity and gender presentation;

(e) Have access to and participate in social, religious and community activities;

(f) Private and uncensored communications by mail, telephone and visitation, subject to the following restrictions:

(A) This right may be restricted only if the provider documents in the individual's record that there is a court order to the contrary, or that in the absence of this restriction, significant physical or clinical harm will result to the individual or others. The nature of the harm must be specified in reasonable detail, and any restriction of the right to communicate must be no broader than necessary to prevent this harm; and

(B) The individual and his or her guardian, if applicable, must be given specific written notice of each restriction of the individual's right to private and uncensored communication. The provider must ensure that correspondence can be conveniently received and mailed, that telephones are reasonably accessible and allow for confidential communication, and that space is available for visits. Reasonable times for the use of telephones and visits may be established in writing by the provider;

(g) Communicate privately with public or private rights protection programs or rights advocates, clergy, and legal or medical professionals;

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(h) Have access to and receive available and applicable educational services in the most integrated setting in the community;

(i) Participate regularly in indoor and outdoor recreation;

(j) Not be required to perform labor;

(k) Have access to adequate food and shelter; and

(l) A reasonable accommodation if, due to a disability, the housing and services are not sufficiently accessible.

(3) Notification of Rights: The provider must give to the individual and, if appropriate, the guardian, a document that describes the applicable individual's rights as follows:

(a) Information given to the individual must be in written form or, upon request, in an alternative format or language appropriate to the individual's need;

(b) Rights, and how to exercise them, must be explained to the individual, and if appropriate, to her or his guardian; and

(c) Individual rights must be posted in writing in a common area.

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

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 409.430 - 409.435, 426.380 - 426.395, 426.490 - 426.500, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 743A.168

Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14

309-022-0120

Licensing and Credentialing

Program staff in the following positions must meet applicable credentialing or licensing standards, including those outlined in these rules:

(1) CESIS;

(2) Clinical Supervisor;

(3) LMP;

(4) Medical Director;

(5) QMHA; and

(6) QMHP.

Stat. Auth.: ORS 161.390, 413.042, 426.490 - 426.500, 428.205 - 428.270, 430.256, 430.640 & 443.450

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 413.520 - 413.522, 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, 743A.168

Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14

309-022-0125

Specific Staff Qualifications and Competencies

(1) Program Administrators or Program Directors must demonstrate competence in leadership, program planning and budgeting, fiscal management, supervision of program staff, personnel management, program staff performance assessment, use of data, reporting, program evaluation, quality assurance, and developing and coordinating community resources.

(2) Clinical Supervisors in all programs must demonstrate competence in leadership, wellness, oversight and evaluation of services, staff development, service planning, case management and coordination, utilization of community resources, group, family and individual therapy or counseling, documentation and rationale for services to promote intended outcomes and implementation of all provider policies.

(3) Clinical supervisors in mental health programs must meet QMHP requirements and have completed two years of post-graduate clinical experience in a mental health treatment setting.

(4) QMHAs must demonstrate the ability to communicate effectively, understand mental health assessment, treatment and service terminology and apply each of these concepts, implement skills development strategies, and identify, implement and coordinate the services and supports identified in a Service Plan.

(a) QMHAs must meet the follow minimum qualifications:

(A) Bachelor's degree in a behavioral science field; or

(B) A combination of at least three years of relevant work, education, training or experience; or

(C) A qualified Mental Health Intern, as defined in 309-022-0105(57).

(5) QMHPs must demonstrate the ability to conduct an assessment, including identifying precipitating events, gathering histories of mental and physical health, substance use, past mental health services and criminal justice contacts, assessing family, cultural, social and work relationships, and conducting a mental status examination, complete a DSM diagnosis, write and supervise the implementation of a Service Plan and provide individual, family or group therapy within the scope of their training.

(a) QMHPs must meet the following minimum qualifications:

(A) Bachelor's degree in nursing and licensed by the State or 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;

(F) Graduate degree in a behavioral science field.

(G) A qualified Mental Health Intern, as defined in 309-022-0105(57).

(6) Peer support specialists must demonstrate knowledge of approaches to support others in recovery and resiliency, and demonstrate efforts at self-directed recovery.

Stat. Auth.: ORS 161.390, 413.042, 426.490 - 426.500, 428.205 - 428.270, 430.256, 430.640 & 443.450

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 413.520 - 413.522, 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, 743A.168

Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14

309-022-0130

Documentation, Training and Supervision

(1) Providers must maintain personnel records for each program staff that contains all of the following documentation:

(a) An employment application;

(b) Verification of a criminal record check consistent with OAR 407-0200 through 407-007-0370;

(c) A current job description that includes applicable competencies;

(d) Copies of relevant licensure or certification, diploma, or certified transcripts from an accredited college, indicating that the program staff meets applicable qualifications;

(e) Periodic performance appraisals;

(f) Staff orientation and development activities;

(g) Program staff incident reports;

(h) Disciplinary documentation;

(i) Reference checks;

(j) Emergency contact information; and

(k) Documentation of a tuberculosis screening pursuant to OAR 333-0105-0057.

(2) Providers must maintain the following documentation for contractors, interns or volunteers, as applicable:

(a) A contract, or written agreement, if applicable;

(b) A signed confidentiality agreement;

(c) Service-specific orientation documentation; and

(d) Verification of a criminal records check consistent with OAR 407-007-0200 through 407-007-0370.

(3) Training: Providers must ensure that program staff receive training applicable to the specific population for whom services are planned or delivered, to include the following minimum orientation training, within 30 days of the hire date:

(a) A review of individual crisis response procedures;

(b) A review of emergency procedures;

(c) A review of program policies and procedures;

(d) A review of rights for individuals receiving services and supports;

(e) Mandatory abuse reporting procedures;

(f) Positive behavior support training consistent with 309-022-0165.

(4) Supervision: Persons providing services to individuals in accordance with these rules must receive supervision related to the development, implementation and outcome of services, by a qualified Clinical Supervisor, as defined in these rules.

(a) Clinical supervision must be provided to assist program staff and volunteers to increase their skills, improve quality of services to individuals, and supervise program staff and volunteers' compliance with program policies and procedures, including:

(b) QMHP supervision: Documentation of clinical supervision for QMHP staff of no less than two hours per month. The two hours must include one hour of face-to-face contact for each person supervised, or a proportional level of supervision for part-time QMHP staff. Face-to-face contact may include real time, two-way audio visual conferencing; or

(c) Documentation of two hours of quarterly supervision for program staff holding a health or allied provider license, including at least one hour of face-to-face contact for each person supervised.

(d) QMHA supervision: Documentation of clinical supervision for each QMHA staff supervised of no less than two hours per month. The two hours must include one hour of face-to-face contact for each person supervised related to direct care responsibilities, or a proportional level of supervision for part-time QMHA staff. Face-to-face contact may include real time, two-way audio visual conferencing. Clinical supervision of a QMHA can be conducted by a Lead QMHA staff.

ADMINISTRATIVE RULES

(e) Mental Health Intern supervision: Documentation of weekly supervision for program staff meeting the definition of Mental Health Intern.

Stat. Auth.: ORS 161.390, 413.042, 426.490 - 426.500, 428.205 - 428.270, 430.256, 430.640 & 443.450
Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 413.520 - 413.522, 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, 743A.168
Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14

309-022-0135

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) 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.

(d) The provider must establish a Service Record for each individual on the date of entry.

(e) The provider must report the entry of all individuals on the mandated state data system.

(f) 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.

(2) 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.

(3) 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.

(4) Assessment:

(a) At the time of entry, an assessment must be completed prior to development of the Service Plan.

(b) The assessment must be completed by a QMHPA QMHA may assist in the gathering and compiling of information to be included in the assessment.

(c) Each assessment must include:

(A) Sufficient 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 Service Records must contain follow-up actions and referrals when an individual reports symptoms indicating risk of suicide;

(C) Screening for the presence of co-occurring mental health and substance use disorders and chronic medical conditions; and

(D) Screening for the presence of symptoms related to physical or psychological trauma.

(d) When the assessment process determines the presence of co-occurring substance use and mental health disorders, 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 LMP.

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, 743A.168
Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14

309-022-0140

Service 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.

(a) Qualified program staff must facilitate a planning process, resulting in a Service Plan that reflects the assessment.

(b) A Service Plan must be completed prior to the start of services.

(c) A licensed health care professional, must recommend the services and supports by signing the Service Plan.

(d) Individuals, and family members, must be invited to participate in the development of the Service Plan.

(e) Providers must fully inform the individual and guardian when applicable, of the proposed services and supports, in developmentally and culturally appropriate language, obtain informed consent for all proposed services, and give the individual, and guardian, a written copy of the Service Plan.

(f) Providers must collaborate with community partners to coordinate or deliver services and supports identified in the Service Plan.

(g) Providers must collaborate to exchange information with any applicable physical health care providers, for the individual, to promote regular and adequate health care.

(2) Service Plan: The Service Plan must be a written, individualized plan to improve the individual's condition to the point where the individual's continued participation in the program is no longer necessary. The Service Plan is included in the individual's service records and must:

(a) Be completed prior to the start of services;

(b) Reflect the assessment and the level of care to be provided;

(c) Include the participation of the individual and family members;

(d) Be completed by a QMHP;

(e) A QMHP, who is also a licensed health care professional, must recommend the services and supports by signing the Service plan within ten (10) business days of the start of services; and

(f) A LMP must approve the Service Plan at least annually for each individual receiving mental health services for one or more continuous years. The LMP may designate annual clinical oversight by documenting the designation to a specific licensed health care professional.

(3) At minimum, each Service Plan must include:

(a) Individualized treatment objectives;

(b) The specific services and supports that will be used to meet the treatment objectives;

(c) A projected schedule for service delivery, including the expected frequency and duration of each type of planned therapeutic session or encounter;

(d) The type of personnel that will be furnishing the services; and

(e) Proactive safety and crisis planning;

(f) A behavior support plan, consistent with OAR 309-022-0165; and
(g) 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.

(4) Service Notes:

(a) Providers must document each service and support. A Service Note, at minimum, must include:

(A) The specific services rendered;

(B) The date, time of service, and the actual amount of time the services were rendered;

(C) Who rendered the services;

(D) The setting in which the services were rendered;

(E) The relationship of the services to the treatment regimen described in the Service Plan; and

(F) Periodic Updates describing the individual's progress toward the treatment objectives; and

(G) Any decisions to transfer an individual from service.

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, 743A.168

ADMINISTRATIVE RULES

Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14

309-022-0145 Service Record

(1) All providers must develop and maintain a Service Record for each individual upon entry.

(2) 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.

(3) The Service 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, and gender;

(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) A Service Plan, including any applicable behavior support or crisis intervention planning;

(g) Service Notes;

(h) A Transfer Summary, when applicable;

(i) Applicable signed consents for release of information;

(4) When medical services are provided, the following documents must be part of the Service Record as applicable:

(a) Medication Administration Records;

(b) Laboratory reports; and

(c) LMP orders for medication, protocols or procedures.

(5) Providers must maintain additional Service Record documentation as follows:

(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 Service Plan, 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;

(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.

(j) Level of Service Intensity Determination;

(k) Names and contact information of the members of the interdisciplinary team;

(l) 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;

(m) 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

(n) A copy of the written transition instructions provided to the child and family on the date of transfer.

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, 743A.168

Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14

309-022-0150

Minimum Program Requirements

ITS Providers must meet the following general requirements:

(1) 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;

(2) Maintain 24 hour, seven days per week treatment responsibility for children in the program;

(3) 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;

(4) Inform the Division and the legal guardian within twenty-four hours of reportable incidents;

(5) 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

(6) 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.

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, 743A.168

Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14

309-022-0155

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:

(1) Availability of psychiatric services to meet the following requirements;

(2) Provision of 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

(3) Assessment of 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 Service Plan goals.

(4) There must be at least one program staff who has completed First Aid and CPR training on duty at all times.

(5) ITS providers must ensure that the following services and supports are available and accessible through direct service, contract or by referral:

(a) Active psychiatric treatment and education services must be functionally integrated in a therapeutic environment designed to reflect and promote achievement of the intended outcomes of each child's Service Plan;

(b) Continuity of the child's education when treatment services interrupt the child's day to day educational environment;

(c) Family therapy, provided by a QMHP. The family therapist to child ratio must be at least one family therapist for each 12 children;

(d) Psychiatric services;

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(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 309-022-0165 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, 743A.168

Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14

309-022-0160

Program Specific Requirements

In addition to the general requirements for all ITS providers listed in OAR 309-022-0150 and 0155, the following program-specific requirements must be met:

(1) 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.

(2) 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.

(3) Sub-Acute Psychiatric Care: In addition to the services provided as indicated by the assessment and specified in the Service Plan, 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.

(4) 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.

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, 743A.168

Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14

309-022-0165

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. All Providers must:

(1) Develop and implement individual behavior support strategies, based on a functional or other clinically appropriate assessment of challenging behavior;

(2) Document the behavior support strategies and measures for tracking progress as a behavior support plan in the Service Plan;

(3) 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;

(4) 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;

(5) 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.

(6) 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

(7) Review and update behavior support policies, procedures, and practices annually.

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

Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14

309-022-0170

Emergency Safety Interventions

Providers of ITS services must:

(1) 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.

(2) 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.

(3) 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.

(4) Prohibit the use of mechanical restraint and chemical restraint as defined in these rules.

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(5) 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.

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

Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14

309-022-0175

Restraint and Seclusion

(1) 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:

(A) 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;

(B) Discuss the procedures, if any, to be implemented to prevent any recurrence of the use of personal restraint or seclusion;

(C) Discuss the outcome of the intervention including any injuries that may have resulted; and

(D) Review the individual's Service Plan, making the necessary revisions, and document the discussion and any resulting changes to the individual's Service Plan in the Service Record.

(2) 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:

(A) Name of the person authorized to order the personal restraint;

(B) Date and time the order was obtained; and

(C) 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 Service Record. The documentation must specify:

(A) Behavior support strategies and less restrictive interventions attempted prior to the personal restraint;

(B) Required authorization;

(C) Events precipitating the personal restraint;

(D) Length of time the personal restraint was used;

(E) Assessment of appropriateness of the personal restraint based on threat of harm to self or others;

(F) Assessment of physical injury; and

(G) Individuals response to the emergency safety intervention.

(3) Seclusion: Providers must be certified 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:

(A) Name of the person authorized to order seclusion;

(B) Date and time the order was obtained; and

(C) 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 Service Record; and

(f) Each incident of seclusion must be documented in the Service Record. The documentation must specify:

(A) The behavior support strategies and less restrictive interventions attempted prior to the use of seclusion;

(B) The required authorization for the use of seclusion;

(C) The events precipitating the use of seclusion;

(D) The length of time seclusion was used;

(E) An assessment of the appropriateness of seclusion based on threat of harm to self or others;

(F) An assessment of physical injury to the individual, if any; and

(G) The individual's response to the emergency safety intervention.

(4) Any room specifically designated for the use of seclusion or time out must be approved by the Division.

(a) 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

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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 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.

(5) 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.

Stat. Auth.: ORS 161.390, 413.042, 409.410, 409.420, 426.490 - 426.500, 428.205 - 28.270, 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, 743A.168

Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14

309-022-0180

Transfer and Continuity of Care

(1) Planned Transfer: Providers must meet the following requirements for planned transfer:

(a) Decisions to transfer individuals must be documented in a transfer summary. The documentation must include the reason for transfer;

(b) Planned transfer must be consistent with the transfer criteria established by the interdisciplinary team and documented in the Service Plan.

(c) Providers must not transfer services unless the interdisciplinary team, in consultation with the child's parent or guardian and the next

provider, agree that the child requires a more or less restrictive level of care; and

(d) If the determination is made to admit the child to acute care, the provider must not transfer services during the acute care stay unless the interdisciplinary team, in consultation with the child's parent or guardian and the next provider, agree that the child requires a more or less restrictive level of care following the acute care stay; and

(2) Transfer Process and Continuity of Care: Prior to transfer, providers must:

(a) Coordinate and provide appropriate referrals for medical care and medication management. The transferring provider must assist the individual to identify the medical provider who will provide continuing care and to arrange an initial appointment with that provider;

(b) Coordinate recovery and ongoing support services for individuals and their families including identifying resources and facilitating linkage to other service systems necessary to sustain recovery, including peer delivered services;

(c) Complete a Transfer Summary;

(d) When services are transferred due to the absence of the individual, the provider must document outreach efforts made to re-engage the individual, or document the reason why such efforts were not made;

(e) If the individual is under the jurisdiction of the PSRB or JPSRB, the provider must notify the PSRB or JPSRB immediately and provide a copy of the Transfer Summary within 30 days;

(f) The provider must report all instances of Transfer on the mandated state data system; and

(g) At a minimum, the provider's interdisciplinary team must:

(A) Integrate transfer planning into ongoing treatment planning and documentation from the time of entry, and specify the transfer criteria that must indicate resolution of the symptoms and behaviors that justified the entry;

(B) Review and, if needed, modify the transfer criteria in the Service Plan every 30 days;

(C) Notify the child's parent or guardian, and the provider to which the child must be transitioned of the anticipated transfer dates at the time of entry, and when the Service Plan is changed;

(D) Include the parent or guardian, and provider to which the child must be transitioned in transfer planning and reflect their needs and desires to the extent clinically indicated;

(E) Finalize the transition plan prior to transfer and identify in the plan the continuum of services and the type and frequency of follow-up contacts recommended by the provider to assist in the child's successful transition to the next appropriate level of care;

(F) Assure that appropriate medical care and medication management must be provided to individuals who leave through a planned transfer. The last service provider's interdisciplinary team must identify the medical personnel who will provide continuing care and must arrange an initial appointment with that provider;

(G) Coordinate appropriate education services with applicable school district personnel; and

(H) Give a written transition plan to the child's parent or guardian and the next provider if applicable, on the date of transfer.

(3) Transfer Summary:

(a) A Transfer Summary must include:

(A) The date and reason for the transfer;

(B) A summary statement that describes the effectiveness of services in assisting the individual and his or her family to achieve intended outcomes identified in the Service Plan;

(C) Where appropriate, a plan for personal wellness and resilience, including relapse prevention; and

(D) Identification of resources to assist the individual and family, if applicable, in accessing recovery and resiliency services and supports.

(b) If the transfer is to services with another provider, all documentation contained in the Service Record requested by the receiving provider must be furnished, compliant with applicable confidentiality policies and procedures, within 14 days of receipt of a written request for the documentation.

(c) A complete transfer summary must be sent to the receiving provider within 30 days of the transfer.

Stat. Auth.: ORS 161.390, 413.042, 409.410, 409.420, 426.490 - 426.500, 428.205 - 428.270, 430.640 & 443.45

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 409.430 - 409.435, 426.380 - 426.395, 426.490 - 426.500, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 743A.168

Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14

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309-022-0185

Quality Assessment and Performance Improvement

(1) Each provider must develop and implement a structured and ongoing process to assess, monitor, and improve the quality and effectiveness of services provided to individuals and their families, including:

- (a) A Quality Improvement Committee; and
- (b) A Performance improvement process documented in a Performance Improvement Plan.

(2) The Quality Improvement Committee must include representatives of individuals served and their families and must meet at least quarterly to:

- (a) Identify and assess the following indicators of quality:
 - (A) Access to services;
 - (B) Outcomes of services;
 - (C) Systems integration and coordination of services; and
 - (D) Utilization of services.

(b) Review incident reports, emergency safety intervention documentation, grievances and other documentation as applicable;

(c) Identify measurable and time-specific performance objectives and strategies to meet the objectives and measure progress;

(d) Recommend policy and operational changes necessary to achieve performance objectives; and

(e) Reassess and, if necessary, revise objectives and methods to measure performance on an ongoing basis to ensure sustainability of improvements.

(3) Performance Improvement Plan: The quality assessment and performance improvement process must be documented in a Performance Improvement Plan which must include:

- (a) Performance objectives aimed at improving services; and
- (b) Strategies designed to meet the performance objectives and measure progress.

Stat. Auth.: ORS 161.390, 413.042, 409.410, 409.420, 426.490 - 426.500, 428.205 - 428.270, 430.640 & 443.450
Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 409.430 - 409.435, 426.380 - 426.395, 426.490 - 426.500, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 743A.168
Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14

309-022-0190

Grievances and Appeals

(1) Any individual receiving services, or the parent or guardian of the individual receiving services, may file a grievance with the provider, the individual's managed care plan or the Division.

(2) Medicaid grievances and appeals must adhere to procedures outlined in OAR 410-141-0260 through 410-141-0266.

(3) For individuals whose services are not funded by Medicaid, providers must:

(a) Notify each individual, or guardian, of the grievance procedures by reviewing a written copy of the policy upon entry;

(b) Assist individuals and parents or guardians, as applicable, to understand and complete the grievance process; and notify them of the results and basis for the decision;

(c) Encourage and facilitate resolution of the grievance at the lowest possible level;

(d) Complete an investigation of any grievance within 30 calendar days;

(e) Implement a procedure for accepting, processing and responding to grievances including specific timelines for each;

(f) Designate a program staff person to receive and process the grievance;

(g) Document any action taken on a substantiated grievance within a timely manner; and

(h) Document receipt, investigation and action taken in response to the grievance.

(4) Grievance Process Notice: The provider must have a Grievance Process Notice, which must be posted in a conspicuous place stating the telephone number of:

- (a) The Division;
- (b) The CMHP;
- (c) Disability Rights Oregon; and
- (d) The applicable managed care organization.

(5) Expedited Grievances: In circumstances where the matter of the grievance is likely to cause harm to the individual before the grievance procedures outlined in these rules are completed, the individual, or guardian of the individual, may request an expedited review. The program administrator must review and respond in writing to the grievance within 48 hours of

receipt of the grievance. The written response must include information about the appeal process.

(6) Retaliation: A grievant, witness or staff member of a provider must not be subject to retaliation by a provider for making a report or being interviewed about a grievance or being a witness. Retaliation may include, but is not limited to, dismissal or harassment, reduction in services, wages or benefits, or basing service or a performance review on the action.

(7) Immunity: The grievant is immune from any civil or criminal liability with respect to the making or content of a grievance made in good faith.

(8) Appeals: Individuals and their legal guardians, as applicable, must have the right to appeal entry, transfer and grievance decisions as follows:

(a) If the individual or guardian, if applicable, is not satisfied with the decision, the individual or guardian may file an appeal in writing within ten working days of the date of the program administrator's response to the grievance or notification of denial for services as applicable. The appeal must be submitted to the CMHP Director in the county where the provider is located or to the Division as applicable;

(b) If requested, program staff must be available to assist the individual;

(c) The CMHP Director or Division, must provide a written response within ten working days of the receipt of the appeal; and

(d) If the individual or guardian, if applicable, is not satisfied with the appeal decision, he or she may file a second appeal in writing within ten working days of the date of the written response to the Director.

Stat. Auth.: ORS 161.390, 413.042, 409.410, 409.420, 426.490 - 426.500, 428.205 - 428.270, 430.640 & 443.450
Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 409.430 - 409.435, 426.380 - 426.395, 426.490 - 426.500, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 743A.168
Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14

309-022-0195

Licensure as a Children's Emergency Safety Intervention Specialist (CESIS)

To obtain a license as a CESIS, an agency that is certified by the Division to provide intensive mental health treatment services for individuals less than 21 years of age shall make an application on behalf of the licensure applicant. The Division shall issue a license as a CESIS to each applicant who furnishes satisfactory evidence to the Division that the applicant meets the following qualifications:

(1) Is employed by or providing services under contract with a provider that is certified by the Division to provide intensive mental health treatment services for individuals under 21 years of age;

(2) Meets qualifications established by the Division by rule for Qualified Mental Health Professionals;

(3) Has successfully completed an emergency safety intervention training program approved by the Division within the past 12 months;

(4) Demonstrates the ability to assess the psychological and physical well-being of individuals less than 21 years of age;

(5) Demonstrates knowledge of federal and state rules governing the use of seclusion and personal restraint in intensive mental health treatment programs for individuals under 21 years of age.

Stat. Auth.: ORS 413.042 & 426.415
Stats. Implemented: ORS 426.415
Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14

309-022-0200

CESIS Scope of Licensure

(1) A licensed CESIS is authorized to:

(a) Order the least restrictive intervention, including seclusion and personal restraint that is most likely to be effective in resolving an emergency safety situation if the treatment team physician is not available.

(b) Provide the federally mandated face-to-face assessment of an individual under 21 years of age's well-being within one hour of the initiation of the emergency safety intervention; and

(c) Accept verbal orders for seclusion and personal restraint from a physician or licensed practitioner who is authorized to order seclusion and personal restraint.

(2) Exclusions to Licensure:

(a) A licensed CESIS is not authorized to order or receive orders for the use of mechanical or chemical restraint.

(b) A CESIS license is only valid while the licensee is employed or contracted to provide services with the intensive mental health treatment services program that submitted the application on behalf of the licensee.

Stat. Auth.: ORS 413.042 & 426.415
Stats. Implemented: ORS 426.415

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Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14

309-022-0205

CESIS License Applications

(1) Application for licensure as a CESIS shall be made to the Division and be on forms prescribed by the Division.

(2) Application for licensure shall be accompanied by a formal written request from a provider that is certified by the Division to provide intensive mental health treatment services for individuals under 21 years of age with which the applicant is employed or contracted. The request must include:

(a) Official transcripts and supporting documentation as necessary showing the applicant meets qualifications established by rule for a QMHP;

(b) Verification that an emergency safety intervention course approved by the Division has been successfully completed within the past 12 months;

(c) Verification of certification in CPR and First Aid by a recognized training agency;

(d) A signed Background Check Request form as described in OAR chapter 943 division 007. The Criminal Record Check form will request information regarding criminal history and other information;

(e) Verification of employment or contracted services with a provider that is certified by the Division to provide intensive mental health treatment services for individuals under 21 years of age;

(f) A copy of the completed examination or evaluation the provider used to determine the applicant's competence to assess the psychological and physical well-being of individuals under 21 years of age; and

(g) A copy of the completed examination or evaluation the provider used to determine the applicants knowledge of the federal and state rules governing the use of seclusion and personal restraint in intensive mental health treatment programs for individuals less than 21 years of age.

Stat. Auth.: ORS 413.042 & 426.415

Stats. Implemented: ORS 426.415

Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14

309-022-0210

Issuance of a License

(1) The Division shall issue a license within 30 days of the submission of a completed application. The license shall state the name of the licensee, the provider and expiration date.

(2) The license shall be placed in the licensee's personnel file and be easily visible.

(3) An initial license is valid from the time of issuance until the expiration date, which will be September 30th of the following calendar year.

Stat. Auth.: ORS 413.042 & 426.415

Stats. Implemented: ORS 426.415

Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14

309-022-0215

Renewal and Expiration of License

(1) A license issued under these rules is subject to renewal every 2 years.

(a) All licenses will expire on September 30th. The issuance date of the licensee's first license will determine if the license expires on an odd or even year.

(b) At least 30 days prior to the expiration of a license, a reminder notice will be sent by the Division to the licensee and the provider.

(c) A licensee seeking renewal of a license shall have a provider with whom they are employed or contracted submit on their behalf:

(A) Proof of fulfillment of the following requirements;

(i) Verification of current certification in CPR and First aid by a recognized training agency;

(ii) A copy of the evaluation completed within the last year of the applicants competence to assess the psychological and physical well-being of individuals less than 21 years of age.

(iii) A copy of the evaluation completed within the last year demonstrating the applicant's knowledge of federal and state rules governing the use of seclusion and personal restraint in intensive mental health treatment services programs for individuals less than 21 years of age.

(B) Proof of continued employment or contract with a facility certified by the Division to provide intensive mental health treatment services for individuals less than 21 years of age.

(2) A licensee may not continue to practice as a licensed CESIS after expiration of the license.

(3) A licensee may not continue to practice as a licensed CESIS upon discontinuation of employment or contract with the provider of intensive mental health treatment services specified on the license.

(4) If the person's previous license has expired, the person must apply and qualify for a new license in the same manner as a person who has never been licensed.

Stat. Auth.: ORS 413.042 & 426.415

Stats. Implemented: ORS 426.415

Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14

309-022-0220

Complaints

(1) Any person who believes these rules have been violated may file a complaint with the Division.

(2) The Division shall establish a protocol for investigation of complaints and make that information available to anyone who files a complaint or has a complaint filed against them. Following the Divisions investigation of a complaint, the Division may take action to:

(a) Dismiss the complaint;

(b) Issue a letter of reprimand;

(c) Direct the Provider to draft a plan of correction with the licensee;

or

(d) Institute disciplinary action.

Stat. Auth.: ORS 413.042 & 426.415

Stats. Implemented: ORS 426.415

Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14

309-022-0225

Denial, Suspension, Revocation or Non-renewal of License

(1) The Division may deny, suspend, revoke or refuse to issue or to renew any license issued under these rules upon proof that the applicant for licensure or the licensee:

(a) Has been convicted of one or more crimes described in OAR 943-007 entitled "Criminal Records Checks";

(b) Is unable to perform the duties of a CESIS by reason of mental illness, physical illness, drug addiction or alcohol abuse;

(c) Has been grossly negligent in the duties of a CESIS;

(d) Has violated one or more of the rules of the Division pertaining to the licensure of a CESIS;

(e) Has practiced outside the scope of activities for which the licensee has individual training and qualification; or

(f) Has been disciplined by a state licensing board or program in this or any other state for violation of competency or conduct standards.

(2) The Division may reprimand or impose probation on a licensee upon proof of any of the grounds for discipline provided in subsection (1) of this Section.

(3) If the Division elects to place a licensee on probation, the Division may impose:

(a) Restrictions on the scope of practice of the licensee;

(b) Requirements for specific training;

(c) Supervision of the practice of the licensee; or

(d) Other conditions the Division finds necessary for the protection of the public.

Stat. Auth.: ORS 413.042 & 426.415

Stats. Implemented: ORS 426.415

Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14

309-022-0230

Appeal Process

(1) An appeal of a denial, suspension, probation or revocation of a license may be requested in writing to the Division from a provider of intensive mental health treatment services for children less than 21 years of age on behalf of their employee or contractor.

(2) The Division's Director or designee shall review all material relating to the denial, suspension, revocation or non-renewal, including any written documentation submitted by the licensee and provider. Based on review of the material, the Director will decide whether to sustain the decision. If the decision is not sustained, the denial, suspension, revocation or non-renewal shall be rescinded immediately. The decision of the Division is subject to a contested case hearing under ORS Chapter 183 if requested within 90 days of the decision.

Stat. Auth.: ORS 413.042 & 426.415

Stats. Implemented: ORS 426.415

Hist.: MHS 8-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 5-2014, f. & cert. ef. 2-3-14

ADMINISTRATIVE RULES

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

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.

The content of these rules have been reorganized and addressed by the following new rules, which are being filed simultaneous to these which are being repealed:

309-019-0100 through 309-019-0220: Outpatient Addictions and Mental Health Services

309-022-0100 through 309-022-0220: Intensive Treatment Services for Children and Adolescents

Rules Coordinator: Nola Russell—(503) 945-7652

Rule Caption: Permanent repeals to OAR 309-034-0400 through 309-034-0500.

Adm. Order No.: MHS 7-2014

Filed with Sec. of State: 2-3-2014

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Notice Publication Date: 1-1-2014

Rules Repealed: 309-034-0400, 309-034-0410, 309-034-0420, 309-034-0430, 309-034-0440, 309-034-0450, 309-034-0460, 309-034-0470, 309-034-0480, 309-034-0490, 309-034-0500

Subject: These rules prescribe procedures relating to licensing Children's Emergency Safety Intervention Specialist (CESIS). A licensed CESIS is authorized to order, monitor and evaluate the use of seclusion and personal restraint in certified facilities providing intensive mental health treatment services to individuals under 21 years of age.

Rules Coordinator: Nola Russell—(503) 945-7652

Oregon Health Authority, Division of Medical Assistance Programs Chapter 410

Rule Caption: Amend Pharmacy and Therapeutics Committee rule to remove expiration date and clarity given to safety

Adm. Order No.: DMAP 5-2014

Filed with Sec. of State: 1-28-2014

Certified to be Effective: 1-28-14

Notice Publication Date: 1-1-2014

Rules Amended: 410-121-0111

Subject: Rule changes include the removal of expiration date and addition of clarification regarding responsibility of committee to recipient safety.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-121-0111

Pharmacy and Therapeutics Committee

(1) Pursuant to Oregon Laws 2011, chapter 720 (HB 2100), the Drug Use Review Board (DUR Board) is abolished and the tenure of office for the members of the DUR Board expires. The legislature transferred the duties, functions and powers previously vested in the DUR Board to the Pharmacy and Therapeutics (P&T) Committee. This rule is retroactively effective on September 5, 2011, the date the P&T Committee was created and the DUR Board was abolished by HB 2100 and expires whenever the Oregon Health Authority (Authority) suspends the rule.

(2) Unless otherwise inconsistent with these administrative rules or other laws, any administrative rule or agency policy with reference to the DUR Board or a DUR Board volunteer, staff or contractor shall be considered to be a reference to the P&T Committee or a P&T Committee volun-

teer, staff or contractor. The current preferred drug list (PDL), prior authorization process, and utilization review process developed by the DUR Board remains in effect until such time as the Authority, after recommendations and advice from the P&T Committee, modifies them through the adoption of new administrative rules or policies and procedures.

(3) The P&T Committee shall advise the Oregon Health Authority (Authority) on the:

(a) Implementation of the medical assistance program retrospective and prospective programs, including the type of software programs to be used by the pharmacist for prospective drug use review and the provisions of the contractual agreement between the state and any entity involved in the retrospective program;

(b) Implementation of the Practitioner Managed Prescription Drug Plan (PMPDP);

(c) Adoption of administrative rules pertaining to the P&T Committee;

(d) Development of and application of the criteria and standards to be used in retrospective and prospective drug use review and safety edit programs in a manner that ensures that such criteria and standards are based on compendia, relevant guidelines obtained from professional groups through consensus-driven processes, the experience of practitioners with expertise in drug therapy, data and experience obtained from drug utilization review program operations. The P&T Committee must have an open professional consensus process, establish an explicit ongoing process for soliciting and considering input from interested parties, and make timely revisions to the criteria and standards based on this input and scheduled reviews;

(e) Development, selection and application of and assessment for interventions being educational and not punitive in nature for medical assistance program prescribers, dispensers and patients.

(4) The P&T Committee shall make recommendations to the Authority, subject to approval by the Director or the Director's designee, for drugs to be included on any PDL adopted by the Authority and on the PMPDP. The P&T Committee shall also recommend all utilization controls, prior authorization requirements or other conditions for the inclusion of a drug on the PDL.

(5) The P&T Committee shall, with the approval of the Director or designee, do the following:

(a) Publish an annual report;

(b) Publish and disseminate educational information to prescribers and pharmacists regarding the P&T Committee and the drug use review programs, including information on the following:

(A) Identifying and reducing the frequency of patterns of fraud, abuse or inappropriate or medically unnecessary care among prescribers, pharmacists and recipients;

(B) Potential or actual severe or adverse reactions to drugs;

(C) Therapeutic appropriateness;

(D) Overutilization or underutilization;

(E) Appropriate use of generic products;

(F) Therapeutic duplication;

(G) Drug-disease contraindications;

(H) Drug-drug interactions;

(I) Drug allergy interactions;

(J) Clinical abuse and misuse.

(K) Patient safety

(6) Adopt and implement procedures designed to ensure the confidentiality of any information that identifies individual prescribers, pharmacists or recipients and that is collected, stored, retrieved, assessed or analyzed by the P&T Committee, staff of the P&T Committee, contractors to the P&T Committee or the Authority.

Stat. Auth.: ORS 413.042, 414.065, 414.355, 414.360, 414.365, 414.370 & 414.380

Stats. Implemented: ORS 414.065

Hist.: SPD 12-2012(Temp), f. 8-31-12, cert. ef. 9-1-12 thru 2-28-13; DMAP 42-2012(Temp), f. & cert. ef. 9-12-12 thru 3-10-13; DMAP 61-2012, f. 12-27-12, cert. ef. 1-1-13; DMAP 40-2013(Temp), f. & cert. ef. 8-1-13 thru 1-28-14; DMAP 5-2014, f. & cert. ef. 1-28-14

Rule Caption: Rules Related to Substance Use Disorder Residential Treatment Managed Care Enrollment Process and Procedures

Adm. Order No.: DMAP 6-2014

Filed with Sec. of State: 1-31-2014

Certified to be Effective: 1-31-14

Notice Publication Date: 1-1-2014

Rules Adopted: 410-141-0065, 410-141-3065

Subject: The Division needs to amend these rules to clarify the Substance Use Disorder Residential Treatment Services managed care

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enrollment process and procedures. All other revisions are to clarify current policy or for housekeeping purposes.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-141-0065

Fully Capitated Health Plan or Physician Care Organization (FCHP or PCO) Enrollment Requirements for Individuals Receiving Residential Substance Use Disorder (SUD) Treatment Services

This rule implements and further describes how the Oregon Health Authority (Authority) will administer its authority under 410-141-0060 for purposes of making enrollment decisions and 410-141-0080 for purposes of making disenrollment decisions for the adult and adolescent individuals receiving residential SUD treatment services;

(1) The Authority has determined that, to the maximum extent possible, all individuals should be enrolled at the next available enrollment date following eligibility, redetermination, or upon review by the Authority, unless disenrollment is authorized by the Authority in accordance with this section, OAR 410-141-0050 and OAR 410-141-0080

(2) If the Authority determines that disenrollment should occur, the FCHP or PCO will continue to be responsible for providing covered services until the disenrollment date established by the Authority, which shall provide for an adequate transition to the next responsible FCHP or PCO when applicable.

(3) It is not unusual for individuals to receive residential SUD treatment services outside of their residential or home county and outside of the FCHP or PCO's delivery service area. Receiving residential SUD treatment is considered a temporary absence from the individual's residential or home county and does not represent a change of residence or a change in enrollment when the individual is reasonably likely to return to the FCHP or PCO's delivery service area at the end of the residential treatment stay.

(4) If the individual is enrolled in a FCHP or PCO on the same day the individual is admitted to the residential treatment services, the managed care organization shall be responsible for the covered services during that placement even if the location of the facility is outside of the FCHP or PCO's service area;

(5) The individual is presumed to continue to be enrolled in the FCHP or PCO with which the individual was most recently enrolled. An admission to a residential SUD facility is deemed a temporary placement and does not constitute a change of residence for the purposes of FCHP or PCO enrollment and does not constitute a basis for disenrollment from the FCHP or PCO, notwithstanding OAR 410-141-0080(2)(b)(F). If the Authority determines that an individual was disenrolled for reasons not consistent with these rules, the Authority will re-enroll the individual with the appropriate FCHP or PCO and assign an enrollment date that provides for continuous FCHP or PCO coverage with the appropriate FCHP or PCO. If the individual was enrolled in a different FCHP or PCO in error, the Authority will disenroll the individual and recoup the capitation payments.

(6) If the individual is enrolled in a FCHP or PCO after the first day of an admission to a residential SUD treatment service facility, the individual will be retro effectively disenrolled from the FCHP or PCO, and capitation will be recouped. The date of enrollment shall be effective the next available enrollment date following discharge from the residential FCHP or PCO treatment service facility.

Stat. Auth.: ORS 413.042, 414.615, 414.625, 414.635, 414.651
Stats. Implemented: ORS 414.610-685
Hist.: DMAP 62-2013(Temp), f. 10-31-13, cert. ef. 11-1-13 thru 4-30-14; DMAP 6-2014, f. & cert. ef. 1-31-14

410-141-3065

Coordinated Care Organization (CCO) Enrollment Requirements for Individuals Receiving Residential Substance Abuse Disorder (SUD) Treatment Services

This rule implements and further describes how the Oregon Health Authority (Authority) will administer its authority under 410-141-3060 for purposes of making enrollment decisions and 410-141-3080 for purposes of making disenrollment decisions for adult and adolescent individuals receiving residential SUD treatment services;

(1) The Authority has determined that, to the maximum extent possible, all individuals should be enrolled at the next available enrollment date following eligibility, redetermination, or upon review by the Authority. Unless disenrollment is authorized by the Authority in accordance with this section, OAR 410-141-3050 or 410-141-3080: If the Authority determines that disenrollment should occur, the CCO will continue to be responsible for providing covered services until the disenrollment date established by the Authority, which shall provide for an adequate transition to the next responsible managed care organization when applicable.

(2) It is not unusual for individuals to receive residential SUD treatment services outside of their residential/home county and outside of the coordinated care organization's delivery service area. Receiving residential SUD treatment is considered a temporary absence from the individual's residential/home-county and does not represent a change of residence or a change in enrollment when the individual is reasonably likely to return to the coordinated care organization's delivery service area at the end of the residential treatment stay.

(3) If the individual is enrolled in a coordinated care organization on the same day the individual is admitted to the residential treatment services, the CCO shall be responsible for the covered services during that placement even if the location of the facility is outside of the CCO's service area: The individual is presumed to continue to be enrolled in the CCO with which the individual was most recently enrolled. An admission to a residential SUD facility is deemed a temporary placement and does not constitute a change of residence for the purposes of CCO enrollment and does not constitute a basis for disenrollment from the CCO, notwithstanding OAR 410-141-3080. If the Authority determines that an individual was disenrolled for reasons not consistent with these rules, the Authority will re-enroll the individual with the appropriate CCO and assign an enrollment date that provides for continuous CCO coverage with the appropriate CCO. If the individual was enrolled in a different CCO in error, the Authority will disenroll the individual from that CCO and recoup the capitation payments.

(4) If the individual is enrolled in a CCO after the first day of an admission to a residential SUDs treatment service facility, the individual will be retro disenrolled from the CCO, and any capitation payment will be recouped. The date of enrollment shall be effective the next available enrollment date following discharge from the residential SUD treatment service facility.

Stat. Auth.: ORS 413.042, 414.615, 414.625, 414.635, 414.651
Stats. Implemented: ORS 414.610-68
Hist.: DMAP 62-2013(Temp), f. 10-31-13, cert. ef. 11-1-13 thru 4-30-14; DMAP 6-2014, f. & cert. ef. 1-31-14

Rule Caption: Amendment of HERC Prioritized List of Health Services Reflecting Approved Modifications Effective October 1, 2013

Adm. Order No.: DMAP 7-2014

Filed with Sec. of State: 1-31-2014

Certified to be Effective: 1-31-14

Notice Publication Date: 1-1-2014

Rules Amended: 410-141-0520

Subject: The OHP Program administrative rules govern the Division of Medical Assistance Programs' payments for services provided to clients. The Division needs to permanently amend 410-141-0520 to reference the Health Evidenced Review Committee (HERC) Prioritized List of Health Services' January 1, 2011 through December 31, 2013, Prioritized List of Health Services effective October 1, 2013, including interim modifications and technical changes made for 2009 national code set.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-141-0520

Prioritized List of Health Services

(1) The Health Evidenced Review Commission (HERC) Prioritized List of Health Services (Prioritized List) is the listing of physical and mental health services with "expanded definitions" of preventive services and the practice guidelines, as presented to the Oregon Legislative Assembly. The Prioritized List is generated and maintained by HERC. The HERC maintains the most current list on their Web site: <http://www.oregon.gov/oha/herc/Pages/Prioritized-List-Pending.aspx>, or for a hardcopy contact the Medical Assistance Programs within the Oregon Health Authority (OHA). This rule incorporates by reference the Centers for Medicare and Medicaid Services (CMS) approved biennial January 1, 2011–December 31, 2013 Prioritized List, including October 1, 2013 interim modifications and technical changes, expanded definitions, practice guidelines and condition treatment pairs funded through line 498.

(2) Certain mental health services are only covered for payment when provided by a Mental Health Organization (MHO), Community Mental Health Program (CMHP) or authorized Coordinated Care Organization (CCO).

(3) Substance Use Disorder (SUD) treatment services are covered for eligible OHP clients when provided by an FCHP, PCO, and CCO or by a

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provider who has a letter of approval from the Addictions and Mental Health Division and approval to bill Medicaid for SUD services.

Stat. Auth.: ORS 192.527, 192.528, 413.042 & 414.065
Stats. Implemented: ORS 192.527, 192.528, 414.065 & 414.727
Hist.: HR 7-1994, f. & cert. ef. 2-1-94; OMAP 33-1998, f. & cert. ef. 9-1-98; OMAP 40-1998(Temp), f. & cert. ef. 10-1-98 thru 3-1-99; OMAP 48-1998(Temp), f. & cert. ef. 12-1-98 thru 5-1-99; OMAP 21-1999, f. & cert. ef. 4-1-99; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 9-2000(Temp), f. & cert. ef. 4-27-00 thru 9-26-00; OMAP 13-2000, f. & cert. ef. 9-12-00; OMAP 14-2000(Temp), f. & cert. ef. 9-15-00, cert. ef. 10-1-00 thru 3-30-01; OMAP 40-2000, f. & cert. ef. 11-20-00; OMAP 22-2001(Temp), f. & cert. ef. 4-1-01 thru 9-1-01; OMAP 28-2001, f. & cert. ef. 8-10-01; OMAP 53-2001, f. & cert. ef. 10-1-01; OMAP 18-2002, f. & cert. ef. 4-15-02, cert. ef. 5-1-02; OMAP 64-2002, f. & cert. ef. f. & cert. ef. 10-2-02; OMAP 65-2002(Temp), f. & cert. ef. 10-2-02 thru 3-15-0; OMAP 88-2002, f. & cert. ef. 1-1-03; OMAP 14-2003, f. & cert. ef. 2-28-03, cert. ef. 3-1-03; OMAP 30-2003, f. & cert. ef. 1-24-02, cert. ef. 4-1-03; OMAP 79-2003(Temp), f. & cert. ef. 10-2-03 thru 3-15-04; OMAP 81-2003(Temp), f. & cert. ef. 10-23-03 thru 3-15-04; OMAP 94-2003, f. & cert. ef. 12-31-03 cert. ef. 1-1-04; OMAP 17-2004(Temp), f. & cert. ef. 4-1-04 thru 9-15-04; OMAP 28-2004, f. & cert. ef. 4-22-04 cert. ef. 5-1-04; OMAP 48-2004, f. & cert. ef. 7-28-04 cert. ef. 8-1-04; OMAP 51-2004, f. & cert. ef. 9-9-04, cert. ef. 10-1-04; OMAP 68-2004(Temp), f. & cert. ef. 9-14-04, cert. ef. 10-1-04 thru 3-15-05; OMAP 83-2004, f. & cert. ef. 11-1-04; OMAP 27-2005, f. & cert. ef. 4-20-05, cert. ef. 5-1-05; OMAP 54-2005(Temp), f. & cert. ef. 10-14-05 thru 4-1-06; OMAP 62-2005, f. & cert. ef. 11-29-05, cert. ef. 12-1-05; OMAP 71-2005, f. & cert. ef. 1-1-06; OMAP 6-2006, f. & cert. ef. 3-22-06, cert. ef. 4-1-06; OMAP 46-2006, f. & cert. ef. 12-15-06, cert. ef. 1-1-07; DMAP 14-2007(Temp), f. & cert. ef. 10-1-07 thru 3-28-08; DMAP 28-2007(Temp), f. & cert. ef. 12-20-07 thru 3-28-08; DMAP 8-2008, f. & cert. ef. 3-27-08; DMAP 10-2008(Temp), f. & cert. ef. 4-1-08 thru 9-15-08; DMAP 23-2008, f. & cert. ef. 7-1-08; DMAP 31-2008(Temp), f. & cert. ef. 10-1-08 thru 3-29-09; DMAP 40-2008, f. & cert. ef. 1-1-09; DMAP 4-2009(Temp), f. & cert. ef. 1-30-09 thru 6-25-09; DMAP 6-2009(Temp), f. & cert. ef. 3-26-09, cert. ef. 4-1-09 thru 9-25-09; DMAP 8-2009(Temp), f. & cert. ef. 4-17-09 thru 9-25-09; DMAP 26-2009, f. & cert. ef. 8-3-09, cert. ef. 8-5-09; DMAP 30-2009(Temp), f. & cert. ef. 9-15-09, cert. ef. 10-1-09 thru 3-29-10; DMAP 36-2009(Temp), f. & cert. ef. 12-10-09, cert. ef. 1-1-10 thru 3-29-10; DMAP 1-2010(Temp), f. & cert. ef. 1-15-10 thru 3-29-10; DMAP 3-2010, f. & cert. ef. 3-17-10; DMAP 5-2010(Temp), f. & cert. ef. 3-26-10, cert. ef. 4-1-10 thru 9-1-10; DMAP 10-2010, f. & cert. ef. 4-26-10; DMAP 27-2010(Temp), f. & cert. ef. 9-24-10, cert. ef. 10-1-10 thru 3-25-11; DMAP 43-2010, f. & cert. ef. 12-28-10, cert. ef. 1-1-11; DMAP 4-2011, f. & cert. ef. 3-23-11, cert. ef. 4-1-11; DMAP 24-2011(Temp), f. & cert. ef. 9-15-11, cert. ef. 10-1-11 thru 3-26-12; DMAP 45-2011, f. & cert. ef. 12-21-11, cert. ef. 12-23-11; DMAP 47-2011(Temp), f. & cert. ef. 12-13-11, cert. ef. 1-1-12 thru 6-25-12; DMAP 22-2012(Temp), f. & cert. ef. 4-1-12 thru 9-21-12; DMAP 43-2012(Temp), f. & cert. ef. 9-21-12, cert. ef. 9-23-12 thru 3-21-13; DMAP 11-2013, f. & cert. ef. 3-21-13; DMAP 50-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 57-2013(Temp), f. & cert. ef. 10-29-13 thru 3-30-14; DMAP 7-2014, f. & cert. ef. 1-31-14

Rule Caption: Add Without Cause to CCO, FCHP, PCO and DCO Disenrollment Criteria Pursuant to Federal Regulations

Adm. Order No.: DMAP 8-2014(Temp)

Filed with Sec. of State: 1-31-2014

Certified to be Effective: 2-1-14 thru 7-31-14

Notice Publication Date:

Rules Amended: 410-141-0080, 410-141-3080

Subject: The Division needs to amend these rules to modify the Oregon Health Plan member without cause disenrollment language. This change will align with federal regulations, 42 CFR 438.56(c)(2), which allows flexibility and choice for members. This rule revision is needed immediately to assist the Coordinated Care Organizations (CCO), the Physician Care Organizations (PCO), the Fully Capitated Health Plans (FCHP) and the Dental Care Organizations (DCO) with facilitation of disenrollment requests made to the Authority. The Division is amending these rules to comply with federal requirements and allow members to disenroll from a CCO, FCHP, PCO or DCO based on a without cause criteria.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-141-0080

Managed Care Disenrollment from Prepaid Health Plans

For purposes of this rule Managed Care Prepaid Health Plan means Fully Capitated Health Plan, Dental Care Organization, Physician Care Organization and Mental Health Organization.

(1) All Oregon Health Plan (OHP) Division member-initiated requests for disenrollment from a Prepaid Health Plan (PHP) must be initiated, orally or in writing, by the primary person in the benefit group enrolled with a PHP, where primary person and benefit group are defined in OAR 461-110-0110 and 461-110-0720, respectively. For Division members who are not able to request disenrollment on their own, the request may be initiated by the Division member's Representative.

(2) In accordance with 42 CFR 438.56(c)(2), the Authority and PHP shall honor a member or Representative request for disenrollment for the following:

(a) Without cause:

(i) Newly eligible clients may change their PHP assignment within 90 days following the date of initial enrollment. The effective date of disenrollment shall be the first of the month following the Division's approval of disenrollment;

(ii) At least once every 12 months;

(iii) Existing members may change their PHP assignment within 30 days of the Authority's automatic assignment or reenrollment in a PHP;

(iv) Effective retroactively on or after September 1, 2011 and in accordance with SB 201 Division members may disenroll from a PHP during their redetermination (enrollment period), or one additional time during their enrollment period based on the members choice and with Authority approval. The disenrollment shall be considered "recipient choice".

(b) With cause:

(A) At any time;

(B) Division members who disenroll from a Medicare Advantage plan shall also be disenrolled from the corresponding Fully Capitated Health Plan (FCHP) or Physician Care Organization (PCO). The effective date of disenrollment shall be the first of the month that the Division member's Medicare Advantage plan disenrollment is effective;

(C) Division members who are receiving Medicare and who are enrolled in a FCHP or PCO that has a corresponding Medicare Advantage component may disenroll from the FCHP or PCO at any time if they also request disenrollment from the Medicare Advantage plan. The effective date of disenrollment from the FCHP or PCO shall be the first of the month following the date of request for disenrollment;

(D) PHP does not, because of moral or religious objections, cover the service the Division member seeks;

(E) The Division member needs related services (for example a cesarean section and a tubal ligation) to be performed at the same time, not all related services are available within the network, and the Division members' Primary Care Provider or another Provider determines that receiving the services separately would subject the Division member to unnecessary risk; or

(F) Other reasons, including but not limited to, poor quality of care, lack of access to services covered under the contract, or lack of access to Participating Providers experienced in dealing with the Division member's health care needs. Examples of sufficient cause include but are not limited to:

(i) The Division member moves out of the PHP's Service Area;

(ii) The Division member is a Native American or Alaskan Native with Proof of Indian Heritage who wishes to obtain primary care services from his or her Indian Health Service facility, tribal health clinic/program or urban clinic and the Fee-For-Service (FFS) delivery system;

(iii) Continuity of care that is not in conflict with any section of 410-141-0060 or this rule. Participation in the Oregon Health Plan, including managed care, does not guarantee that any Oregon Health Plan client has a right to continued care or treatment by a specific provider. A request for disenrollment based on continuity of care shall be denied if the basis for this request is primarily for the convenience of an Oregon Health Plan client or a provider of a treatment, service or supply, including but not limited to a decision of a provider to participate or decline to participate in a PHP;

(iv) If 500 or more Division members choose to change plans in order to continue receiving care from a provider that is terminating their contractual relationship with a PHP, the Division shall send all of the Division Members a written notice 90 days in advance of the termination date;

(I) The member and all family (case) members shall be transferred to the provider's new PHP;

(II) The transfer shall take effect when the provider's contract with their current PHP contractual relationship ends, or on a date approved by the Division.

(c) If the following conditions are met:

(A) The applicant is in the third trimester of her pregnancy and has just been determined eligible for OHP, or the OHP client has just been re-determined eligible and was not enrolled in a FCHP or PCO within the past 3 months; and

(B) The new FCHP or PCO the Division member is enrolled with does not contract with the Division member's current OB Provider and the Division member wishes to continue obtaining maternity services from that Non-Participating OB Provider; and

(C) The request to change FCHPs, PCOs or return to FFS is made prior to the date of delivery.

(d) Division member disenrollment requests are subject to the following requirements:

(A) The Division member shall join another PHP, unless the Division member resides in a Service Area where enrollment is voluntary, or the Division member meets the exemptions to enrollment as stated in 410-141-0060(4);

(B) If the only PHP available in a mandatory Service Area is the PHP from which the Division member wishes to disenroll, the Division member may not disenroll without cause;

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(C) The effective date of disenrollment shall be the end of the month in which disenrollment was requested unless retroactive disenrollment is approved by the Division;

(D) If the Department fails to make a disenrollment determination by the first day of the second month following the month in which the Division member files a request for disenrollment, the disenrollment is considered approved.

(3) Prepaid Health Plan requests for disenrollment:

(a) Causes for disenrollment:

(A) The Division may disenroll Division members for cause when requested by the PHP, subject to American with Disabilities Act requirements. Examples of cause include, but are not limited to the following:

(i) Missed appointments. The number of missed appointments is to be established by the Provider or PHP. The number must be the same as for commercial members or patients. The Provider must document they have attempted to ascertain the reasons for the missed appointments and to assist the Division member in receiving services. This rule does not apply to Medicare members who are enrolled in a FCHP's or PCO's Medicare Advantage plan;

(ii) Division member's behavior is disruptive, unruly, or abusive to the point that his/her continued enrollment in the PHP seriously impairs the PHP's ability to furnish services to either the Division member or other members, subject to the requirements in (3)(a)(B)(vii);

(iii) Division member commits or threatens an act of physical violence directed at a medical Provider or property, the Provider's staff, or other patients, or the PHP's staff to the point that his/her continued enrollment in the PHP seriously impairs the PHP's ability to furnish services to either this particular Division member or other Division members, subject to the requirements in (3)(a)(B)(vii);

(iv) Division member commits fraudulent or illegal acts such as: permitting use of his/her medical ID card by others, altering a prescription, theft or other criminal acts (other than those addressed in (3)(a)(A)(ii) or (iii)) committed in any Provider or PHP's premises. The PHP shall report any illegal acts to law enforcement authorities or to the office for Children, Adults and Families (CAF) Fraud Unit as appropriate;

(v) OHP clients who have been exempted from mandatory enrollment with a FCHP or PCO, due to the OHP client's eligibility through a hospital hold process and placed in the Adults/Couples category as required under 410-141-0060(4)(b)(F);

(vi) Division member fails to pay co-payment(s) for Covered Services as described in OAR 410-120-1230.

(B) Division members shall not be disenrolled solely for the following reasons:

(i) Because of a physical or mental disability;

(ii) Because of an adverse change in the Division member's health;

(iii) Because of the Division member's utilization of services, either excessive or lack thereof;

(iv) Because the Division member requests a hearing;

(v) Because the Division member has been diagnosed with End Stage Renal Disease (ESRD);

(vi) Because the Division member exercises his/her option to make decisions regarding his/her medical care with which the PHP disagrees;

(vii) Because of uncooperative or disruptive behavior, including but not limited to threats or acts of physical violence, resulting from the Division member's special needs (except when continued enrollment in the PHP seriously impairs the PHP's ability to furnish services to either this Division member or other members).

(C) Requests by the PHP for disenrollment of specific Division members shall be submitted in writing to their PHP Coordinator for approval. The PHP must document the reasons for the request, provide written evidence to support the basis for the request, and document that attempts at intervention were made as described below. The procedures cited below must be followed prior to requesting disenrollment of a Division member:

(i) There shall be notification from the Provider to the PHP at the time the problem is identified. The notification must describe the problem and allow time for appropriate intervention by the PHP. Such notification shall be documented in the Division member's Clinical Record. The PHP shall conduct Provider education regarding the need for early intervention and the services they can offer the Provider;

(ii) The PHP shall contact the Division member either verbally or in writing, depending on the severity of the problem, to inform the Division member of the problem that has been identified, and attempt to develop an agreement with the Division member regarding the issue(s). If contact is verbal, it shall be documented in the Division member's record. The PHP

shall inform the Division member that his/her continued behavior may result in disenrollment from the PHP;

(iii) The PHP shall provide individual education, counseling, and/or other interventions with the Division member in a serious effort to resolve the problem;

(iv) The PHP shall contact the Division member's Department caseworker regarding the problem and, if needed, involve the caseworker and other appropriate agencies' caseworkers in the resolution, within the laws governing confidentiality;

(v) If the severity of the problem and intervention warrants, the PHP shall develop a care plan that details how the problem is going to be addressed and/or coordinate a case conference. Involvement of the Provider, caseworker, Division member, family, and other appropriate agencies is encouraged. If necessary, the PHP shall obtain an authorization for release of information from the Division member for the Providers and agencies in order to involve them in the resolution of the problem. If the release is verbal, it must be documented in the Division member's record;

(vi) Any additional information or assessments requested by the Division PHP Coordinator;

(vii) If the Division member's behavior is uncooperative or disruptive, including but not limited to threats or acts of physical violence, as the result of his/her special needs or disability, the PHP must also document each of the following:

(I) A written assessment of the relationship of the behavior to the special needs or disability of the individual and whether the individual's behavior poses a direct threat to the health or safety of others. Direct threat means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures. In determining whether a Division member poses a direct threat to the health or safety of others, the PHP must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or best available objective evidence to ascertain the nature, duration and severity of the risk to the health or safety of others; the probability that potential injury to others shall actually occur; and whether reasonable modifications of policies, practices, or procedures shall mitigate the risk to others;

(II) A PHP-staffed interdisciplinary team review that includes a mental health professional or behavioral specialist or other health care professionals who have the appropriate clinical expertise in treating the Division member's condition to assess the behavior, the behavioral history, and previous history of efforts to manage behavior;

(III) If warranted, a clinical assessment of whether the behavior will respond to reasonable clinical or social interventions;

(IV) Documentation of any accommodations that have been attempted;

(V) Documentation of the PHP's rationale for concluding that the Division member's continued enrollment in the PHP seriously impairs the PHP's ability to furnish services to either this particular Division member or other members.

(viii) If a Primary Care Provider (PCP) terminates the Provider/patient relationship, the PHP shall attempt to locate another PCP on their panel who will accept the Division member as their patient. If needed, the PHP shall obtain an authorization for release of information from the Division member in order to share the information necessary for a new Provider to evaluate if they can treat the Division member. All terminations of Provider/patient relationships shall be according to the PHP's policies and must be consistent with PHP or PCP's policies for commercial members.

(D) Requests shall be reviewed according to the following process:

(i) If there is sufficient documentation, the request shall be evaluated by the PHP's Coordinator or a team of PHP Coordinators who may request additional information from Ombudsman Services, AMH or other agencies as needed; If the request involves the Division member's mental health condition or behaviors related to substance abuse, the PHP Coordinator should also confer with the OHP Coordinator in AMH;

(ii) If there is not sufficient documentation, the PHP Coordinator shall notify the PHP within 2 business days of what additional documentation is required before the request can be considered;

(iii) The PHP Coordinators shall review the request and notify the PHP of the decision within ten working days of receipt of sufficient documentation from the PHP. Written decisions, including reasons for denials, shall be sent to the PHP within 15 working days from receipt of request and sufficient documentation from the PHP.

(E) If the request is approved the PHP Coordinator must send the Division member a letter within 14 days after the request was approved, with a copy to the PHP, the Division member's Department caseworker and

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Division's Health Management Unit (HMU). The letter must give the disenrollment date, the reason for disenrollment, and the notice of Division member's right to file a Complaint (as specified in 410-141-0260 through 410-141-0266) and to request an Administrative Hearing. If the Division member requests a hearing, the Division member shall continue to be disenrolled until a hearing decision reversing that disenrollment has been sent to the Division member and the PHP:

(i) In cases where the Division member is also enrolled in the FCHP's or PCO's Medicare Advantage plan and the plan has received permission to disenroll the client, the FCHP or PCO shall provide proof of the CMS approval to disenroll the client and the date of disenrollment shall be the date approved by CMS;

(ii) The disenrollment date is 30 days after the date of approval, except as provided in subsections (iii) and (iv) of this section:

(I) The PHP Coordinator shall determine when enrollment in another PHP or with a PCM is appropriate. If appropriate, the PHP Coordinator shall contact the Division member's Department caseworker to arrange enrollment. The Division may require the Division member and/or the benefit group to obtain services from FFS Providers or a PCM until such time as they can be enrolled in another PHP;

(II) When the disenrollment date has been determined, HMU shall send a letter to the Division member with a copy to the Division member's Department caseworker and the PHP. The letter shall inform the Division member of the requirement to be enrolled in another PHP, if applicable.

(iii) If the PHP Coordinator approves a PHP's request for disenrollment because of the Division member's uncooperative or disruptive behavior, including threats or acts of physical violence directed at a medical Provider, the Provider's staff, or other patients, or because the Division member commits fraudulent or illegal acts as stated in 410-141-0080(2)(a), the following additional procedures shall apply:

(I) The Division member shall be disenrolled as of the date of the PHP's request for disenrollment;

(II) All Division members in the Division member's benefit group, as defined in OAR 461-110-0720, may be disenrolled if the PHP requests;

(III) At the time of enrollment into another PHP, the Division shall notify the new PHP that the Division member and/or benefit group were previously disenrolled from another PHP at that PHP's request.

(iv) If a Division member who has been disenrolled for cause is re-enrolled in the PHP, the PHP may request a disenrollment review by the PHP's PHP Coordinator. A Division member may not be disenrolled from the same PHP for a period of more than 12 months. If the Division member is re-enrolled after the 12-month period and is again disenrolled for cause, the disenrollment shall be reviewed by the Department for further action.

(b) Other reasons for the PHP's requests for disenrollment include the following:

(A) If the Division member is enrolled in the FCHP or MHO on the same day the Division member is admitted to the hospital, the FCHP or MHO shall be responsible for said hospitalization. If the Division member is enrolled after the first day of the inpatient stay, the Division member shall be disenrolled, and the date of enrollment shall be the next available enrollment date following discharge from inpatient hospital services;

(B) The Division member has surgery scheduled at the time their enrollment is effective with the PHP, the Provider is not on the PHP's Provider panel, and the Division member wishes to have the services performed by that Provider;

(C) The Medicare member is enrolled in a Medicare Advantage plan and was receiving Hospice Services at the time of enrollment in the PHP;

(D) The Division member had End Stage Renal Disease at the time of enrollment in the PHP;

(E) Excluding the DCO, the PHP determines that the Division member has a third party insurer. If after contacting The Health Insurance Group, the disenrollment is not effective the following month, the PHP may contact HMU to request disenrollment;

(F) If a PHP has knowledge of a Division member's change of address, the PHP shall notify the Department. The Department shall verify the address information and disenroll the Division member from the PHP, if the Division member no longer resides in the PHP's Service Area. Division members shall be disenrolled if out of the PHP's Service Area for more than three (3) months, unless previously arranged with the PHP. The effective date of disenrollment shall be the date specified by the Division and the Division shall recoup the balance of that month's Capitation Payment from the PHP;

(G) The Division member is an inmate who is serving time for a criminal offense or confined involuntarily in a State or Federal prison, jail,

detention facility, or other penal institution. This does not include Division members on probation, house arrest, living voluntarily in a facility after their case has been adjudicated, infants living with an inmate, or inmates who become inpatients. The PHP is responsible for identifying the Division members and providing sufficient proof of incarceration to HMU for review of the disenrollment request. The Division shall approve requests for disenrollment from PHPs for Division members who have been incarcerated for at least fourteen (14) calendar days and are currently incarcerated. FCHPs are responsible for inpatient services only during the time a Division member was an inmate;

(H) The Division member is in a state psychiatric institution.

(4) The Division Initiated disenrollments:

(a) The Division may initiate and disenroll Division members as follows:

(A) If the Division determines that the Division member has sufficient third party resources such that health care and services may be cost effectively provided on a FFS basis, the Division may disenroll the Division member. The effective date of disenrollment shall be the end of the month in which the Division makes such a determination. The Division may specify a retroactive effective date of disenrollment if the Division member's third party coverage is through the PHP, or in other situations agreed to by the PHP and the Division;

(B) If the Division member moves out of the PHP's Service Area(s), the effective date of disenrollment shall be the date specified by the Division and the Division shall recoup the balance of that month's Capitation Payment from the PHP;

(C) If the Division member is no longer eligible under the Oregon Health Plan Medicaid Demonstration Project or Children's Health Insurance Program, the effective date of disenrollment shall be the date specified by the Division;

(D) If the Division member dies, the effective date of disenrollment shall be through the date of death;

(E) When a non-Medicare contracting PHP is assumed by another PHP that is a Medicare Advantage plan, Division members with Medicare shall be disenrolled from the existing PHP. The effective date of disenrollment shall be the day prior to the month the new PHP assumes the existing PHP;

(F) If the Division determines that the PHP's Division member has enrolled with their Employer Sponsored Insurance (ESI) through FHIAP the effective date of the disenrollment shall be the Division member's effective date of coverage with FHIAP.

(b) Unless specified otherwise in these rules or in the Division notification of disenrollment to the PHP, all disenrollments are effective the end of the month after the request for disenrollment is approved by the Division;

(c) The Division shall inform the Division members of the disenrollment decision in writing, including the right to request an Administrative Hearing. OHP clients may request a Division hearing if they dispute a disenrollment decision by the Division;

(d) If the OHP client requests a hearing, the OHP client shall continue to be disenrolled until a hearing decision reversing that disenrollment is sent the OHP client.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.065

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 33-1994, f. & cert. ef. 11-1-94; HR 39-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1995, f. 9-28-95, cert. ef. 10-1-95; HR 19-1996, f. & cert. ef. 10-1-96; HR 21-1996(Temp), f. & cert. ef. 11-1-96; HR 11-1997, f. 3-28-97, cert. ef. 4-1-97; HR 14-1997, f. & cert. ef. 7-1-97; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 21-1998, f. & cert. ef. 7-1-98; OMAP 49-1998(Temp), f. 12-31-98, cert. ef. 1-1-99 thru 6-30-99; Administrative correction 8-9-99; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 29-2001, f. 8-13-01, cert. ef. 10-1-01; OMAP 4-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 24-2003, f. 3-26-03 cert. ef. 4-1-03; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03; OMAP 37-2004(Temp), f. 5-27-04 cert. ef. 6-1-04 thru 11-15-04; OMAP 47-2004, f. 7-22-04 cert. ef. 8-1-04; OMAP 27-2005, f. 4-20-05, cert. ef. 5-1-05; OMAP 46-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 65-2005, f. 11-30-05, cert. ef. 1-1-06; OMAP 46-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 42-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 34-2011(Temp), f. 12-9-11, cert. ef. 1-1-12 thru 6-28-12; DMAP 24-2012, f. 4-27-12, cert. ef. 5-1-12; DMAP 8-2014(Temp), f. 1-31-14, cert. ef. 2-1-14 thru 7-31-14

410-141-3080

Disenrollment from Coordinated Care Organizations

(1) At the time of recertification, a member may disenroll from one CCO or DCO in a service area and enroll in another CCO or DCO in that service area. The primary person in the household shall make this decision on behalf of all household members.

(2) A member who moves from one service area to another service area shall disenroll from the CCO or DCO in the previous service area and enroll with a CCO or DCO in the new service area. The member must

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change their address with the Authority or Department within ten days of moving.

(3) A member who is an exempt client receiving services from a non-integrated CCO shall disenroll and receive services from an integrated CCO in their service area.

(4) A member who voluntarily enrolls in a CCO or DCO per OAR 410-141-3060(19) may disenroll from their CCOs or DCO's at any time and receive health care services on a fee-for service basis or enroll in another CCO or DCO in their service area. This only applies to:

(a) Members who are eligible for both Medicare and Medicaid,

(b) Members who are American Indian and Alaskan Native beneficiaries;

(c) Notwithstanding other sections of this rule, members may request disenrollment for just cause at any time pursuant to state law or CFR 438.56. This includes:

(A) The CCO or DCO does not cover the service the member seeks because of moral or religious objections;

(B) The member needs related services (for example a cesarean section and a tubal ligation) to be performed at the same time, not all related services are available within the network, and the member's primary care provider or another provider determines that receiving the services separately would subject the member to unnecessary risk; or

(C) The member is experiencing poor quality of care, lack of access to services covered under the contract, or lack of access to providers experienced in dealing with the member's health care needs.

(5) The Authority may approve the disenrollment after medical review using the following just-cause considerations:

(a) Required enrollment would pose a serious health risk; and

(b) The Authority finds no reasonable alternatives.

(6) In accordance with 42 CFR 438.56, the Authority, CCO and DCO shall honor a member or Representative request for disenrollment for the following:

(a) Without cause:

(A) Newly eligible clients may change their CCO or DCO assignment within 90 days following the date of initial enrollment. The effective date of disenrollment shall be the first of the month following the Division's approval of disenrollment:

(B) At least once every 12 months:

(C) Existing members may change their CCO or DCO assignment within 30 days of the Authority's automatic assignment or re-enrollment in a CCO or DCO;

(D) Effective retroactively on or after September 1, 2011 and in accordance with SB 201, members may disenroll from the CCO or DCO during their redetermination (enrollment period), or one additional time during their enrollment period based on the members choice and with Authority approval. The disenrollment shall be considered "recipient choice."

(7) Pursuant to CFR 438.56, the CCO or DCO shall not request and the Authority shall not approve disenrollment of a member due to:

(a) A physical or behavioral disability or condition;

(b) An adverse change in the member's health;

(c) The member's utilization of services, either excessive or lacking;

(d) The member's decisions regarding medical care with which the CCO or DCO disagrees;

(e) The member's behavior is uncooperative or disruptive, including but not limited to threats or acts of physical violence, resulting from the member's special needs, except when continued enrollment in the CCO or DCO seriously impairs the CCO's or DCO's ability to furnish services to this particular member or other members.

(8) A CCO or DCO may request the Authority to disenroll a member if the CCO or DCO determines:

(a) Except as provided in OAR 410-141-3050, the member has major medical coverage, including employer sponsored insurance (ESI);

(b) The CCO or DCO determines:

(A) The member has moved to a service area the CCO or DCO does not serve;

(B) The member is out of the CCO's or DCO's area for three months without making arrangements with the CCO or DCO;

(C) The member did not initiate enrollment in the CCO or DCO serving the member's area; and

(D) The member is not in temporary placement or receiving out-of-area services.

(c) The member is in a state psychiatric institution;

(d) The CCO or DCO has verifiable information that the member has moved to another Medicaid jurisdiction; or

(e) The member is deceased.

(9) Before requesting disenrollment under the exception in section (7)(e) of this rule, a CCO or DCO must take meaningful steps to address the member's behavior, including but not limited to:

(a) Contacting the member either orally or in writing to explain and attempt to resolve the issue. The CCO or DCO must document all oral conversations in writing and send a written summary to the member. This contact may include communication from advocates, including peer wellness specialists, where appropriate, personal health navigators and qualified community health workers who are part of the member's care team to provide assistance that is culturally and linguistically appropriate to the member's need to access appropriate services and participate in processes affecting the member's care and services;

(b) Developing and implementing a care plan in coordination with the member and the member's care team that details the problem and how the CCO or DCO shall address it;

(c) Reasonably modifying practices and procedures as appropriate to accommodate the member's circumstances;

(d) Assessing the member's behavior to determine if it results from the member's special needs or a disability;

(e) Providing education, counseling and other interventions to resolve the issue; and

(f) Submitting a complete summary to the Authority if the CCO or DCO requests disenrollment.

(10) The Authority may disenroll members of CCOs or DCOs for the reasons specified in Section (8) without receiving a disenrollment request from a CCO or DCO.

(11) The CCO or DCO shall request the Authority to suspend a member's enrollment when the inmate is incarcerated in a State or Federal prison, a jail, detention facility or other penal institution for no longer than 12 months. The CCO or DCO shall request that the Authority disenroll a member when the inmate is incarcerated in a State or Federal prison, jail, detention facility or other institution for longer than 12 months. This does not include members on probation, house arrest, living voluntarily in a facility after adjudication of their case, infants living with inmates or inmates admitted for inpatient hospitalization. The CCO or DCO is responsible for identifying the members and providing sufficient proof of incarceration to the Authority for review of the request for suspension of enrollment or disenrollment. CCOs shall pay for inpatient services only during the time a member is an inmate and enrollment is otherwise suspended.

(12) Unless otherwise specified in these rules or in the Authority notification of disenrollment to the CCO or DCO, all disenrollments are effective at the end of the month the Authority approves the disenrollment, with the following exceptions;

(a) The Authority may specify a retroactive disenrollment effective date if the member:

(A) Has third party coverage including employee-sponsored insurance. The effective date shall be the date the coverage begins;

(B) Enrolls in a program for all-inclusive care for the elderly (PACE). The effective date shall be the day before PACE enrollment;

(C) Is admitted to the State Hospital. The effective date shall be the day before hospital admission; or

(D) Becomes deceased. The effective date shall be the date of death.

(b) The Authority may retroactively disenroll or suspend enrollment if the member is incarcerated pursuant to section (11) of this rule. The effective date shall be the date of the notice of incarceration or the day before incarceration, whichever is earlier.

(c) The Authority shall specify a disenrollment effective date if the member moves out of the CCO's or DCO's service area. The Authority shall recoup the balance of that month's capitation payment from the CCO or DCO;

(d) The Authority may specify the disenrollment effective date if the member is no longer eligible for OHP.

(13) The Authority shall inform the members of a disenrollment decision in writing, including the right to request a contested case hearing to dispute the Authority's disenrollment if the Authority disenrolled the member for cause that the member did not request. If the member requests a hearing, the disenrollment shall remain in effect pending outcome of the contested case hearing.

(14) For purposes of a member's right to a contested case hearing, "disenrollment" does not include the Authority's:

(a) Transfer of a member from a PHP to a CCO or DCO;

(b) Transfer of a member from a CCO or DCO to another CCO or DCO; or

(c) Automatic enrollment of a member in a CCO or DCO.

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(15) The Authority may approve the transfer of 500 or more members from one CCO or DCO to another CCO or DCO if:

(a) The members' provider has contracted with the receiving CCO or DCO and has stopped accepting patients from or has terminated providing services to members in the transferring CCO or DCO; and

(b) Members are offered the choice of remaining enrolled in the transferring CCO or DCO.

(16) Members may not be transferred under section (15) until the Authority has evaluated the receiving CCO or DCO and determined that the CCO or DCO meets criteria established by the Authority by rule, including but not limited to ensuring that the CCO or DCO maintains a network of providers sufficient in numbers and areas of practice and geographically distributed in a manner to ensure that the health services provided under the contract are reasonably accessible to members.

(17) The Authority shall provide notice of a transfer under section (15) to members that will be affected by the transfer at least 90 days before the scheduled date of the transfer.

(18) Except as otherwise allowed by rule, a member may transfer from one CCO or DCO to another CCO or DCO no more than once during each enrollment period.

Stat. Auth.: ORS 413.032, 414.615, 414.625, 414.635 & 414.651

Stats. Implemented: ORS 414.610 - 414.685

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 47-2012(Temp), f. & cert. ef. 10-16-12 thru 4-13-13; DMAP 55-2012(Temp), f. & cert. ef. 11-15-12 thru 4-13-13; Administrative correction 4-22-13; DMAP 19-2013, f. & cert. ef. 4-23-13; DMAP 25-2013, f. & cert. ef. 6-11-13; DMAP 38-2013(Temp), f. 7-8-13, cert. ef. 7-9-13 thru 1-5-14; DMAP 65-2013, f. & cert. ef. 11-29-13; DMAP 8-2014(Temp), f. 1-31-14, cert. ef. 2-1-14 thru 7-31-14

Rule Caption: Adopt and Incorporate by Reference Rules Established in OAR Chapter 461

Adm. Order No.: DMAP 9-2014(Temp)

Filed with Sec. of State: 1-31-2014

Certified to be Effective: 2-1-14 thru 3-31-14

Notice Publication Date:

Rules Amended: 410-120-0006

Rules Suspended: 410-120-0006(T)

Subject: The Division incorporates rules established in OAR Chapter 461, for all overpayment, personal injury liens and estates administration for Authority programs covered under OAR 410-200. References in OAR Chapter 461 in 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.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

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 procedures consistent with applicable law. As outlined in OAR 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, for all overpayment, personal injury liens and estates administration for Authority programs covered under OAR chapter 410, division 200.

(2) Any reference to OAR chapter 461 in 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.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042 & 414.005

Hist.: DMAP 10-2011, f. 6-29-11, cert. ef. 7-1-11; DMAP 18-2011(Temp), f. & cert. ef. 7-15-11 thru 1-11-12; DMAP 21-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 1-11-12; DMAP 25-2011(Temp), f. 9-28-11, cert. ef. 10-1-11 thru 1-11-12; DMAP 36-2011, f. 12-13-11, cert. ef. 1-1-12; DMAP 1-2012(Temp), f. & cert. ef. 1-13-12 thru 7-10-12; DMAP 2-2012(Temp), f. & cert. ef. 1-26-12 thru 7-10-12; DMAP 3-2012(Temp), f. & cert. ef. 1-31-12 thru 2-1-12; DMAP 4-2012(Temp), f. 1-31-12, cert. ef. 2-1-12 thru 7-10-12; DMAP 9-2012(Temp), f. & cert. ef. 3-1-12 thru 7-10-12; DMAP 21-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 7-10-12; DMAP 25-2012(Temp), f. & cert. ef. 5-1-12 thru 7-10-12; Administrative correction 8-1-12; DMAP 35-2012(Temp), f. & cert. ef. 7-20-12 thru 1-15-13; 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. ef. 1-8-13 thru 6-29-13; DMAP 3-2013(Temp), f. & cert. ef. 1-30-13 thru 6-29-13; DMAP 5-2013(Temp), f. & cert. ef. 2-20-13 thru 6-29-13; DMAP 7-2013(Temp), f. & cert. ef. 3-1-13 thru 6-29-13; DMAP 12-2013, f. 3-27-13, cert. ef. 4-1-13; DMAP 17-2013, f. & cert. ef. 4-10-13; DMAP 24-2013, f. & cert. ef. 5-29-13; DMAP 32-2013, f. & cert. ef. 6-27-13; DMAP 39-2013(Temp), f. 7-26-13, cert. ef. 8-1-13 thru 1-28-14; DMAP 44-2013(Temp), f. 8-21-13, cert. ef. 8-23-13 thru 1-28-14; DMAP 51-2013, f. & cert. ef. 10-1-13; DMAP 52-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 55-2013(Temp), f. & cert. ef. 10-2-13 thru 3-31-14; DMAP 59-2013(Temp), f. 10-31-13, cert. ef. 11-1-13 thru 3-31-14; DMAP 9-2014(Temp), f. 1-31-14, cert. ef. 2-1-14 thru 3-31-14

Oregon Health Authority, Office of Private Health Partnerships Chapter 442

Rule Caption: Healthy KidsConnect Private Health Option abolished, Administrative Rules repealed

Adm. Order No.: OPHP 3-2014

Filed with Sec. of State: 1-31-2014

Certified to be Effective: 2-1-14

Notice Publication Date: 1-1-2014

Rules Repealed: 442-010-0010, 442-010-0020, 442-010-0030, 442-010-0040, 442-010-0050, 442-010-0055, 442-010-0060, 442-010-0070, 442-010-0075, 442-010-0080, 442-010-0085, 442-010-0090, 442-010-0100, 442-010-0120, 442-010-0130, 442-010-0140, 442-010-0150, 442-010-0160, 442-010-0170, 442-010-0180, 442-010-0190, 442-010-0210, 442-010-0215, 442-010-0220, 442-010-0230, 442-010-0240, 442-010-0260, 442-010-0270

Subject: The Oregon Health Authority, Office of Private Health Partnerships, is proposing to permanently repeal Oregon Administrative Rules related to the Healthy KidsConnect Private Health Option within the Office of Private Health Partnerships.

Due to Medicaid expansion as a result of federal legislation, this program is no longer necessary.

Rules Coordinator: Cindy Bowman—(503) 378-4674

Rule Caption: Family Health Insurance Assistance Program abolished; Administrative Rules repealed

Adm. Order No.: OPHP 4-2014

Filed with Sec. of State: 1-31-2014

Certified to be Effective: 2-1-14

Notice Publication Date: 1-1-2014

Rules Repealed: 442-005-0000, 442-005-0010, 442-005-0020, 442-005-0030, 442-005-0040, 442-005-0050, 442-005-0060, 442-005-0070, 442-005-0080, 442-005-0090, 442-005-0100, 442-005-0110, 442-005-0120, 442-005-0130, 442-005-0140, 442-005-0150, 442-005-0160, 442-005-0170, 442-005-0180, 442-005-0190, 442-005-0200, 442-005-0210, 442-005-0220, 442-005-0230, 442-005-0235, 442-005-0240, 442-005-0250, 442-005-0260, 442-005-0270, 442-005-0275, 442-005-0280, 442-005-0290, 442-005-0300, 442-005-0310, 442-005-0320, 442-005-0330, 442-005-0340

Subject: The Oregon Health Authority, Office of Private Health Partnerships, is proposing to permanently repeal Oregon Administrative Rules related to the Family Health Insurance Assistance Program within the Office of Private Health Partnerships.

Due to Medicaid expansion as a result of federal legislation, this program is no longer necessary.

Rules Coordinator: Cindy Bowman—(503) 378-4674

Oregon Health Authority, Public Health Division Chapter 333

Rule Caption: New process for claiming a nonmedical exemption to school/children's facility immunization requirements

Adm. Order No.: PH 3-2014

Filed with Sec. of State: 1-30-2014

Certified to be Effective: 3-1-14

Notice Publication Date: 12-1-2013

ADMINISTRATIVE RULES

Rules Amended: 333-050-0010, 333-050-0020, 333-050-0040, 333-050-0050, 333-050-0060, 333-050-0070, 333-050-0080, 333-050-0100, 333-050-0110, 333-050-0120, 333-050-0130, 333-050-0140

Subject: The Oregon Health Authority, Public Health Division is permanently amending administrative rules in chapter 333, division 50, relating to school immunization law.

These amendments describe the new process for claiming a non-medical exemption to school/children's facility/post-secondary immunization requirements that was passed into law in 2013. Parents claiming a nonmedical exemption for their children will be required to submit either: documentation from a health care practitioner that they have discussed the risks and benefits of vaccines, or a certificate proving they had watched an online interactive educational module on the risks and benefits of vaccines. Documentation will be on a form prescribed by the Public Health Division. The new process for claiming a nonmedical exemption will apply to new enterers to school and children's facilities and to exemptions claimed on or after March 1, 2014. These amendments address the definition of health care practitioner. These amendments modify reporting requirements for schools and children's facilities to report the number of nonmedical exemptions from each source, whether from a health care practitioner, from the online educational module or from an exemption claimed prior to the operative date of the law, March 1, 2014. These amendments delay the phase-in schedule for the hepatitis A immunization requirement.

Deletions have been made to remove outdated information. Wording changes have been made to clarify these rules.

Rules Coordinator: Alayna Nest—(971) 673-1291

333-050-0010

Definitions Used in the Immunization Rules

As used in OAR 333-050-0010 through 333-050-0140:

(1) "Certificate of Immunization Status" means a form provided or approved by the Public Health Division on which to enter the child's immunization record.

(2) "Complete" means a category assigned to any child whose record indicates that the child is fully immunized or has immunity documentation as specified by OAR 333-050-0050(2) or (6).

(3) "Contraindication" means either a child or a household member's physical condition or disease that renders a particular vaccine improper or undesirable in accordance with the current recommendations of the Advisory Committee on Immunization Practices, Department of Health and Human Services, Centers for Disease Control and Prevention, and the American Academy of Pediatrics.

(4) "County Immunization Status Report" means a report submitted by the local health department (or school or facility if there is no local health department) to the Public Health Division to report annually the number of children as specified, in the area served, and the number susceptible to the vaccine preventable diseases covered by these rules.

(5) "Evidence of Immunization" means an appropriately signed and dated statement indicating the month, day and year each dose of each vaccine was received.

(6) "Exclude" or "Exclusion" means not being allowed to attend a school or facility pursuant to an Exclusion Order from the local health department based on non-compliance with the requirements of ORS 433.267(1), and these rules.

(7) "Exclusion Order for Incomplete Immunization or Insufficient Information" means a form provided or approved by the Public Health Division for local health department and Public Health Division use in excluding a child who, based on the child's record, is in non-compliance with the vaccine requirements of OAR 333-050-0050(2) or who has insufficient information on his or her record to determine whether the child is in compliance. Forms submitted for approval must contain the substantive content of the Public Health Division form.

(8) "Exclusion Order for No Record" means a form provided or approved by the Public Health Division for local health department, Public Health Division and school or facility use in excluding a child with no record. Forms submitted for approval must contain the substantive content of the Public Health Division form.

(9) "Exempted Children's Facilities" are those that:

(a) Are primarily for supervised training in a specific subject, including, but not limited to, dancing, drama, or music;

(b) Are primarily an incident of group athletic or social activities sponsored by or under the supervision of an organized club or hobby group;

(c) Are operated at a facility where children may only attend on a limited basis not exceeding four different days per year; or

(d) Are operated on an occasional basis by a person, sponsor, or organization not ordinarily engaged in providing child care.

(10) "Exemption" means either a documented medical or nonmedical exemption.

(11) "Health Care Practitioner" means a practitioner of the healing arts who has within the scope of the practitioner's license, the authority to order immunizations, to include: M.D., D.O., N.D., nurse practitioners, and physician assistants, or a registered nurse working under the direction of an M.D., D.O., N.D. or nurse practitioner.

(12) "Immunity Documentation" means a written statement signed by a physician or an authorized representative of the local health department that the child should be exempted from receiving specified immunizations due to a disease history based on a health care practitioner's diagnosis or the results of an immune titer.

(13) "Incomplete" means a category assigned to any child whose record indicates, on or before the date the Primary Review Summary form is due at the local health department, that the child:

(a) Is not fully immunized as required in OAR 333-050-0050(2); and

(b) Does not have a completed exemption or immunity documentation for a vaccine for which the child is not fully immunized.

(14) "Insufficient" means a category assigned to any child whose record does not have enough information to make a proper determination about the child's immunization status, including unsigned records, vaccine dates before day of birth, dates out of sequence, and missing doses in the middle of a vaccine series. This category does not apply to signed but undated records.

(15) "Local Health Department" means the District or County Board of Health, Public Health Officer, Public Health Administrator or Health Department having jurisdiction within the area.

(16) "Medical Exemption" means a document signed by a physician or an authorized representative of the local health department stating that the child should be exempted from receiving specified immunizations based on a medical diagnosis resulting from a specific medical contraindication.

(17) "New Enterer" means a child who meets one of the following criteria:

(a) Infants or preschoolers attending an Oregon facility;

(b) Infants or preschoolers attending a drop-in facility on five or more different days within one year;

(c) Children initially attending a school at the entry level (prekindergarten, kindergarten or the first grade, whichever is the entry level);

(d) Children from a home-school setting initially attending a school or facility at any grade (preschool through 12th grade); or

(e) Children initially attending a school or facility after entering the United States from a foreign country at any grade (preschool through 12th grade).

(18) "Non-Compliance" means failure to comply with any requirement of ORS 433.267(1) or these rules.

(19) "Nonmedical Exemption" means a document, on a form prescribed by the Public Health Division, signed by the parent stating that the parent is declining one or more immunizations on behalf of the child, and including documentation of completion of the vaccine educational module or a signature from a health care practitioner verifying discussion of risks and benefits of immunization.

(20) "Post-Secondary Education Institution" means:

(a) A state institution of higher education under the jurisdiction of the State Board of Higher Education;

(b) A community college operated under ORS chapter 341;

(c) A school or division of Oregon Health and Science University; or

(d) An Oregon-based, generally accredited, private institution of higher education, where:

(A) Oregon-based, generally accredited includes any post-secondary institution described in OAR 583-030-0005(2) or classified as exempt under ORS 348.604; and

(B) Private institution refers to any non-public post-secondary education institution.

(21) "Primary Review Summary" means a form provided or approved by the Public Health Division to schools and facilities for enclosure with records forwarded to the local health department for secondary review and follow up. Forms submitted for approval must contain the substantive content of the Public Health Division form.

ADMINISTRATIVE RULES

(22) "Primary Review Table" means a document provided by the Public Health Division for the judgment of compliance or non-compliance with the required immunizations.

(23) "Public Health Division" means the Oregon Health Authority, Public Health Division.

(24) "Record" means a statement relating to compliance with the requirements of ORS 433.267(1)(a) through (c) and these rules.

(25) "Restrictable Disease" means a communicable disease for which the local health department or administrator has the authority to exclude a child as described in OAR 333-019-0010 through 333-019-0014.

(26) "School Year" means an academic year as adopted by the school or school district (usually September through June).

(27) "Susceptible" means being at risk of contracting one of the diseases covered by these rules, by virtue of being in one or more of the following categories:

(a) Not being complete on the immunizations required by these rules;

(b) Possessing a medical exemption from any of the vaccines required by these rules due to a specific medical diagnosis based on a specific medical contraindication; or

(c) Possessing a nonmedical exemption for any of the vaccines required by these rules.

(28) "These Rules" means OAR 333-050-0010 through 333-050-0140.

(29) "Transferring Child" means a child moving from:

(a) One facility to another facility, only when records are requested in advance of attendance from a previous facility;

(b) One school in this state to another school in this state when the move is not the result of a normal progression of grade level; or

(c) A school in another state to a school in this state.

(30) "Up-to-Date" means not complete, currently on schedule and not subject to exclusion, based on the immunization schedule for spacing doses, as prescribed in OAR 333-050-0120.

(31) "Vaccine Educational Module" means a resource approved by the Public Health Division to fulfill the requirement of receiving information about the risks and benefits of immunization in order to claim a non-medical exemption.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 433.004 & 433.273

Stats. Implemented: ORS 433.001, 433.004, 433.006 & 433.235 - 433.284

Hist.: HD 21-1981, f. & ef. 10-21-81; HD 17-1982, f. & ef. 8-13-82; HD 12-1983, f. & ef. 8-1-83; HD 22-1983, f. & ef. 11-1-83; HD 15-1986, f. & ef. 7-15-86; HD 8-1987, f. & ef. 7-15-87; HD 6-1991, f. & cert. ef. 5-15-91; HD 9-1992, f. & cert. ef. 8-14-92; HD 29-1994, f. & cert. ef. 12-2-94; HD 16-1997, f. & cert. ef. 12-3-97; OHD 14-2001, f. & cert. ef. 7-12-01, Renumbered from 333-019-0021; OHD 26-2001, f. & cert. ef. 12-4-01; OHD 21-2002, f. & cert. ef. 12-13-02; PH 35-2004(Temp), f. & cert. ef. 11-10-04 thru 5-6-05; PH 2-2005, f. & cert. ef. 2-3-05; PH 1-2006, f. & cert. ef. 1-27-06; PH 12-2007, f. & cert. ef. 9-27-07; PH 6-2008, f. & cert. ef. 3-17-08; PH 24-2010, f. & cert. ef. 9-30-10; PH 3-2014, f. 1-30-14, cert. ef. 3-1-14

333-050-0020

Purpose and Intent

(1) The purpose of these rules is to implement ORS 433.235 through 433.284, which require evidence of immunization, a medical or nonmedical exemption, or immunity documentation for each child as a condition of attendance in any school or facility, and which require exclusion from school or facility attendance until such requirements are met.

(2) The intent of the school and facility immunization statutes and these rules is to require that:

(a) A new enterer provide a signed and dated Certificate of Immunization Status form documenting evidence of immunization, documentation of medical or nonmedical exemption, or immunity documentation.

(b) A transferring child provide evidence of immunization, immunity documentation or an exemption:

(A) Within 30 days of initial attendance if records will be requested from a school in the United States;

(B) Prior to initial attendance, as specified in OAR 333-050-0020(2)(a), if records will not be requested from a school in the United States;

(C) Prior to initial attendance, as specified in OAR 333-050-0020(2)(a), if the child is transferring from one facility to another;

(c) A child currently attending not be allowed to continue in attendance without complete or up-to-date evidence of immunization, immunity documentation, or an exemption.

(3) All children's facilities are required to comply with these rules, including but not limited to certified child care centers, certified family child care homes, child care centers exempt from certification, Head Start

programs, preschools and Early Intervention/Early Childhood Special Education child care programs.

(4) The only exception is for family child care homes, either registered or exempt from registration, providing child care, six weeks of age to kindergarten entry, in a residential or nonresidential setting. These programs are exempt from all requirements except an up-to-date Certificate of Immunization Status form on each child in attendance.

(5) All schools are required to comply with these rules, including but not limited to public schools, private schools, charter schools, and alternative education programs. Any program that provides educational instruction designed to lead to a high school diploma or transfer into a regular high school program must also comply with these rules.

(6) Nothing prohibits a school, children's facility, or post-secondary educational institution from adopting additional or more stringent requirements than the statutes or rules as long as:

(a) Medical and nonmedical exemptions and immunity documentation are included;

(b) The requirements are in compliance with the recommendations of the Advisory Committee on Immunization Practices, Department of Health and Human Services, Centers for Disease Control and Prevention; and

(c) Public schools are required to allow transferring students at least 30 days to provide an immunization record.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 433.004 & 433.273

Stats. Implemented: ORS 433.001, 433.004, 433.006 & 433.235 - 433.284

Hist.: HD 21-1981, f. & ef. 10-21-81; HD 17-1982, f. & ef. 8-13-82; HD 12-1983, f. & ef. 8-1-83; HD 22-1983, f. & ef. 11-1-83; HD 8-1987, f. & ef. 7-15-87; HD 6-1991, f. & cert. ef. 5-15-91; HD 9-1992, f. & cert. ef. 8-14-92; HD 29-1994, f. & cert. ef. 12-2-94; HD 16-1997, f. & cert. ef. 12-3-97; OHD 14-2001, f. & cert. ef. 7-12-01, Renumbered from 333-019-0025; OHD 26-2001, f. & cert. ef. 12-4-01; OHD 21-2002, f. & cert. ef. 12-13-02; PH 35-2004(Temp), f. & cert. ef. 11-10-04 thru 5-6-05; PH 2-2005, f. & cert. ef. 2-3-05; PH 1-2006, f. & cert. ef. 1-27-06; PH 12-2007, f. & cert. ef. 9-27-07; PH 1-2008(Temp), f. & cert. ef. 1-8-08 thru 6-30-08; PH 6-2008, f. & cert. ef. 3-17-08; PH 16-2008(Temp), f. & cert. ef. 10-27-08 thru 4-20-09; Administrative correction 5-20-09; PH 13-2009(Temp), f. 12-17-09, cert. ef. 12-21-09 thru 6-18-10; Administrative correction 7-27-10; PH 24-2010, f. & cert. ef. 9-30-10; PH 3-2014, f. 1-30-14, cert. ef. 3-1-14

333-050-0040

Statements (Records) Required

(1) The statement initially documenting evidence of immunization, immunity or exemption under ORS 433.267(1)(a) through (c) must be on a Certificate of Immunization Status form or a form approved by the Public Health Division and include one or more of the following:

(a) Evidence of immunization signed by the parent, health care practitioner or an authorized representative of the local health department;

(b) A written statement of medical exemption signed by a physician or authorized representative of the local health department and approved by an authorized representative of the local health department;

(c) A written statement of immunity documentation approved by an authorized representative of the local health department;

(d) A written statement of nonmedical exemption signed by the parent, including documentation of completion of a vaccine educational module approved by the Public Health Division or signature of a health care practitioner verifying that the risks and benefits of immunizations have been discussed with the parent; or

(e) A written statement of disease history (immunity documentation) for varicella signed by a parent, physician or authorized representative of the local health department.

(2) If age appropriate, required for the child's grade level, and the child has not claimed an exemption or immunity documentation, a minimum of one dose each of the following vaccines must be received for new enterers prior to attendance: Polio, Measles, Mumps, Rubella, Hepatitis B, Hepatitis A, Varicella, Haemophilus influenzae Type b vaccine and Diphtheria/Tetanus/Pertussis containing vaccine. (See Primary Review Table); [Table not included. See ED. NOTE.]

(3) Evidence of immunization shall include the month, day and year of each dose of each vaccine received and must be appropriately signed and dated to indicate verification by the signer.

(a) If evidence of immunization includes the month and year, but the day of the dose is not provided, the administrator shall attempt to get the day of immunization from the parent, the ALERT Immunization Information System or another source. If no day is obtainable, the administrator may use the last day of the month to assess the immunization status for the child.

(b) Pre-signed Certificate of Immunization Status forms without vaccine dates are not allowed.

(c) If a Certificate of Immunization Status form is signed but not dated, the person who receives the form at the school or facility may date the form with the date it was received.

ADMINISTRATIVE RULES

(4) The school or facility may choose to complete or update a Certificate of Immunization Status form, by transcribing dates from, attaching and referencing on the form, one or more of the following records listed in subsections (a) through (f) of this section.

- (a) A health care practitioner documented immunization record;
- (b) An unsigned record on health care practitioner or clinic letterhead;
- (c) An unsigned record printout from the statewide immunization information system, ALERT IIS. ALERT IIS records may be placed in the student's file without transcription onto a Certificate of Immunization Status as long as the printout represents a complete or up-to-date immunization history. If the ALERT IIS record is an update to the Certificate of Immunization Status, it may be attached to the original certificate without transcription;

(d) An unsigned record printout from a computer system approved by the Public Health Division as specified in OAR 333-050-0060(5). Record printouts for Public Health Division-approved computer systems may be placed in the student's file without transcription onto a Certificate of Immunization Status as long as the printout represents a complete or up-to-date immunization history, and includes a history of chickenpox disease if present;

- (e) A written statement signed and dated by the parent; or
 - (f) A statement electronically mailed by the parent.
- (5) The Certificate of Immunization Status form must be signed and dated by the person transcribing the information.

(6) When a transferring student enters an Oregon school, the receiving school will attempt to obtain immunization records from the previous school. If immunization records are not immediately available, the receiving school may, according to school policy, allow the student to enroll conditionally. If immunization records are not received, the school will include the student on the Primary Review Summary report.

(7) If the student transfers to a new school district, except when the move is due to the normal progression of grade levels, such as to a junior high or senior high from a feeder school, the receiving school shall ensure that the transferred records are on a signed Certificate of Immunization Status form or another Public Health Division-approved form. The original transferred records that are not on an approved form shall be attached to a Certificate of Immunization Status form and the form shall be marked with a reference to the attached records, signed, and dated by the person transcribing the information on the form.

(8) The records relating to the immunization status of children in schools shall be transferred to the receiving schools pursuant to ORS 326.575(2) within 30 days.

(9) When a new enterer is admitted in error to a school or facility without an immunization history, immunity documentation or appropriately signed exemption, the school or facility may contact the local health department to request that an Exclusion Order for No Record be issued, or include the student on the Primary Review Summary report.

(10) When a child is determined by the facility, school or school district to be homeless and does not have a completed Certificate of Immunization Status on file with the school, the student will be allowed to enroll conditionally.

(a) If immunization records are not received the school will include the student on the Primary Review Summary report or contact the local health department to request that an Exclusion Order for No Record be issued with an exclusion date of not less than 30 days after initial attendance.

(b) School staff shall make every effort to help the family compile an immunization record for the student, including requesting a record from a previous school, ALERT IIS or a previous medical provider.

(11) Where a child attends both a facility and a school, the school is responsible for reporting and for enforcing these rules in accordance with the school and facility vaccine requirements. However, because of the need for outbreak control when school is not in session, the facility administrator will be responsible for requesting that the parent also provide an up-to-date Certificate of Immunization Status to the facility. If the parent does not comply, the facility administrator shall inform the parent that in the event of an outbreak the child will be excluded until it is determined that the child is not susceptible.

(12) Evidence of nonmedical exemption must include documentation that the parent has completed a vaccine educational module approved by the Public Health Division or signature from a health care practitioner verifying that risks and benefits of immunization have been discussed with the parent. Information provided must be consistent with information published by the Centers for Disease Control and Prevention, including epi-

demiology, the prevention of disease through use of vaccination, and the safety and efficacy of vaccines.

(a) The Public Health Division will make available to parents a no-cost internet based vaccine educational module.

(A) Criteria for the vaccine educational module must include:

- (i) Information consistent with information published by the Centers for Disease Control and Prevention;
- (ii) Information about the benefits and risks of each vaccine for which a parent is claiming a nonmedical exemption;
- (iii) Information about the epidemiology, prevention of disease through use of vaccination, and the safety and efficacy of vaccines; and

(B) A person who wishes to have a vaccine educational module approved by the Oregon Health Authority shall submit the module to the medical director of the Public Health Division, Immunization Program. For approval, the vaccine educational module must contain the substantive content of the internet based vaccine educational module made available by the Public Health Division. The medical director must review the module to determine if it meets the criteria in these rules including the requirement that a vaccine educational module present information that is consistent with information published by the Centers for Disease Control and Prevention. Approval or disapproval shall be made in writing. If the module is disapproved the medical director must explain the reasons for disapproval.

(C) An official certification receipt to provide documentation of completion of the vaccine educational module must be in a form approved by the Public Health Division, Immunization Program.

(b) A health care practitioner may discuss with the parent the risks and benefits of immunization and provide documentation for the parent to claim a nonmedical exemption.

(A) The information provided by the health care practitioner must contain the substantive content of Internet based vaccine educational module made available by the Public Health Division. The content may be adjusted to meet individual parents' concerns.

(B) The health care practitioner will provide documentation to parents on a form prescribed by the Public Health Division that the practitioner has provided vaccine information to the parent.

(c) Parents claiming a nonmedical exemption must provide documentation of completion of a vaccine educational module or a signed document from a health care practitioner to the administrator.

(d) The administrator must keep a copy of the documentation of non-medical exemption with the child's Certificate of Immunization Status.

(13) The evidence of nonmedical exemption required by section (12) of this rule is effective March 1, 2014.

(a) This applies to new enterers initially enrolled on or after March 1, 2014, and children currently enrolled for whom parents submit additional exemption information on or after March 1, 2014.

(b) Records for children enrolled prior to March 1, 2014, with a religious exemption on file at school signed prior to March 1, 2014, will not need to be resubmitted unless updates are made to the exemption. These records will be grandfathered in as nonmedical exemptions.

(c) The evidence of nonmedical exemption from a health care practitioner or the viewing of the educational module must:

(A) Have occurred within 12 months of the parent signing of the non-medical exemption; and

(B) Specify the vaccines about which information about the benefits and risks has been provided and for which a nonmedical exemption may be claimed for the child.

(14) When a child reaches the age of medical consent in Oregon, 15 years of age, the child may sign his or her own Certificate of Immunization Status and complete the process for obtaining a nonmedical exemption.

Stat. Auth.: ORS 433.004 & 433.273

Stats. Implemented: ORS 433.001, 433.004, 433.006 & 433.235 - 433.284

Hist.: HD 21-1981, f. & ef. 10-21-81; HD 17-1982, f. & ef. 8-13-82; HD 12-1983, f. & ef. 8-1-83; HD 15-1986, f. & ef. 7-15-86; HD 8-1987, f. & ef. 7-15-87; HD 6-1991, f. & cert. ef. 5-15-91; HD 9-1992, f. & cert. ef. 8-14-92; HD 16-1997, f. & cert. ef. 12-3-97; OHD 14-2001, f. & cert. ef. 7-12-01, Renumbered from 333-019-0030; OHD 26-2001, f. & cert. ef. 12-4-01; OHD 21-2002, f. & cert. ef. 12-13-02; PH 35-2004(Temp), f. & cert. ef. 11-10-04 thru 5-6-05; PH 2-2005, f. & cert. ef. 2-3-05; PH 1-2006, f. & cert. ef. 1-27-06; PH 12-2007, f. & cert. ef. 9-27-07; PH 6-2008, f. & cert. ef. 3-17-08; PH 24-2010, f. & cert. ef. 9-30-10; PH 3-2014, f. 1-30-14, cert. ef. 3-1-14

333-050-0050

Immunization Requirements

(1) For purposes of this section, immunization against the following diseases means receipt of any vaccine licensed by the United States Food and Drug Administration (or the foreign equivalent) for the prevention of that disease.

ADMINISTRATIVE RULES

(2) For purposes of ORS 433.267(1), immunizations are required as follows (see Primary Review Table to determine the number of required doses for a child's age or grade):

(a) Diphtheria/Tetanus/Pertussis containing vaccine (DTaP) — Five doses must be received unless:

(A) The fourth dose was given at, within four days prior to or after the fourth birthday, in which case the child is complete with four doses; or

(B) The third dose of Diphtheria/Tetanus containing vaccine was received at, within four days prior to or after the seventh birthday, in which case the child is complete with three doses.

(b) Polio — Four doses must be received unless:

(A) The third dose was given at, within four days prior to or after the fourth birthday, in which case the child is complete with three doses of polio vaccine; or

(B) The student is 18 years of age or older. Polio vaccination at or after the 18th birthday is not required.

(c) Measles — Two doses must be received at or after 12 months of age. Vaccine doses given four days or fewer before 12 months of age are acceptable. The second dose must be received at least 24 days after first dose.

(d) Rubella — One dose must be received at or after 12 months of age. Vaccine doses given four days or fewer before 12 months of age are acceptable.

(e) Mumps — One dose must be received at or after 12 months of age. Vaccine doses given four days or fewer before 12 months of age are acceptable.

(f) Haemophilus influenzae Type b (Hib) — Up to four doses depending on the child's current age and when previous doses were administered.

(g) Hepatitis B — Up to three doses must be received. If the first dose was received at or after 11 years of age and the second dose is received at least four months after dose one, the child is complete with two doses. Vaccine doses given four days or fewer before the 11th birthday are acceptable.

(h) Varicella — Up to two doses must be received, depending on the child's age when the first dose was administered. The first dose must be received at or after 12 months of age. Vaccine doses given four days or fewer before 12 months of age are acceptable. Second dose, if required, must be received at least 24 days after first dose.

(i) Hepatitis A — Two doses must be received at or after 12 months of age. Vaccine doses given four days or fewer before 12 months of age are acceptable. Beginning school year 2008–2009, the requirement for Hepatitis A vaccine will be phased in by grade. (See Primary Review Table.) [Table not included. See ED. NOTE.]

(j) Tetanus/Diphtheria/Pertussis booster (Tdap) — One dose must be received at or after seven years of age, unless the last Diphtheria/Tetanus containing vaccine was given less than five years ago.

(3) Interrupted series: If there is a lapse of time between doses longer than that recommended by the standard described in OAR 333-050-0120, the schedule should not be restarted. Immunization may resume with the next dose in the series.

(4) A child shall not be excluded from school for failing to receive a required vaccine if the State Health Officer has determined that there is a vaccine shortage and that is the reason the child has not received the vaccine. Any vaccine that has been waived due to a vaccine shortage will be required at the next review cycle, once the shortage has been lifted. The Public Health Division shall notify local health departments, schools and facilities of any shortages that affect their procedures under these rules.

(5) The local public health officer, after consultation with the Public Health Division, may allow a child to attend a school or facility without meeting the minimum immunization requirements in case of temporary local vaccine shortage.

(a) The local health department shall provide a letter signed by the local health officer to the parent of the affected student detailing which vaccines the student is being exempted from. The letter must state that the student will receive an Exclusion Order if the student's record is not updated with the missing doses prior to the next exclusion cycle.

(b) A copy of the letter must be attached to the student's Certificate of Immunization Status on file at the school or facility.

(c) A photocopied form letter signed by the local health officer may be used by the local health department when the shortage is expected to affect more than one child.

(d) If the vaccine is still unavailable at the next exclusion cycle, the local health department, with the agreement of the Public Health Division, will not issue Exclusion Orders for the unavailable vaccine.

(6) The following immunity documentation satisfies the immunization requirements for the specified vaccines:

(a) Immunity documentation for Measles, Mumps or Rubella vaccination due to a disease history may be certified by a physician or an authorized representative of the local health department for a child who has immunity based on a health care practitioner's diagnosis;

(b) Immunity documentation for Measles, Mumps or Rubella vaccination due to a documented immune titer may be certified by a physician or an authorized representative of the local health department;

(c) Immunity documentation for Hib vaccination may be certified by a physician or authorized representative of the local health department for a child who experienced invasive Haemophilus influenzae Type b disease at 24 months of age or older;

(d) Immunity documentation for Varicella vaccine may be signed by the parent for history of varicella. The date of the disease is not required. This immunity documentation will be automatically authorized by the local health department.

(e) Immunity documentation for Varicella based on laboratory confirmation of immunity may be certified by a physician or authorized representative of the local health department;

(f) Immunity documentation for Hepatitis B vaccination based on laboratory confirmation of immunity or confirmation of carrier status may be certified by a physician or authorized representative of the local health department; and

(g) Immunity documentation for Hepatitis A vaccination based on laboratory confirmation of immunity may be certified by a physician or authorized representative of the local health department.

(7) Children possessing the following medical exemptions are susceptible to the diseases for which they are exempt from vaccination:

(a) Exemption for Measles, Mumps, Rubella or Varicella vaccination may be certified by a physician or an authorized representative of the local health department for a post-pubertal female when she is currently pregnant or there is a significant risk of her becoming pregnant within one month; and

(b) Exemption for one or more immunizations shall be established by a diagnosis based on a specific medical contraindication certified in a letter from the physician or an authorized representative of the local health department. The vaccines, medical diagnosis, practitioner's name, address and phone number must be documented and attached to the record.

(8) Exemptions and immunity documentation submitted to the school or facility must be in English.

(9) A child may attend a school or facility under ORS 433.267(1) if the child is up-to-date and remains up-to-date and in compliance with immunization schedules for spacing between doses presented in OAR 333-050-0120.

(10) If evidence is presented to the local health department that an Exclusion Order was issued in error because a vaccine was given within the four-day grace period recommended by the Advisory Committee on Immunization Practices as published in the General Recommendations on Immunization, the local health department shall rescind the Exclusion Order. The local health department shall notify the child's school or facility when an Exclusion Order is rescinded.

(11) In situations where a child's vaccine history presents an unusual problem not covered by these rules, the local health department may use its judgment to make a final determination of the child's immunization status.

(12) A nonmedical exemption from immunization requirement is allowed for one or more of the vaccines. Parents claiming a nonmedical exemption must select which vaccines a child is being exempted from by checking the appropriate boxes on the Certificate of Immunization Status and submit the Certificate of Immunization status and the documentation specified in OAR 333-050-0040(12)(a)(C) or 333-050-0040(12)(b)(B) to the school or facility.

(13) A child may not be excluded from school until kindergarten for not having the fifth dose of Diphtheria/Tetanus/Pertussis containing vaccine, fourth dose of Polio vaccine or second dose of Measles vaccine.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 433.004 & 433.273

Stats. Implemented: ORS 433.001, 433.004, 433.006 & 433.235 - 433.284

Hist.: HD 21-1981, f. & ef. 10-21-81; HD 17-1982, f. & ef. 8-13-82; HD 12-1983, f. & ef. 8-1-83; HD 8-1987, f. & ef. 7-15-87; HD 6-1991, f. & ef. 5-15-91; HD 10-1991, f. & ef. 7-23-91; HD 9-1992, f. & ef. 8-14-92; HD 16-1997, f. & ef. 12-3-97; OHD 12-2000, f. & ef. 12-26-00; OHD 14-2001, f. & ef. 7-12-01, Renumbered from 333-019-0035; OHD 26-2001, f. & ef. 12-4-01; OHD 21-2002, f. & ef. 12-13-02; PH 35-2004(Temp), f. & ef. 11-10-04 thru 5-6-05; PH 2-2005, f. & ef. 2-3-05; PH 1-2006, f. & ef. 1-27-06; PH 12-2007, f. & ef. 9-27-07; PH 1-2008(Temp), f. & ef. 1-8-08 thru 6-30-08; PH 6-2008, f. & ef. 3-17-08; PH 16-2008(Temp), f. & ef. 10-27-08 thru 4-20-09; Administrative correction 5-20-09; PH 13-2009(Temp), f. 12-17-09, cert. ef. 12-21-09 thru 6-18-10; Administrative correction 7-27-10; PH 24-2010, f. & ef. 9-30-10; PH 3-2014, f. 1-30-14, cert. ef. 3-1-14

ADMINISTRATIVE RULES

333-050-0060

Primary Review of Records

(1) At least annually the administrator will conduct a primary review of each child's record to determine the appropriate category of each child. This review shall be completed no later than 35 calendar days prior to the third Wednesday in February unless otherwise approved in writing first by the local health department and then by the Public Health Division.

(2) The administrator shall categorize all children as follows:

(a) "Complete or Up-to-Date";

(b) "Nonmedical Exemption": This category applies to any child whose incomplete immunizations are covered by a nonmedical exemption;

(c) "Permanent Medical Exemption": This category applies to any child who is susceptible as evidenced by a medical exemption statement on file as specified by OAR 333-050-0050(6), whose medical exemption statement has been reviewed by the local health department and has been determined to be based on a contraindication that is permanent;

(d) "Temporary Medical Exemption": This category applies to any child who is susceptible as evidenced by a medical exemption statement on file as specified by OAR 333-050-0050(7), whose medical exemption statement has not been reviewed by the local health department, or whose medical exemption is not permanent;

(e) "Incomplete/Insufficient";

(f) "No Record": This category applies to any child with no record on file at the school or facility. This category also applies to any child with a nonmedical exemption signed on or after August 1, 2008 with no vaccines selected for nonmedical exemption and with no vaccine dates;

(g) "Children not to be counted": School age children also attending a facility should be counted by the school. Children enrolled in a school but physically attending another school should be counted by the school they physically attend. Children attending a preschool or Head Start program and another facility should be counted by the preschool or Head Start program. Children physically attending more than one child care facility or school should be counted by the facility or school where they attend the most hours.

(3) Thirty-five calendar days prior to the third Wednesday in February, unless otherwise approved in writing first by the local health department and then by the Public Health Division, the administrator shall provide to the local health department for secondary review:

(a) Organized alphabetically within category, copies of records or a computer printout of the records for all children with incomplete immunizations or insufficient information;

(b) Copies of records of children with a medical exemption, except those records that have been certified by the local health department as having a permanent medical exemption or immunity documentation and are otherwise complete with no further review required.

(c) A completed Primary Review Summary form that includes an alphabetical list for each category and includes children with no record. The form must include each child's name, current grade level, parent names and current mailing address. A computer-generated list from a system currently approved by the Public Health Division may be submitted in lieu of the Primary Review Summary form.

(4) The administrator shall review the completed Primary Review Summary form for mathematical accuracy and correct any errors before forwarding the completed Primary Review Summary form to the local health department.

(5) All copies of records provided to the local health department for secondary review must contain at least the following: The child's name, date of birth, and evidence of immunization or exemption. A copy of the records or a computer printout of the records must be used in place of the original record.

(a) Computer printouts and the results from computer-generated immunization assessments (computer outputs) must have the prior approval of the Public Health Division. To receive approval to be used for the primary review report in January, computer printouts and computer outputs must be received by the Public Health Division no later than the last working day of November in the year prior to the year in which the primary review reports are due.

(b) The Public Health Division will review computer printouts and computer outputs for essential data elements, the sequence of data elements, and specific test results as calculated by the computerized system.

(c) Provisional approval will be given to a computer tracking system after correct assessment has been confirmed for test data and essential data elements in required reports. Computer tracking systems with provisional approval will be reviewed after use during the annual review and exclusion cycle. Final approval will be given after any programming errors identified

during the cycle have been corrected by the tracking system and additional reports have been approved by the Public Health Division.

(d) The Public Health Division also reserves the right to withdraw computer system approval.

(e) When ORS 433.235 through 433.284 or these rules are amended, computer systems must be updated within 120 calendar days. The Public Health Division will then allow 60 calendar days for review, needed changes and final approval. Computer outputs that are not in compliance will not be authorized for use during the annual review and exclusion cycle.

(6) Additional review cycles for incomplete or insufficient records with specific time-frames are allowable if:

(a) Mutually agreed upon by the affected local health department and school or facility.

(b) Additional exclusion cycles may be required at the direction of the local health department or the Public Health Division. Exclusion dates shall be no less than 14 calendar days from the date that the Exclusion Orders are mailed.

(7) It is the responsibility of the administrator to see that primary review of immunization records is accomplished according to these rules. All or part of the actual review may be delegated by mutual agreement of parties affected to a third party subject to this requirement.

Hist.: HD 21-1981, f. & ef. 10-21-81; HD 17-1982, f. & ef. 8-13-82; HD 12-1983, f. & ef. 8-1-83; HD 8-1987, f. & ef. 7-15-87; HD 6-1991, f. & cert. ef. 5-15-91; HD 9-1992, f. & cert. ef. 8-14-92; HD 16-1997, f. & cert. ef. 12-3-97; OHD 14-2001, f. & cert. ef. 7-12-01, Renumbered from 333-019-0040; OHD 26-2001, f. & cert. ef. 12-4-01; OHD 21-2002, f. & cert. ef. 12-13-02; PH 35-2004(Temp), f. & cert. ef. 11-10-04 thru 5-6-05; PH 2-2005, f. & cert. ef. 2-3-05; PH 1-2006, f. & cert. ef. 1-27-06; PH 12-2007, f. & cert. ef. 9-27-07; PH 6-2008, f. & cert. ef. 3-17-08; PH 24-2010, f. & cert. ef. 9-30-10; PH 3-2014, f. 1-30-14, cert. ef. 3-1-14

333-050-0070

Secondary Review of Records

(1) The local health department shall conduct a secondary review of those records received from the administrator. The review shall begin 35 calendar days prior to the third Wednesday in February, unless otherwise approved by the Public Health Division.

(2) In conducting secondary review of the records, the local health department shall review the Primary Review Summary for mathematical accuracy. Any errors should be corrected by contacting the affected school or facility. The local health department shall review each child's record that was received for appropriate medical or nonmedical exemptions and then use the Primary Review Table to determine each child's current immunization status for each of the required vaccines.

(3) The local health department shall indicate on the Primary Review Summary form those children whose records are judged to be:

(a) Complete/Up-to-date; or

(b) Medically exempt, and whether temporary or permanent.

(4) The local health department shall indicate on the Primary Review Summary form the specific vaccines that the exclusion order will need to be issued for children whose records are judged to be:

(a) Incomplete/Insufficient; or

(b) No record.

(5) In the event that any of the above records are original documents, the local health department shall return such records to the administrator.

(6) The local health department shall submit an updated copy of the Primary Review Summary form to the administrator.

(7) The local health department shall initiate exclusion procedures for those children whose records are judged to have insufficient information or incomplete immunizations, or who have no record, in accordance with OAR 333-050-0080.

(8) Additional secondary review cycles with specific time frames are allowable for incomplete or insufficient records as mutually agreed upon in writing by the affected local health department and school or facility. Exclusion dates shall be no less than 14 calendar days from the date that the Exclusion Orders were mailed.

(9) It is the responsibility of the local health department to see that secondary review of immunization records is accomplished according to these rules. All or part of the actual review may be delegated by mutual agreement of parties affected to a third party subject to this requirement.

[ED. NOTE: Tables referenced are available from the agency]

Stat. Auth.: ORS 433.004 & 433.273

Stats. Implemented: ORS 433.001, 433.004, 433.006 & 433.235 - 433.284

Hist.: HD 21-1981, f. & ef. 10-21-81; HD 23-1981, f. & ef. 11-17-81; HD 17-1982, f. & ef. 8-13-82; HD 12-1983, f. & ef. 8-1-83; HD 22-1983, f. & ef. 11-1-83; HD 8-1987, f. & ef. 7-15-87; HD 6-1991, f. & cert. ef. 5-15-91; HD 9-1992, f. & cert. ef. 8-14-92; HD 16-1997, f. & cert. ef. 12-3-97; OHD 14-2001, f. & cert. ef. 7-12-01, Renumbered from 333-019-0045; OHD 26-2001, f. & cert. ef. 12-4-01; PH 12-2007, f. & cert. ef. 9-27-07; PH 6-2008, f. & cert. ef. 3-17-08; PH 24-2010, f. & cert. ef. 9-30-10; PH 3-2014, f. 1-30-14, cert. ef. 3-1-14

ADMINISTRATIVE RULES

333-050-0080

Exclusion

(1) The date of exclusion shall be the third Wednesday in February.

(a) If additional exclusion cycles are conducted, the exclusion dates shall be set at no less than 14 calendar days from the date that the Exclusion Orders are mailed.

(b) Exclusion occurs when records have not been received or updated by the starting time of the school or facility on the specified exclusion day.

(2) The local health department shall use an Exclusion Order for Incomplete Immunization or Insufficient Information or an Exclusion Order for No Record depending upon the reason the child is found to be in non-compliance with ORS 433.267(1) and these rules:

(a) At least 14 days before the exclusion day, the local health department shall mail by first class mail an appropriately completed and signed order of exclusion to the parent of each child determined to be out of compliance with these rules.

(b) If a student is listed by the school as the "person responsible," the Exclusion Order will be sent to the student.

(c) In the event that the local health department has knowledge that the address of the parent provided on the Primary Review Summary form is incorrect, the local health department shall use all reasonable means to notify the parent, including inquiries to the school or facility administrator, to establish the appropriate mailing address and sending home from the school a copy of the Exclusion Order with the child.

(d) For all orders issued, one copy of the Exclusion Order shall be sent to the administrator and the local health department shall retain one copy. The local health department shall also retain copies of the records of children to be excluded until notification from the school or facility that such children are in compliance, or for one year.

(3) On the specified date of exclusion, the administrator shall exclude from school or facility attendance all children so ordered by the local health department until the requirements specified by the local health department are verified by the administrator in accordance with section (9) of this rule.

(4) The local health department shall maintain copies of immunization records of children excluded and shall maintain contact with administrators regarding the status of such children.

(5) If children whose records are not updated on the specified exclusion day arrive at their school or facility, the administrator shall make every effort to contact their parent by phone. The administrator shall place excluded children in a space away from the other children until their parent arrives to pick them up or until they are returned home by regular school district transportation.

(6) If the excluded children do not meet the requirements specified by the local health department in accordance with section (9) of this rule and do not return to school within four school days, it is the responsibility of the public school administrator, as proper authority, to notify the attendance supervisor of the unexcused absence. The attendance supervisor is required to proceed as required in ORS 339.080 and 339.090.

(7) Children who have been issued an Exclusion Order are not entitled to begin or continue in attendance in any school or facility in Oregon while the Exclusion Order is still in effect. Administrators who receive or are otherwise made aware of the records of a child from another school or facility containing an Exclusion Order that has not been cancelled shall notify the parent and immediately exclude the child until the requirements specified on the Exclusion Order are met and verified by the administrator.

(8) Students in treatment facilities or court-mandated residential correctional facilities, including but not limited to Oregon Youth Authority closed custody sites, are not subject to exclusion. The administrator of such treatment or residential correctional facilities must comply with all other provisions of these rules, including submission of the required reports as specified by these rules. The administrator must ensure that students have complete or up-to-date immunization records, a medical or nonmedical exemption or immunity documentation for all vaccines required for the student's grade.

(9) Compliance:

(a) For children excluded for insufficient information or incomplete immunizations, compliance will be achieved by submitting to the administrator one of the statements allowed in OAR 333-050-0040(1);

(b) For children excluded for no record, compliance will be achieved by submitting to the administrator evidence of immunizations that includes at least one dose of each vaccine required for that grade or age, a medical or nonmedical exemption or immunity documentation.

(c) When the administrator verifies that the required information has been provided or that an appropriate immunity documentation or medical or nonmedical exemption has been provided, the child shall be in compli-

ance with ORS 433.267(1) and these rules and qualified for school or facility attendance.

(10) Twelve calendar days after the mandatory exclusion date, the administrator shall ensure that:

(a) The Primary Review Summary form returned from the local health department is updated by appropriately marking the current status of each child as specified (including children listed as having no record);

(b) The mathematics on the Primary Review Summary form are accurate including the number of children in children's facilities, kindergarten and seventh grade with the specified number of doses of each vaccine, the number of children with nonmedical exemptions for each vaccine, the number of nonmedical exemptions from each source, whether documentation from a health care practitioner, vaccine educational module or previously claimed religious exemption, and the number of medical and nonmedical exemptions;

(c) A copy of the revised Primary Review Summary form is submitted to the local health department on that day. The administrator shall maintain a file copy of the updated Primary Review Summary form.

(11) The local health department shall review the updated Primary Review Summary form for mathematical accuracy. Any errors should be corrected by contacting the affected school or facility.

Stat. Auth.: ORS 433.004 & 433.273

Stats. Implemented: ORS 433.001, 433.004, 433.006 & 433.235 - 433.284

Hist.: HD 21-1981, f. & ef. 10-21-81; HD 23-1981, f. & ef. 11-17-81; HD 17-1982, f. & ef. 8-13-82; HD 12-1983, f. & ef. 8-1-83; HD 22-1983, f. & ef. 11-1-83; HD 8-1987, f. & ef. 7-15-87; HD 6-1991, f. & cert. ef. 5-15-91; HD 9-1992, f. & cert. ef. 8-14-92; HD 16-1997, f. & cert. ef. 12-3-97; OHD 14-2001, f. & cert. ef. 7-12-01, Renumbered from 333-019-0050; OHD 26-2001, f. & cert. ef. 12-4-01; OHD 21-2002, f. & cert. ef. 12-13-02; PH 35-2004(Temp), f. & cert. ef. 11-10-04 thru 5-6-05; PH 2-2005, f. & cert. ef. 2-3-05; PH 1-2006, f. & cert. ef. 1-27-06; PH 12-2007, f. & cert. ef. 9-27-07; PH 6-2008, f. & cert. ef. 3-17-08; PH 24-2010, f. & cert. ef. 9-30-10; PH 3-2014, f. 1-30-14, cert. ef. 3-1-14

333-050-0100

Follow Up

(1) In the event that the local health department receives records that are original documents from a school or facility, the local health department shall return such records to the administrator.

(2) The administrator shall be responsible for updating records each time the parents, health care practitioner, or an authorized representative of the local health department provides evidence of immunization or exemption for each child.

(3) When a person is diagnosed as having one of the following school or facility restrictable diseases:

(a) Diphtheria, Measles, Mumps, Pertussis, Rubella, Hepatitis A, Varicella or, in children's facilities only, Polio, the local health officer (or designee) may exclude from any school or facility in his or her jurisdiction, any student or employee who is susceptible to that disease.

(b) More information on disease restrictions for schools and facilities can be found in OAR 333-019-0010 and 333-019-0014.

(4) The administrator shall maintain a system to track and report susceptible persons. The local health department may request that the list of persons susceptible to a disease be sorted by classroom, grade, or school. The administrator will provide the list within one calendar day of the local health department's request in order to facilitate appropriate disease control measures.

(5) The local health department or the Public Health Division may conduct school or facility record validation surveys to ensure compliance with ORS 433.235 through 433.280 and these rules.

(6) The local health department may issue Exclusion Orders as needed for compliance with these rules during the validation survey process.

(7) The Public Health Division may issue Exclusion Orders when the Public Health Division is the recognized Public Health Authority in the county.

Stat. Auth.: ORS 433.004 & 433.273

Stats. Implemented: ORS 433.001, 433.004, 433.006 & 433.235 - 433.284

Hist.: HD 21-1981, f. & ef. 10-21-81; HD 17-1982, f. & ef. 8-13-82; HD 12-1983, f. & ef. 8-1-83; HD 6-1991, f. & cert. ef. 5-15-91; HD 9-1992, f. & cert. ef. 8-14-92; OHD 14-2001, f. & cert. ef. 7-12-01, Renumbered from 333-019-0055; OHD 26-2001, f. & cert. ef. 12-4-01; OHD 21-2002, f. & cert. ef. 12-13-02; PH 35-2004(Temp), f. & cert. ef. 11-10-04 thru 5-6-05; PH 2-2005, f. & cert. ef. 2-3-05; PH 1-2006, f. & cert. ef. 1-27-06; PH 12-2007, f. & cert. ef. 9-27-07; PH 6-2008, f. & cert. ef. 3-17-08; PH 3-2014, f. 1-30-14, cert. ef. 3-1-14

333-050-0110

Annual Reporting Requirements

(1) The local health department shall submit a County Immunization Status Report to the Public Health Division annually no later than 23 calendar days after the third Wednesday in February.

(2) On or before the last day of April, the Public Health Division shall publicize a summary of the immunization status of children in children's

ADMINISTRATIVE RULES

facilities, kindergarten and seventh grade attending schools and facilities for each county.

Stat. Auth.: ORS 433.004 & 433.273
Stats. Implemented: ORS 433.001, 433.004, 433.006 & 433.235 - 433.284
Hist.: HD 21-1981, f. & ef. 10-21-81; HD 23-1981, f. & ef. 11-17-81; HD 17-1982, f. & ef. 8-13-82; HD 12-1983, f. & ef. 8-1-83; HD 8-1987, f. & ef. 7-15-87; HD 6-1991, f. & cert. ef. 5-15-91; HD 16-1997, f. & cert. ef. 12-3-97; OHD 14-2001, f. & cert. ef. 7-12-01, Renumbered from 333-019-0060; OHD 26-2001, f. & cert. ef. 12-4-01; PH 12-2007, f. & cert. ef. 9-27-07; PH 6-2008, f. & cert. ef. 3-17-08; PH 24-2010, f. & cert. ef. 9-30-10; PH 3-2014, f. 1-30-14, cert. ef. 3-1-14

333-050-0120

Immunizations Schedules for Spacing of Doses

See Primary Review Table for the judgment of compliance or non-compliance with the required immunizations.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 433.004 & 433.273
Stats. Implemented: ORS 433.001, 433.004, 433.006 & 433.235 - 433.284
Hist.: HD 21-1981, f. & ef. 10-21-81; HD 17-1982, f. & ef. 8-13-82; HD 22-1983, f. & ef. 11-1-83; HD 15-1986, f. & ef. 7-15-86; HD 4-1990(Temp), f. & cert. ef. 1-11-90; HD 10-1991, f. & cert. ef. 7-23-91; HD 12-1991(Temp), f. & cert. ef. 8-26-91, cert. ef. 9-3-91; HD 16-1997, f. & cert. ef. 12-3-97; OHD 8-1998, f. & cert. ef. 9-10-98; OHD 12-2000, f. & cert. ef. 12-26-00; OHD 14-2001, f. & cert. ef. 7-12-01, Renumbered from 333-019-0070; PH 12-2007, f. & cert. ef. 9-27-07; PH 1-2008(Temp), f. & cert. ef. 1-8-08 thru 6-30-08; PH 6-2008, f. & cert. ef. 3-17-08; PH 16-2008(Temp), f. & cert. ef. 10-27-08 thru 4-20-09; Administrative correction 5-20-09; PH 13-2009(Temp), f. 12-17-09, cert. ef. 12-21-09 thru 6-18-10; Administrative correction 7-27-10; PH 24-2010, f. & cert. ef. 9-30-10; PH 3-2014, f. 1-30-14, cert. ef. 3-1-14

333-050-0130

Second Dose Measles in Post Secondary Educational Institution

(1) Each post-secondary education institution, except a community college and a private, proprietary vocational school, shall require that each entering full-time student born on or after January 1, 1957, has two doses of measles vaccine prior to the student's second quarter or semester of enrollment on an Oregon campus, using procedures developed by the institution.

(2) For students subject to section (1) of this rule who are attending the institution pursuant to a non-immigrant visa, documentation of measles vaccination must be provided prior to the student attending classes. If the student's first dose of measles vaccine was received less than 30 days prior to attendance, the student has until the beginning of the second term or semester to provide documentation of the second dose.

(3) The following records may be accepted as adequate proof of two doses of measles vaccine:

(a) Written documentation by student, health care practitioner, or an authorized representative of the local health department of the month, day and year of each dose, within four days prior to, on or after the first birthday, with a minimum of 24 days between the first and second dose;

(b) For students born prior to 1984, no available date for the first dose but written documentation by student, health care practitioner, or an authorized representative of the local health department of the month, day and year of the second dose in or after December, 1989;

(c) An unsigned record printout from the statewide immunization information system, ALERT IIS; or

(d) An unsigned record printout from a computer system approved by the Public Health Division as specified in OAR 333-050-0060(5).

(4) Each post-secondary education institution under the jurisdiction of the law shall include a medical and nonmedical exemption and immunity documentation. Signing for a nonmedical exemption requires documentation of a signature of a health care practitioner that the practitioner has reviewed with the student the risks and benefits of immunization or a certificate verifying that the student has completed a vaccine educational module approved by the Public Health Division.

(5) Each post-secondary educational institution under the jurisdiction of the law shall develop procedures to implement and maintain this requirement.

(6) The Public Health Division may conduct validation surveys to ensure compliance.

(7) A student shall not be excluded from a post-secondary institution for failing to receive a required vaccine if the State Health Officer has determined that there is a vaccine shortage and that is the reason the student has not received the vaccine. Any vaccine that has been waived due to a vaccine shortage will be required at the next term or semester, once the shortage has been lifted.

(8) The local public health officer, after consultation with the Public Health Division, may allow a student to attend an educational institution without meeting the minimum immunization requirements in case of temporary local vaccine shortage.

(a) The local health department shall provide a letter signed by the local health officer to the affected student stating that the vaccine requirement is being postponed. The letter must give guidance to the post-secondary institution about when vaccine is expected to be available.

(b) A photocopied form letter signed by the local health officer may be used by the local health department when the shortage is expected to affect more than one student.

Stat. Auth.: ORS 433.004, 433.273 & 433.282
Stats. Implemented: ORS 433.001, 433.004, 433.006 & 433.235 - 433.284
Hist.: HD 9-1992, f. & cert. ef. 8-14-92; OHD 14-2001, f. & cert. ef. 7-12-01, Renumbered from 333-019-0080; OHD 21-2002, f. & cert. ef. 12-13-02; PH 35-2004(Temp), f. & cert. ef. 11-10-04 thru 5-6-05; PH 2-2005, f. & cert. ef. 2-3-05; PH 1-2006, f. & cert. ef. 1-27-06; PH 12-2007, f. & cert. ef. 9-27-07; PH 6-2008, f. & cert. ef. 3-17-08; PH 24-2010, f. & cert. ef. 9-30-10; PH 3-2014, f. 1-30-14, cert. ef. 3-1-14

333-050-0140

Second Dose Measles in Community Colleges

(1) Each community college shall require that students involved in clinical experiences in allied health programs, practicum experiences in education and child care programs and membership on intercollegiate sports teams have two doses of measles vaccine prior to each student's participation. The requirement shall apply only to those students born on or after January 1, 1957, using procedures developed by the institutions.

(2) The following records may be accepted as adequate proof of two doses of measles vaccine:

(a) Written documentation by student, health care practitioner, or an authorized representative of the local health department of the month, day and year of each dose, within four days prior to, on or after the first birthday, with a minimum of 24 days between first dose and second dose;

(b) For students born prior to 1984, no available date for the first dose but written documentation by student, health care practitioner, or an authorized representative of the local health department of the month, day and year of the second dose in or after December, 1989;

(c) An unsigned record printout from the statewide immunization information system, ALERT IIS; or

(d) An unsigned record printout from a computer system approved by the Public Health Division as specified in OAR 333-050-0060(5).

(3) Each community college under the jurisdiction of the law shall include a medical and nonmedical exemption and immunity documentation. Signing for a nonmedical exemption requires documentation of a signature of a health care practitioner that the practitioner has reviewed with the student the risks and benefits of immunization or a certificate verifying that the student has completed a vaccine educational module approved by the Public Health Division.

(4) Each community college shall develop procedures to implement and maintain this requirement.

(5) The Public Health Division may conduct validation surveys to ensure compliance.

(6) A student shall not be excluded from a community college for failing to receive a required vaccine if the State Health Officer has determined that there is a vaccine shortage and that is the reason the student has not received the vaccine. Any vaccine that has been waived due to a vaccine shortage will be required at the next term or semester, once the shortage has been lifted.

(7) The local public health officer, after consultation with the Public Health Division, may allow a student to attend an educational institution without meeting the minimum immunization requirements in case of temporary local vaccine shortage.

(a) The local health department shall provide a letter signed by the local health officer to the affected student stating that the vaccine requirement is being postponed. The letter must give guidance to the community college about when vaccine is expected to be available.

(b) A photocopied form letter signed by the local health officer may be used by the local health department when the shortage is expected to affect more than one student.

Stat. Auth.: ORS 433.004, 433.273 & 433.283
Stats. Implemented: ORS 433.001, 433.004, 433.006 & 433.235 - 433.284
Hist.: HD 9-1992, f. & cert. ef. 8-14-92; OHD 14-2001, f. & cert. ef. 7-12-01, Renumbered from 333-019-0090; OHD 21-2002, f. & cert. ef. 12-13-02; PH 35-2004(Temp), f. & cert. ef. 11-10-04 thru 5-6-05; PH 2-2005, f. & cert. ef. 2-3-05; PH 12-2007, f. & cert. ef. 9-27-07; PH 6-2008, f. & cert. ef. 3-17-08; PH 24-2010, f. & cert. ef. 9-30-10; PH 3-2014, f. 1-30-14, cert. ef. 3-1-14

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Rule Caption: Oregon Farm Direct Nutrition Program Administration

Adm. Order No.: PH 4-2014

Filed with Sec. of State: 1-30-2014

Certified to be Effective: 1-30-14

ADMINISTRATIVE RULES

Notice Publication Date: 12-1-2013

Rules Amended: 333-052-0040, 333-052-0043, 333-052-0044, 333-052-0120

Subject: The Oregon Health Authority, Public Health Division is permanently amending administrative rules in chapter 333, division 52 as they pertain to Oregon Farm Direct Nutrition Program participants, and farmers that are authorized by the Oregon Farm Direct Nutrition Program. These changes include amendments to definitions, senior participant eligibility requirements, WIC participant eligibility requirements, and complaints.

Rules Coordinator: Alayna Nest—(971) 673-1291

333-052-0040

Definitions

(1) “Adequate Participant Access” means there are authorized farmers sufficient for participant need.

(2) “Agreement” means a written legal document binding the market or farmer and the Authority to designated terms and conditions.

(3) “AAA” means Area Agency on Aging.

(4) “ADRC” means Aging and Disability Resource Connection.

(5) “APD” means Department of Human Services, Aging and People with Disabilities.

(6) “Authority” means the Oregon Health Authority.

(7) “Authorized” or “authorization” means an eligible farmer or farmers’ market has met the selection criteria and signed an agreement with the Authority allowing participation in FDNP, and is not currently disqualified.

(8) “Check” means a negotiable financial instrument by which FDNP benefits are provided to participants.

(9) “CMP” means a civil money penalty.

(10) “Disqualification” means the act of terminating the agreement of an authorized farmers’ market, or farmer from the FDNP for noncompliance with program requirements.

(11) “Eligible foods” means fresh, nutritious, unprepared, locally grown fruits and vegetables and culinary herbs for human consumption. Eligible foods may not be processed or prepared beyond their natural state except for usual harvesting and cleaning processes. For example, checks cannot be used for honey, maple syrup, cider, nuts, seeds, plants, eggs, meat, cheese and seafood.

(12) “Farm Direct Nutrition Program” or “FDNP” means the Oregon Farm Direct Nutrition Program (Oregon FDNP), which is composed of the collective Senior Farm Direct Nutrition Program and WIC Farm Direct Nutrition Program, regulated by the United States Department of Agriculture, Food and Nutrition Services and administered by the State of Oregon.

(13) “Farmer” means an individual who owns, leases, rents or share-crops land to grow, cultivate or harvest crops on that land.

(14) “Farmers’ Market” means a group of farmers who assemble over the course of a year at a defined location for the purpose of selling their produce directly to consumers.

(15) “Farm Stand” means a location at which a farmer sells produce directly to consumers.

(16) “FDNP Participant” or “participant” means a senior participant or a WIC participant receiving FDNP benefits.

(17) “Fine” means a monetary penalty imposed against the farmer for non-compliance of FDNP rules.

(18) “Locally grown” means grown in the state of Oregon or in the following counties of a contiguous state: California — Del Norte, Modoc, Siskiyou; Idaho — Adams, Canyon, Idaho, Owyhee, Payette, Washington; Nevada — Humboldt, Washoe; Washington — Asotin, Benton, Clark, Columbia, Cowlitz, Garfield, Klickitat, Pacific, Skamania, Wahkiakum, Walla Walla.

(19) “Local WIC agency” means the agency or clinic where a WIC participant receives WIC services and benefits.

(20) “Market” means a farmers’ market that has a signed agreement with the Authority to participate in the FDNP.

(21) “Market Coordinator” means an individual designated by the farmers’ market manager (or market board members) responsible for overseeing the market’s participation in the FDNP.

(22) “Market Season” means the time period in which FDNP checks may be transacted as determined by the Authority.

(23) “Senior Farm Direct Nutrition Program (SFDNP)” means the Senior Farmers’ Market Nutrition Program funded by USDA that provides senior participants with checks that can be used to buy eligible foods from an authorized farmer.

(24) “Senior Participant” means an individual who is over 60 years of age, meets all the eligibility components of the program and who receives FDNP checks.

(25) “SNAP” means the Supplemental Nutrition Assistance Program of the Food and Nutrition Services of the United States Department of Agriculture. This program was formerly known as the Food Stamp Program or “FSP.”

(26) “Trafficking” means the buying or exchanging of FDNP checks for cash, drugs, firearms or alcohol.

(27) “USDA” means the United States Department of Agriculture.

(28) “Validating” means stamping the FDNP check in the designated box with the farmer identification number using the stamp provided by the Authority or a replacement stamp purchased by the farmer.

(29) “Violation” means an activity that is prohibited by OAR 333-052-0030 through 333-052-0090 and classified in OAR 333-052-0080 through 333-052-0130.

(30) “WIC” or “WIC program” means the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) authorized by Section 17 of the Federal Child Nutrition Act of 1966, as amended, 42 U.S.C. § 1786.

(31) “WIC Farm Direct Nutrition Program (WIC FDNP)” means the Farmers’ Market Nutrition Program funded by USDA that provides WIC participants with checks that can be used to buy eligible foods from an authorized farmer.

(32) “WIC participant” means any pregnant, breastfeeding, or post-partum woman, infant, or child who meets all of the eligibility components of the WIC FDNP and receives WIC FDNP checks.

Stat. Auth.: ORS 413.500

Stats. Implemented: ORS 413.500

Hist.: PH 10-2006, f. & cert. ef. 6-5-06; PH 7-2008, f. & cert. ef. 4-3-08; PH 5-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; PH 11-2011, f. & cert. ef. 10-27-11; PH 8-2012(Temp), f. & cert. ef. 6-11-12 thru 12-7-12; PH 15-2012, f. & cert. ef. 12-20-12; PH 4-2014, f. & cert. ef. 1-30-14

333-052-0043

Senior Participant Eligibility and Benefits

(1) An individual is eligible for the Senior Farm Direct Nutrition Program (SFDNP) if the individual meets all of the following eligibility criteria on April 1 of the calendar year in which benefits are sought:

(a) Has income less than 135 percent of the Federal Poverty Level as listed in OAR 461-155-0295;

(b) Receives Medicaid or SNAP benefits;

(c) Is homeless or resides in their own home or rental property; and

(d) Is age 60 years or older.

(2) SFDNP benefits are limited and benefits will be distributed in an equitable manner but may not be distributed to all individuals who are eligible.

(3) The Authority shall inform eligible seniors each year of the available benefits and how the benefits will be distributed.

(4) SFDNP benefits are valid from June 1 through October 31 of the year in which benefits were issued.

(5) Lost or stolen SFDNP benefits will not be replaced.

(6) An individual who does not receive a benefit in any given year due to lack of sufficient funding to provide SFDNP benefits to all eligible seniors is not entitled to hearing rights.

Stat. Auth.: ORS 413.500

Stats. Implemented: ORS 413.500

Hist.: PH 15-2012, f. & cert. ef. 12-20-12; PH 4-2014, f. & cert. ef. 1-30-14

333-052-0044

WIC Participant Eligibility and Benefits

(1) A WIC participant is eligible to receive WIC Farm Direct Nutrition Program (WIC FDNP) benefits if the participant meets all of the following eligibility criteria on the date of FDNP benefit issuance:

(a) Is currently receiving benefits under the WIC Program; and

(b) Belongs to any of the following WIC categories:

(A) A pregnant woman;

(B) A breastfeeding woman less than one year after delivery;

(C) A non-lactating post-partum woman less than six months after delivery;

(D) A child through the end of the month he or she turns five years of age; or

(E) An infant four months of age or older.

(2) WIC FDNP benefits are limited and benefits will be distributed in an equitable manner within participating local agencies but may not be distributed to all individuals who are eligible.

(3) The Authority will determine a standard benefit package per eligible individual and per family each year.

ADMINISTRATIVE RULES

(4) WIC FDNP benefits will only be issued to the participant/caretaker in a face-to-face contact at the local agency where WIC benefits are received, and the participant/caretaker must receive a FDNP orientation when receiving checks for the first time in the current year.

(5) WIC FDNP benefits are valid from June 1 through October 31 of the year in which benefits were issued.

(6) Lost or stolen WIC FDNP benefits will not be replaced.

(7) Individuals who are denied WIC FDNP benefits may appeal the denial, but shall not receive WIC FDNP benefits while awaiting the decision.

(8) WIC participants whose WIC FDNP benefits are terminated may appeal the termination of benefits and shall continue to receive WIC FDNP benefits until the hearing official reaches a decision or the expiration of the current FDNP season, whichever occurs first.

Stat. Auth.: ORS 413.500

Stats. Implemented: ORS 413.500

Hist.: PH 15-2012, f. & cert. ef. 12-20-12; PH 4-2014, f. & cert. ef. 1-30-14

333-052-0120 Complaints

(1) Anyone wishing to file a complaint against a FDNP participant, an authorized farmer, an authorized market, or the FDNP may do so in the following manner:

(a) Send a written comment to the WIC Compliance Coordinator at 800 NE Oregon St., Suite 865, Portland, Oregon, 97232; or

(b) Call the state WIC office at 971-673-0040.

(2) A local WIC clinic, APD office, ADRC, AAA office or market manager may file a complaint on behalf of an individual who does not want to file a complaint independently.

(3) When the Authority receives a complaint alleging discrimination on the basis of race, color, national origin, age, sex or disability the Authority must automatically forward the complaint to USDA for investigation.

(4) Individuals alleging discrimination on the basis of race, color, national origin, age, sex or disability may also write directly to USDA, Director, Office of Adjudication and Compliance, 1400 Independence Avenue SW, Washington, D.C. 20250-9410 or call (866) 632-9992 (voice) or (866) 377-8642 (TDD).

(5) The Authority may refer complaints regarding farmers or markets to the Oregon Department of Agriculture for investigation.

(6) The identity of any individual filing a complaint will be kept confidential except to the extent necessary to conduct any investigation, hearing or judicial proceeding regarding the complaint.

Stat. Auth.: ORS 413.500

Stats. Implemented: ORS 413.500

Hist.: PH 10-2006, f. & cert. ef. 6-5-06; PH 7-2008, f. & cert. ef. 4-3-08; PH 15-2012, f. & cert. ef. 12-20-12; PH 4-2014, f. & cert. ef. 1-30-14

Rule Caption: WIC Participant, Vendor and Farmer Administration
Adm. Order No.: PH 5-2014

Filed with Sec. of State: 1-30-2014

Certified to be Effective: 1-30-14

Notice Publication Date: 12-1-2013

Rules Adopted: 333-053-0000, 333-054-0052

Subject: The Oregon Health Authority, Public Health Division is permanently adopting an administrative rule in chapter 333, division 53 as it pertains to WIC participants and chapter 333, division 54 as it pertains to vendors and farmers that are authorized by the Oregon WIC Program. These rule adoptions address temporary suspensions of WIC participant benefits and vendor and farmer agreements in the event of a government or program closure or the lack of government funding for the program.

Rules Coordinator: Alayna Nest—(971) 673-1291

333-053-0000

Suspension of WIC Program

(1) Notwithstanding any other rules in this division, all WIC program benefits are suspended if there is a government or WIC program closure or if the government does not provide WIC funding. A suspension shall remain in effect until such time as funding is approved or as soon as the closure ends and only to the extent benefit issuance to participants is approved by the federal government.

(2) Notice of suspensions shall be made by the Oregon Health Authority by posting a notice on the WIC program website and by notifying participants in writing. Notice of suspensions shall include the suspen-

sion effective date. As soon as funding is restored or as soon as the closure has ended, the Authority shall notify participants of the date that a suspension is lifted.

(3) Benefits may not be issued to participants and participants shall not redeem WIC food instruments they have already received during a suspension.

(4) Participants who disagree with a suspension are not entitled to continuing benefits or a contested case hearing but may challenge a suspension through a rule challenge under ORS 183.335 or 183.400.

Stat. Auth.: ORS 413.500

Stats. Implemented: ORS 413.500

Hist.: PH 5-2014, f. & cert. ef. 1-30-14

333-054-0052

Suspension of Vendor Agreements

(1) Notwithstanding any other rule in this division, WIC program benefits are suspended and all vendor agreements are suspended if there is a government or WIC program closure or if the government does not provide WIC funding. A suspension shall remain in effect until such time as funding is approved or as soon as the closure ends and only to the extent benefit issuance to participants is approved by the federal government.

(2) Suspensions apply to all WIC-authorized vendors, including farmers transacting cash value benefits. Suspensions do not apply to WIC-authorized farmers transacting Farm Direct Nutrition Program checks.

(3) Notice of suspensions shall be made by both electronic mail and United States Postal Service mail to all WIC-authorized vendors and farmers and shall include the suspension effective date. Notice of suspensions will be delivered with as much notice as possible. As soon as funding is restored or as soon as the closure has ended, the Authority shall notify vendors and farmers of the date that a suspension is lifted.

(4) Vendors and farmers shall not accept WIC food instruments, shall not provide food benefits and shall not deposit WIC food instruments for payment during a suspension.

(5) WIC-authorized vendors and farmers who disagree with a suspension are not entitled to a contested case hearing but may challenge a suspension through a rule challenge under ORS 183.335 or 183.400.

Stat. Auth.: ORS 413.500

Stats. Implemented: ORS 413.500

Hist.: PH 5-2014, f. & cert. ef. 1-30-14

Rule Caption: Nontransplant Anatomical Research Recovery Organizations Licensing

Adm. Order No.: PH 6-2014

Filed with Sec. of State: 1-30-2014

Certified to be Effective: 2-1-14

Notice Publication Date: 12-1-2013

Rules Adopted: 333-081-0000, 333-081-0005, 333-081-0010, 333-081-0015, 333-081-0020, 333-081-0025, 333-081-0030, 333-081-0035, 333-081-0040, 333-081-0045, 333-081-0050, 333-081-0055, 333-081-0060, 333-081-0065, 333-081-0070, 333-081-0075, 333-081-0080, 333-081-0085, 333-081-0090

Subject: The Oregon Health Authority, Public Health Division, is permanently adopting administrative rules in chapter 333, division 81 in order to create a licensing program for Nontransplant Anatomical Research Recovery Organizations (“NARROs”). Oregon Laws 2013, chapter 356 (Enrolled House Bill 3345) requires that NARROs be licensed and directs the Oregon Health Authority to adopt implementing rules. These rules create a licensing structure and requirements for NARROs.

Rules Coordinator: Alayna Nest—(971) 673-1291

333-081-0000

Purpose

The purpose of these rules is to establish standards for licensure of Nontransplant Anatomical Research Recovery Organizations.

Stat. Auth.: OL 2013, Ch. 356

Stats. Implemented: OL 2013, Ch. 356

Hist.: PH 6-2014, f. 1-30-14, cert. ef. 2-1-14

333-081-0005

Definitions

As used in OAR 333-081-0000 through 333-081-0090 the following definitions apply:

ADMINISTRATIVE RULES

(1) "Accrediting body" means an entity that is approved by the Public Health Division and meets the requirements of Oregon Laws 2013, chapter 356, section 4(2).

(2) "Anatomical material" has the meaning given that term in Oregon Laws 2013, chapter 356, section 1(1).

(3) "Division" means the Public Health Division of the Oregon Health Authority.

(4) "Donor" has the meaning given that term in ORS 97.953.

(5) "Human Remains" has the meaning given that term in ORS 97.010.

(6) "Nontransplant anatomical research recovery organization" or "NARRO" has the meaning given that term in Oregon Laws 2013, chapter 356, section 1(3) and is defined as follows:

(a) A NARRO means a person that engages in the recovery or distribution of anatomical material from a donor for research or education purposes other than transplanting the anatomical material or therapy.

(b) A NARRO does not include:

(A) A hospital or other health care facility as those terms are defined in ORS 442.015;

(B) A public corporation as defined in ORS 353.010;

(C) A public or private institution of higher education; or

(D) A clinical laboratory, as defined in ORS 438.010, that is:

(i) Licensed under ORS 438.010 to 438.510; and

(ii) Owned or controlled by, or under common ownership with, a hospital described in paragraph (A) of this subsection.

(7) "Survey" means an inspection of the premises or records of either an applicant for licensure as a NARRO or of a licensed NARRO in order to determine the extent to which that entity is in compliance with Oregon Laws 2013, chapter 356, sections 2 and 3 and these rules.

Stat. Auth.: OL 2013, Ch. 356

Stats. Implemented: OL 2013, Ch. 356

Hist.: PH 6-2014, f. 1-30-14, cert. ef. 2-1-14

333-081-0010

Application for Licensure

(1) Persons meeting the definition of a NARRO as set out in Oregon Laws 2013, chapter 356, section 1(3) and OAR 333-081-0005(5) may not act as a NARRO or hold themselves out as a NARRO unless licensed as such by the Division.

(2) An applicant wishing to apply for a license to operate a NARRO shall submit an application on the most current form prescribed by the Division and pay the application fee specified in OAR 333-081-0035.

(3) An applicant that has obtained accreditation from an accrediting body approved by the Division shall provide proof of accreditation to the Division with its license application and shall include:

(a) All of the approved accrediting body survey and inspection reports; and

(b) Written evidence of all corrective actions underway or completed in response to the approved accrediting body recommendations including progress reports.

(4) If any of the information delineated in a NARRO's most recent application changes at a time other than the annual renewal date, it must submit a revised application to the Division within 30 calendar days of the change.

(5) Notwithstanding section (4) of this rule, a NARRO must submit a revised application to the Division 30 calendar days prior to any of the following changes:

(a) Change in ownership or management, acquisition by or of, or merger with another NARRO;

(b) Change in facilities because of expansion, relocation, renovations or structural changes that affect NARRO operations; and

(c) Change in the scope of operations of the NARRO.

(6) In order to allow the Division to determine whether any of the changes reported in accordance with section (4) or (5) of this rule may affect NARRO compliance with NARRO licensing laws and rules, the Division may request NARRO documents, records or other materials for review or it may conduct an on-site inspection.

(7) If a NARRO loses accreditation, it shall immediately notify the Division and surrender its license in accordance with OAR 333-081-0045.

Stat. Auth.: OL 2013, Ch. 356

Stats. Implemented: OL 2013, Ch. 356

Hist.: PH 6-2014, f. 1-30-14, cert. ef. 2-1-14

333-081-0015

Review of License Application

(1) Following receipt of a completed application and the required fee, the Division must conduct a survey in accordance with OAR 333-081-0050

to determine whether the NARRO is in compliance with Oregon Laws 2013, chapter 356, sections 2 and 3 and these rules.

(2) In lieu of conducting a survey, the Division may accept proof of accreditation by an accrediting body approved by the Division.

Stat. Auth.: OL 2013, Ch. 356

Stats. Implemented: OL 2013, Ch. 356

Hist.: PH 6-2014, f. 1-30-14, cert. ef. 2-1-14

333-081-0020

Approval of License Application

(1) The Division must notify an applicant in writing if a license application is approved and must include a copy of the license.

(2) The Division will issue a license only for the premises and person(s) named in the application and it may not be transferred or assigned.

(3) A licensed NARRO must post the license in a conspicuous location where it is viewable by the public.

Stat. Auth.: OL 2013, Ch. 356

Stats. Implemented: OL 2013, Ch. 356

Hist.: PH 6-2014, f. 1-30-14, cert. ef. 2-1-14

333-081-0025

Denial of License Application

If the Division intends to deny a license application, it shall issue a Notice of Proposed Denial of License Application in accordance with ORS 183.411 through 183.470.

Stat. Auth.: OL 2013, Ch. 356

Stats. Implemented: OL 2013, Ch. 356

Hist.: PH 6-2014, f. 1-30-14, cert. ef. 2-1-14

333-081-0030

Expiration and Renewal of License

(1) An initial or renewed license expires two years after the date of issuance or renewal.

(2) If the ownership of a NARRO changes, a new license is required.

(3) If renewal or a new license is sought because of a change of ownership, the licensee shall make application at least 45 days prior to the change of ownership using a form prescribed by the Division.

Stat. Auth.: OL 2013, Ch. 356

Stats. Implemented: OL 2013, Ch. 356

Hist.: PH 6-2014, f. 1-30-14, cert. ef. 2-1-14

333-081-0035

Fees

(1) The fee for an initial or renewed NARRO license is \$1,750.

(2) All application fees are non-refundable.

Stat. Auth.: OL 2013, Ch. 356

Stats. Implemented: OL 2013, Ch. 356

Hist.: PH 6-2014, f. 1-30-14, cert. ef. 2-1-14

333-081-0040

Denial, Suspension or Revocation of License

(1) A license for a NARRO may be denied, suspended or revoked by the Division if a licensed NARRO has failed to comply with Oregon Laws 2013, chapter 356, sections 2 and 3, OAR 333-081-0080 or for violations of laws, regulations or administrative rules that governs how it obtains, processes and distributes donor material.

(2) If the Division intends to suspend or revoke a NARRO license, it shall do so in accordance with ORS 183.411 through 183.470.

Stat. Auth.: OL 2013, Ch. 356

Stats. Implemented: OL 2013, Ch. 356

Hist.: PH 6-2014, f. 1-30-14, cert. ef. 2-1-14

333-081-0045

Return of License

Each license certificate in the licensee's possession shall be returned to the Division immediately upon the suspension or revocation of the license, failure to renew the license by the date of expiration, loss of accreditation or if operation is discontinued by the voluntary action of the licensee.

Stat. Auth.: OL 2013, Ch. 356

Stats. Implemented: OL 2013, Ch. 356

Hist.: PH 6-2014, f. 1-30-14, cert. ef. 2-1-14

333-081-0050

Surveys

(1) The Division must, in addition to any investigations conducted pursuant to OAR 333-081-0065, conduct at least one survey of each NARRO prior to licensure and once every two years thereafter as a requirement of licensing and at such other times as the Division deems necessary.

ADMINISTRATIVE RULES

(2) In lieu of an on-site inspection required by section (1) of this rule, the Division may accept proof of accreditation by an accrediting body approved by the Division if the NARRO:

(a) Gives the Division sufficient advance notice to allow the Division to participate in any exit interviews conducted by the accrediting body; and

(b) Provides the Division with copies of all documentation concerning the accreditation that it requests.

(3) A NARRO must permit Division staff access to its premises during a survey.

(4) A survey may include, but is not limited to:

(a) Interviews of NARRO management and staff;

(b) On-site observations of the NARRO premises, staff performance and activities; and

(c) Review of documents, records and other materials required to be kept by OAR 333-081-0070.

(5) A NARRO shall make all requested documents and records available to the surveyor for review and copying.

(6) Following a survey, Division staff may conduct an exit conference with a NARRO agency owner, administrator, or designee. During an exit conference, Division staff must:

(a) Inform the NARRO owner, administrator or designee of the preliminary findings of the inspection; and

(b) Give the owner, administrator or designee a reasonable opportunity to submit additional facts or other information to the surveyor in response to those findings.

(7) Following a survey, Division staff must prepare and provide the NARRO owner or administrator specific and timely written notice of the findings.

(8) If no deficiencies are found during a survey, the Division must issue written findings to the NARRO owner or administrator indicating that fact.

(9) Upon conclusion of a survey the Division must, upon request, publicly release the written documents described in sections (7) and (8) of this rule in accordance with the Oregon Public Records Act.

(10) If deficiencies are found, the Division must take informal or formal enforcement action in accordance with OAR 333-081-0085 and 333-081-0090.

Stat. Auth.: OL 2013, Ch. 356

Stats. Implemented: OL 2013, Ch. 356

Hist.: PH 6-2014, f. 1-30-14, cert. ef. 2-1-14

333-081-0055

Approval of Accrediting Bodies

(1) If the Division finds that an accrediting body has the necessary qualifications to certify that state licensing standards have been met, the Division will accept accreditation from the accrediting body in accordance with the requirements of OAR 333-081-0050(2).

(2) In order to allow the Division to make the finding set forth in section (1) of this rule, the accrediting body must request approval in writing using the most recent approval form provided by the Division and shall provide, at a minimum:

(a) Documentation of program policies and procedures that show that its accreditation process at least meets the requirements set out in Oregon Laws 2013, chapter 356, section 4(2) and these rules;

(b) Documentation evidencing that the accrediting body has the resources and expertise to successfully carry out the accreditation process; and

(c) An attestation that it, or any of its owners or employees, does not have a direct or indirect financial interest in any of the NARROs that it seeks to accredit.

Stat. Auth.: OL 2013, Ch. 356

Stats. Implemented: OL 2013, Ch. 356

Hist.: PH 6-2014, f. 1-30-14, cert. ef. 2-1-14

333-081-0060

Complaints

(1) Any person may make a complaint to the Division regarding an allegation as to violations of Oregon Laws 2013, chapter 356, sections 2 and 3 or these rules.

(2) Upon conclusion of an investigation, the Division shall, upon request, publicly release a report of its findings in accordance with the Oregon Public Records Act. The Division may use any information obtained during an investigation in an administrative or judicial proceeding concerning the licensing of a NARRO.

(3) If a complaint involves an allegation of criminal conduct or an allegation that is within the jurisdiction of another local, state, or federal agency, the Division shall refer the matter to that agency.

Stat. Auth.: OL 2013, Ch. 356

Stats. Implemented: OL 2013, Ch. 356

Hist.: PH 6-2014, f. 1-30-14, cert. ef. 2-1-14

333-081-0065

Investigations

(1) As soon as practicable after receiving a complaint, taking into consideration the nature of the complaint, Division staff must begin an investigation.

(2) An investigation may include but is not limited to:

(a) Interviews of the complainant, persons identified by the complainant as having knowledge of the facts alleged in the complaint, NARRO management and staff, and other persons having knowledge of the practices of the NARRO; and

(b) On-site observations of staff performance and of the physical environment of the NARRO facility; and

(c) Review of documents, records and other materials.

(3) A NARRO must permit Division staff access to its premises during an investigation.

Stat. Auth.: OL 2013, Ch. 356

Stats. Implemented: OL 2013, Ch. 356

Hist.: PH 6-2014, f. 1-30-14, cert. ef. 2-1-14

333-081-0070

Records

(1) A NARRO must keep and maintain a legible, reproducible record of each donor from whom it obtains anatomical material. This record must include at least the following:

(a) Documentation showing that the donor donated the anatomical material for the purpose of research or education. However, if the decision to donate is made after the donor's death, documentation that the donation was made by a person authorized to make an anatomical gift under the process set out in ORS 97.965 and that this person donated the anatomical material for the purpose of research or education is required;

(b) The name, address and phone number of each person that had possession of the donor's anatomical material before the organization took possession of the anatomical material;

(c) Documentation of the disposition of the donor's anatomical material by the NARRO, including the name, address and phone number of each person to whom it provides anatomical material from the donor; and

(d) A copy of the disclosure given to a relative or personal representative of the donor if any anatomical material is returned to them as required by OAR 333-081-0075(2).

(2) The NARRO must keep and maintain a legible, reproducible record of the notice required by Oregon Laws 2013, chapter 356, section 3(4) and OAR 333-081-0075 and provided to each individual from whom the NARRO agrees to accept an offer of the donation of anatomical material. If an offer of anatomical material is not subsequently rescinded or rejected, this record must be included in the donor record for each individual.

(3) The records required by sections (1) and (2) of this rule must be kept and maintained by the NARRO for a minimum of 10 years from the date that the NARRO takes possession of the donor's anatomical material and shall be kept and maintained in the following manner:

(a) It must be kept in a manner that renders it easily and completely retrievable;

(b) Reasonable precautions must be taken to protect the record from unauthorized access and from destruction including, but not limited to, fire, water, and theft;

(c) Authorized employees of the Division must be permitted to review the records upon request;

(d) If a NARRO changes ownership, all records must remain with the successor NARRO and it shall be the responsibility of the new owner to protect and maintain these records; and

(e) Before a NARRO terminates its business, it must notify the Division where the records will be stored and, if the location changes, those responsible must notify the Division of each successive location.

Stat. Auth.: OL 2013, Ch. 356

Stats. Implemented: OL 2013, Ch. 356

Hist.: PH 6-2014, f. 1-30-14, cert. ef. 2-1-14

333-081-0075

Notice

(1) As required by Oregon Laws 2013, chapter 356, section 3(4), when a NARRO accepts an offer from an individual to donate anatomical material it must provide that individual notice that clearly explains:

(a) How the NARRO intends to dispose of the anatomical material if donated, and whether and how any anatomical material may be returned;

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(b) Whether or not the NARRO guarantees the coverage of costs related to transporting and disposing of the anatomical material and, if all costs will not be covered, what costs will be the responsibility of the individual making the donation; and

(c) What costs will be covered by the NARRO and what costs will be the responsibility of the individual making the donation if the individual or relative or personal representative subsequently rescinds, or the NARRO later rejects, the offer of anatomical material.

(2) If a NARRO returns any anatomical material to a relative or personal representative of a donor, the NARRO must provide that person with a notice that discloses whether all or part of the donor's body is being returned.

(3) The notice required by sections (1) and (2) of this rule must be in writing and be printed in at least 14-point type.

Stat. Auth.: OL 2013, Ch. 356
Stats. Implemented: OL 2013, Ch. 356
Hist.: PH 6-2014, f. 1-30-14, cert. ef. 2-1-14

333-081-0080 NARRO Duties

In addition to the requirements set out in these rules, a NARRO shall dispose of any anatomical material not returned to a relative or personal representative of the donor in accordance with all laws pertaining to the disposition of human remains. This requirement does not apply to anatomical material that the NARRO has recovered or distributed for research or educational purposes.

Stat. Auth.: OL 2013, Ch. 356
Stats. Implemented: OL 2013, Ch. 356
Hist.: PH 6-2014, f. 1-30-14, cert. ef. 2-1-14

333-081-0085 Informal Enforcement

(1) If during an investigation or survey Division staff document violations of NARRO licensing rules or laws, the Division may issue a statement of deficiencies that cites the law or rule alleged to have been violated and the facts supporting the allegation.

(2) Upon receipt of a statement of deficiencies, a NARRO shall be provided an opportunity to dispute the Division's survey findings but must still comply with sections (3) and (4) of this rule. The following conditions apply:

(a) If a NARRO desires an informal conference to dispute the Division's survey findings, the NARRO must submit a request in writing to the Division within 10 business days after receipt of the statement of deficiencies. The written request must include a detailed explanation of why the NARRO believes the statement of deficiencies is incorrect;

(b) A NARRO may not seek a delay of any enforcement action against it on the grounds the informal dispute resolution has not been completed; and

(c) If a NARRO is successful in demonstrating some or all of the deficiencies should not have been cited, the Division must withdraw or reissue the statement of deficiencies, removing such deficiencies and rescinding or modifying any remedies issued for such deficiencies. A reissued statement of deficiencies must include a statement that it supersedes the previous statement of deficiencies and shall clearly identify the date of the superseded statement of deficiencies.

(3) A signed plan of correction from a NARRO must be mailed to the Division within 10 business days from the date the statement of deficiencies was received by the NARRO. A signed plan of correction will not be used by the Division as an admission of the violations alleged in the statement of deficiencies.

(4) A NARRO must correct all deficiencies within 60 days from the date of the receipt of the statement of deficiencies, unless an extension of time is granted by the Division. A request for such an extension must be submitted in writing and must accompany the plan of correction.

(5) The Division must determine if a written plan of correction is acceptable. If the plan of correction is not acceptable to the Division, the Division must notify the NARRO owner or administrator in writing:

(a) Identifying which provisions in the plan the Division finds unacceptable;

(b) Citing the reasons the Division finds the provisions unacceptable; and

(c) Requesting that the plan of correction be modified, resubmitted and received by the Division no later than 10 business days from the date notification of non-compliance was received by the NARRO owner or administrator.

(6) If the NARRO does not come into compliance by either the date of correction reflected in the plan of correction or a Division approved

extension as provided for in section (4) of this rule, or 60 days from the date of receipt of the statement of deficiencies, whichever is sooner, the Division may propose to deny, suspend or revoke the agency license or impose civil penalties.

Stat. Auth.: OL 2013, Ch. 356
Stats. Implemented: OL 2013, Ch. 356
Hist.: PH 6-2014, f. 1-30-14, cert. ef. 2-1-14

333-081-0090 Formal Enforcement

(1) If during an investigation or survey Division staff document ongoing or substantial failure to comply with NARRO laws or rules, or if a NARRO fails to pay a civil penalty imposed under Oregon Laws 2013, chapter 356, section 5(1) and these rules, the Division may issue a Notice of Proposed Suspension or Notice of Proposed Revocation in accordance with ORS 183.411 through 183.470.

(2) The Division may impose civil penalties for violations of Oregon Laws 2013, chapter 356, Sections 2 or 3 or these rules, in accordance with ORS 183.745. Civil penalties imposed under this rule shall not exceed \$1000 per violation.

(3) At any time the Division may issue a Notice of Emergency License Suspension under ORS 183.430.

(4) If the Division revokes a NARRO license, the order shall specify when, if ever, the NARRO may reapply for a license.

Stat. Auth.: OL 2013, Ch. 356
Stats. Implemented: OL 2013, Ch. 356
Hist.: PH 6-2014, f. 1-30-14, cert. ef. 2-1-14

Rule Caption: Amendment of State Public Health Laboratory test fees

Adm. Order No.: PH 7-2014

Filed with Sec. of State: 1-30-2014

Certified to be Effective: 1-30-14

Notice Publication Date: 1-1-2014

Rules Amended: 333-024-0240

Rules Repealed: 333-024-0241

Subject: The Oregon Health Authority, Public Health Division, Oregon State Public Health Laboratory is permanently amending and repealing administrative rules in chapter 333, division 24. The amendment of OAR 333-024-0240 will amend State Public Health Laboratory test fees to align them with the August 2013 Division of Medical Assistance Programs (DMAP) Fee for Service Fee Schedule, with the fee changes becoming effective March 1, 2014. OAR 333-024-0241 is being repealed as it pertains to effective dates of rules and is no longer necessary since that information is provided in the history line of each rule.

Rules Coordinator: Alayna Nest—(971) 673-1291

333-024-0240 Fees

(1)(a) The person responsible for submitting specimens for those tests performed on specimens received in the state public health laboratory on or after March 1, 2014, shall pay a test fee upon billing by the Authority, in accordance with the August 2013 Division of Medical Assistance Programs Fee for Service Fee Schedule.

(b) Public and private non-profit agencies may apply for a reduction or waiver of the test fees stated in subsection (1)(a) of this rule. Reduction or waiver requests must be sent to the director of the state public health laboratory and be accompanied by proof of non-profit status. Requests should include the estimated number and type of tests anticipated per year. The decision to reduce or waive fees is discretionary with the state public health laboratory.

(2) For Metabolic Disease Test kits purchased by prepayment on or after October 14, 2002:

(a) \$27 per specimen; or

(b) \$54 per two-specimen kit.

(3) Specimens which are submitted in an inadequate quantity or any unsatisfactory condition shall be subject to the fee of \$5 per repeat specimen except for metabolic screening specimens, which may be subject to a charge of \$27 per specimen. Additional specimens from the same infant or patient specifically required or requested by the state public health laboratory, but not because the original specimen was inadequate or unsatisfactory, shall be exempt from additional fees.

(4)(a) The state public health laboratory may provide kits upon request to persons authorized to submit specimens to the state public health

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laboratory. The state public health laboratory shall bill for the performance of other tests in accordance with the fees stated in sections (1) and (3) of this rule;

(b) Kits requested for testing for Metabolic Diseases shall be prepaid by the requestor in the amount as specified in section (2) of this rule. Kits must be requested in writing and the request must be accompanied by a check or money order for the full amount of the order;

(c) No Oregon infant shall be denied testing for Metabolic Diseases because of inability of the infant's parent to pay the fee for a test or kit:

(A) A practitioner or parent requesting exemption from fees shall complete a statement such as the following:

STATEMENT OF FEE EXEMPTION

The undersigned states that the parents of _____ are unable to pay the fee for testing for METABOLIC DISEASES because of lack of sufficient funds.

(parent's signature)

(date)

(B) The above completed statement shall be made either:

(i) On the original specimen identification form which accompanies the dried blood specimen used to test the infant for Metabolic Diseases; or

(ii) On a listing of exempt infants which listing shall include each infant's name and birth date, the name of the parent or practitioner, and date;

(iii) Exemption statements must be received within one year of the first metabolic screening.

(C) Upon receipt of the statement in paragraph (4)(c)(A) of this rule, and confirmation of Authority records, the Authority will issue a refund check. The Authority will replace or refund fees for kits, damaged or unused, which are returned to the laboratory. By special arrangement, credits may be issued.

(5) For tests performed for or on behalf of Oregon state or local government agencies, as determined by the administrator to have a significant public health impact, a lesser fee, calculated to recover costs, may be charged.

(6) All specimens submitted to the state public health laboratory shall be collected according to procedures, protocols, and shipping instructions specified in the Oregon State Public Health Laboratory's Guide to Services. The guide may be reviewed at or copies obtained from the state public health laboratory.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 431.310 & 433.285

Stats. Implemented: ORS 431.310 & 433.285

Hist.: HB 18-1981(Temp), f. & ef. 9-11-81; HB 3-1982, f. & ef. 2-25-82; HD 12-1982, f. 6-11-82, ef. 7-1-82; HD 27-1982(Temp), f. 12-15-82, ef. 12-16-82; HD 9-1983, f. 6-24-83, ef. 7-1-83; HD 11-1983(Temp), f. & ef. 7-11-83; HD 17-1983, f. & ef. 10-12-83; HD 10-1986, f. & ef. 6-11-86; HD 7-1987, f. & ef. 7-15-87; HD 12-1990, f. & cert. ef. 5-22-90; HD 8-1991, f. & cert. ef. 6-19-91; HD 28-1994, f. 10-28-1994, cert. ef. 11-1-94; HD 12-1997, f. 9-26-97, cert. ef. 10-1-97; OHD 3-1998, f. 3-31-98, cert. ef. 4-1-98; OHD 15-2002, f. & cert. ef. 10-4-02; PH 30-2004(Temp), f. & cert. ef. 9-17-04 thru 3-13-05; PH 37-2004, f. & cert. ef. 12-7-04; PH 7, 2014, f. & cert. ef. 1-30-14

Oregon Health Insurance Exchange Chapter 945

Rule Caption: Assessment on State Programs

Adm. Order No.: OHIE 1-2014

Filed with Sec. of State: 1-16-2014

Certified to be Effective: 1-16-14

Notice Publication Date: 12-1-2013

Rules Adopted: 945-030-0045

Subject: Establishes the assessment on State programs as part of an Interagency Agreement between the Exchange and the Oregon Health Authority. Requires Exchange staff to annually report to the Finance and Audit Committee on the assessment on State programs.

Rules Coordinator: Gregory Jolivet—(503) 373-9406

945-030-0045

Administrative Assessment on State Programs

(1) The administrative assessment on state programs shall be established in an Intergovernmental Agreement between the Exchange and the Oregon Health Authority.

(2) The administrative assessment, expressed as a per member per month figure, shall be based on the number of individuals enrolled in state programs offered through the Exchange.

(3) The Intergovernmental Agreement shall specify the intervals and manner in which the administrative assessment is to be paid.

(4) Exchange staff will annually report to the Finance and Audit Committee of the Oregon Health Insurance Exchange Board of Directors on the assessment on state programs.

Stat. Auth.: ORS 741.002

Stats. Implemented: ORS 741.105

Hist.: OHIE 1-2014, f. & cert. ef. 1-16-14

Oregon Health Licensing Agency Chapter 331

Rule Caption: Allow certified clinical sex offender therapists to supervise up to 4 certified associate therapists.

Adm. Order No.: HLA 1-2014(Temp)

Filed with Sec. of State: 1-16-2014

Certified to be Effective: 1-17-14 thru 7-16-14

Notice Publication Date:

Rules Amended: 331-810-0055

Subject: Allow certified clinical sex offender therapists to supervise up to 4 certified associate sex offender therapists.

Rules Coordinator: Samantha Patnode—(503) 373-1917

331-810-0055

Supervision Requirements

Supervision of a certified associate sex offender therapist is considerably different than consultation with other professionals. Consultation is solely advisory; consultants do not assume responsibility for those individuals with whom they consult. Supervision of associates requires that the supervisor take full ethical and legal responsibility for the quality of work of the associate therapist

(1) An associate therapist shall establish and maintain a supervision contract with a clinical therapist which, at a minimum, meets the requirements of OAR 331-810-0050, in addition to the provisions of 331-810-0040.

(2) A minimum of two hours supervision by a clinical therapist is required for each 45 hours of direct clinical contact an associate therapist has with a sex offender.

NOTE: The Board recommends one hour of supervision for each 10 hours of direct clinical contact with a sex offender.

(3) Documentation of the dates and content of supervision meetings shall be submitted to the agency to verify appropriate supervision requirements have been met.

(4) All supervision shall take place concurrently with practice hours.

(5) Supervision includes, but is not limited to:

(a) Discussion of services provided by the associate therapist;

(b) Case selection, diagnosis, treatment plan, and review of each case or work unit of the associate therapist;

(c) Discussions regarding theory and practice of the work being conducted;

(d) Review of Oregon's laws, rules, and criminal justice procedures relevant to the work being conducted;

(e) Discussion of the standards of practice for supervisors and associates as adopted by the agency and the ethical issues involved in providing professional services for sex offenders;

(f) Discussion regarding coordination of work with other professionals and parties;

(g) Discussion of relevant professional literature and research; and

(h) Periodic review of the contract.

(6) The supervisor shall:

(a) Avoid presenting to the associate therapist as having qualifications in areas that they do not have;

(b) Provide sufficient training and supervision to the associate therapist to assure the health and safety of the client and community;

(c) Have expertise and knowledge to directly supervise the associate therapist's work; and

(d) Assure that the associate therapist being supervised has sufficient and appropriate education, background, and preparation for the work he or she will be doing.

(7) The supervisor and associate therapist shall enter into a formal written contract that defines the parameters of the professional relationship. The contract shall be submitted to the agency for approval and shall include:

(a) Supervised areas of professional activity;

(b) Amount of supervision time and the frequency of supervisory meetings. This information may be presented as a ratio of supervisory time to clinical work conducted by the associate therapist;

(c) Supervisory fees and business arrangements, when applicable;

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(d) Nature of the supervisory relationship and the anticipated process of supervision;

(e) Selection and review of clinical cases;

(f) Methodology for recordkeeping, evaluation of the associate, and feedback; and

(g) How the associate therapist will be represented to the public and the parties.

(8) Supervision of associate therapists shall involve regular, direct, face-to-face supervision. Depending on the associate therapist's skill and experience levels, the clinical therapist's supervision shall include direct observation of the associate therapist by sitting in session, audio tape recording, videotaping, or other means of observation.

(9) In some cases, such as geographic location or disability, more flexible supervision arrangements may be allowed. The supervisor shall submit requests for more flexible supervision arrangements to the agency for approval.

(10) The supervisor shall assure that the associate therapist is prepared to conduct professional work, and shall assure adequate supervision of the associate therapist. The supervisor should meet face-to-face with the associate therapist one hour for every ten hours of supervised professional work; but shall meet minimally 2 hours for every 45 hours of direct contact with sex offenders. Supervision meetings shall regularly occur at least every other week.

(11) A supervisor may not undertake a contract that exceeds the supervisor's ability to comply with supervision standards.

(12) The agency recognizes the needs of certain locales, particularly rural areas, and may allow a variance from the standards of this rule. Any variance request shall be submitted to the agency for approval with the supervision contract. Variances will be granted or denied in writing within thirty days.

(13) The nature of the associate therapist and clinical therapist supervisory relationship shall be communicated to the public, other professionals, and all clients served.

(14) An associate therapist shall represent himself or herself as an associate when performing clinical work and shall provide the name of the contracted supervisor.

(15) The supervisor shall cosign all written reports and correspondence prepared by the associate therapist. The written reports and correspondence shall include a statement that indicates the work has been conducted by the associate therapist acting under the clinical therapist's supervision.

(16) Both the supervisor and associate therapist shall maintain full documentation of the work done and supervision provided. The agency may audit the supervisor and associate therapist's records to assure compliance with laws and rules.

(17) All work conducted by the associate therapist is the responsibility of the supervisor. The supervisor shall have authority to direct the practice of the associate therapist.

(18) It is the supervisor's responsibility to correct problems or end the supervision contract if the associate therapist's work does not protect the interests of the clients and community. If the supervisor ends the contract, he or she shall notify the agency in writing within thirty days of ending the contract. A new contract must be filed with the agency.

(19) Supervision is a power relationship. The supervisor shall not use his or her position to take advantage of the associate therapist. This subsection is not intended to prevent a supervisor from seeking reasonable compensation for supervisory services.

(20) A supervisor shall only delegate responsibilities to an associate therapist, who has been assessed to have the competency to perform the delegated professional tasks.

(a) Supervision arrangements for associate therapists shall be agreed upon in writing and shall specify:

(b) Expected associate therapist duties;

(c) The scope and focus of the supervision; and

(d) The frequency and durations of meetings between the supervisor and the associate therapist to review the associate therapist's professional performance.

(e) The supervision of the associate therapist shall provide proper training to persons who delegate professional tasks and take reasonable steps to see that such persons perform services responsibly, completely, and ethically.

(f) The supervisor shall not engage in sexual relationships with an associate therapist over whom the supervisor has evaluative or direct authority, as such relationships are likely to impair judgment or be exploitative.

(21) A supervisor may supervise up to four full time equivalent associate therapists.

Stat. Auth.: ORS 675.375, 675.400, 675.410, 676.615

Stat. Implemented: ORS 675.375, 675.400, 675.410

Hist.: HLA 2-2008, f. 5-27-08, cert. ef. 6-1-08; HLA 1-2014(Temp), f. 1-16-14, cert. ef. 1-17-14 thru 7-16-14

Oregon Housing and Community Services Department Chapter 813

Rule Caption: Renumbers rules to improve readability for participants of the Emergency Housing Assistance Program

Adm. Order No.: OHCS 1-2014

Filed with Sec. of State: 1-27-2014

Certified to be Effective: 1-27-14

Notice Publication Date:

Rules Renumbered: 813-046-0030 to 813-046-0045

Subject: The Emergency Housing Assistance Program assists homeless persons and those at-risk of becoming homeless. The proposed rule renumbering will improve the readability of the rules.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-046-0045

Use of Funds

(1) The Department may provide assistance in the form of a grant to a Subgrantee Agency to provide the following Program services directly or through contracts with other Organizations:

(a) Emergency shelter and support services;

(b) Housing services designed to assist Households to make the transition from homelessness to permanent housing and economic independence;

(c) Supportive housing services designed to enable persons to continue living in their own homes or to provide in-home services for persons for whom suitable programs do not exist in their geographic area;

(d) Programs that provide emergency payment of home payments, rents or utilities; and

(e) Programs, activities and projects that expand community shelter capacity and transitional housing.

(2) Program services shall be available to Low- and Very-Low-Income Households, including but not limited to, persons more than 65 years of age, disabled persons, farmworkers and Native Americans, that are Homeless or at risk of becoming Homeless.

(3) Subgrantee Agencies shall require all recipients of Program services described in OAR 813-046-0040(1) to participate in programs or activities that will increase Household Self-sufficiency.

(4) Funds granted shall not be used by a Subgrantee Agency to replace existing funds but may be used to supplement existing funds or to support existing programs or establish new programs.

Stat. Auth.: ORS 458.505 & 458.600 - 458.650

Stats. Implemented: ORS 458.650

Hist.: HSG 5-1991(Temp), f. & cert. ef. 10-10-91; HSG 5-1992, f. & cert. ef. 6-16-92; HSG 9-1994, f. & cert. ef. 11-9-94; OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02; Renumbered from 813-046-0030 by OHCS 1-2014, f. & cert. ef. 1-27-14

Rule Caption: Amends the definitions, requirements and administration of the Low Income Rental Housing Program.

Adm. Order No.: OHCS 2-2014(Temp)

Filed with Sec. of State: 1-27-2014

Certified to be Effective: 1-27-14 thru 7-25-14

Notice Publication Date:

Rules Adopted: 813-049-0007, 813-049-0035, 813-049-0040, 813-049-0050, 813-049-0060

Rules Amended: 813-049-0001, 813-049-0005, 813-049-0010, 813-049-0020

Subject: The Low Income Rental Housing Fund Program applies funds appropriated by the Legislature to the department for providing rental housing assistance to very low income households. The proposed rules are intended to clarify the purpose of the program and standardizes the definitions for specific terms relative to the program. New rules are proposed to clarify and expand upon the criteria for program assistance and the existing requirements.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

ADMINISTRATIVE RULES

813-049-0001

Purpose

The rules of OAR chapter 813, division 49 implement the Low Income Rental Housing Fund Program. This program is established for the purpose of applying funds that may be appropriated by the Legislative Assembly to the department for providing rental housing assistance to very low-income households, according to the legislative intent expressed in section 3(4), chapter 595, Oregon Laws 2011 (Enrolled House Bill 2710).

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.561, 456.625, 458.605 & 2011 OL Ch. 595, Sec. 3(4)

Hist.: HSG 13-1990(Temp), f. 10-26-90, cert. ef. 10-29-90; HSG 1-1991, f. & cert. ef. 4-26-91; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 1-1992, f. & cert. ef. 1-2-92; OHCS 2-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-049-0005

Definitions

(1) Unless otherwise defined in this rule, any term used in OAR chapter 813, division 49, is used as defined in sections 1 through 10, chapter 716, Oregon Laws 1991, or as provided in OAR 813-005-0005, or elsewhere in OAR chapter 813, respectively.

(2) As used in this division:

(a) "Administrative costs" means all costs that are not directly related to delivery of program services under this division.

(b) "Community action agency" or "CAA" means a private, nonprofit corporation organized under ORS Chapter 65, or an office, division or agency of a political subdivision designated as a community action agency pursuant to the Economic Opportunity Act of 1964 by the U.S. Department of Health and Human Services, which meets the requirements of ORS 458.505(4).

(c) "Department" means the Housing and Community Services Department for the state of Oregon;

(d) "Fund" means the Low Income Rental Housing Fund administered by the department with respect to this program;

(e) "Funding agreement" means that master grant agreement or other written agreement, together with all incorporated documents and references, to be executed by and between the department and community action agencies and other organizations in form and substance satisfactory to the department as a condition precedent for receipt of program funding from the department.

(f) "HMIS" means the Homeless Management Information System.

(g) "Household" means any person or persons who will reside together in a rental dwelling unit as one economic unit (e.g., married couples with or without children, unmarried persons who will share the same unit, a single person, unrelated individuals, etc.);

(h) "Income" means aggregate income from all sources for each member of the household not including income from employment of children under the age of 18;

(i) "Low Income Rental Housing Fund Program" or "program" means the program administered by the department pursuant to, inter alia, this division and financed, inter alia, from the fund.

(j) "Operations manual" means the department's manual to be used by subgrantees to administer the program in their communities. The manual describes program requirements and procedural instructions.

(k) "Organization" means a nonprofit corporation established under ORS Chapter 65, a housing authority established under 456.055 to 456.235, or local government as defined in 197.015 and described under 458.505.

(l) "Program requirements" means all funding agreement terms and conditions, department directives (including deficiency notices), and applicable state, local, and federal laws and regulations (including these rules, other applicable department rules), executive orders, local ordinances and codes.

(m) "Self-sufficiency" means meeting basic needs and achieving stability in areas including, but not limited to housing, household income, nutrition, health care and accessing needed services.

(n) "Very low-income household" means a household with income that does not exceed 50 percent of the area median income by household size as the Secretary of the United States Department of Housing and Urban Development describes for very low-income families pursuant to the United States Housing Act of 1937.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.561, 456.625, 458.605 & 2011 OL Ch. 595, Sec. 3(4)

Hist.: HSG 13-1990(Temp), f. 10-26-90, cert. ef. 10-29-90; HSG 1-1991, f. & cert. ef. 4-26-91; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 1-1992, f. & cert. ef. 1-2-92; HSG 9-1994, f. & cert. ef. 11-9-94; OHCS 2-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-049-0007

Funding Application

(1)(a) To receive program funding, community action agencies and other organizations shall submit a funding application satisfactory to the department, which must be approved by the department.

(b) The department also may initiate a program funding proposal to a community action agency or other organization.

(c) In a service area where a community action agency exists, the community action agency has a conditional right of first refusal to serve as the subgrantee agency for the service area. If the community action agency cannot meet the requirements for the form and content of the funding application as determined by the department in its sole discretion, or chooses not to administer the program, the department may allow other eligible organizations to submit a funding application with respect to that service area.

(2) The applicant shall adhere to the department's requirements and deadlines for filing and obtaining approval of its application for program funding.

(3) An applicant's funding application must meet all requirements established by the department for the form and content of the funding application.

(4) A funding application is subject to approval, including as modified by the department or disapproval by the department.

(5) Funding applications will be evaluated by the department for sufficiency with respect to application and other program requirements including, but not limited to criteria for program assistance as described hereinafter.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.561, 456.625, 458.605 & 2011 OL Ch. 595, Sec. 3(4)

Hist.: OHCS 2-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-049-0010

Criteria for Program Assistance

(1) In the manner established by the department, a community action agency described under ORS 458.505 or other organization and approved by the department, may apply to the department for program funding to finance eligible services that, inter alia, defray the cost of rent of qualified dwelling units for very low-income households. Whether or not a household meets the standard as a very low-income household will be determined in accordance with the standards for determining annual income in 24 CFR 5.609.

(2) An application for program funding is subject to the department's approval based on criteria that may include, but are not limited to:

(a) The availability of program funds and the department's authority to disburse same.

(b) Restricting the use of funds to those proposed services that truly and best defray the cost of rent, including refundable security deposits and utility deposits, of qualified dwelling units for very low income households.

(c) Ensuring that a housing authority, as defined in ORS 456.005(2) will not direct or steer its program clients to rental units owned or managed by the housing authority.

(d) Maximizing coordination of services at the local level.

(e) Directing funds to very low-income households not eligible for other public assistance with housing.

(f) Meeting program priorities, federal standards for other housing assistance and state and local government policies.

(g) Ensuring that all households receiving program assistance have an opportunity to participate in services that will increase household self-sufficiency and that such participation by a household will occur by mutual agreement of the community action agency or other provider organization and the client household.

(h) Ensuring that the community action agency or other provider organization executes a written agreement with the department, satisfactory to the department that specifies, inter alia, appropriate performance with respect to program requirements.

(3) Any qualified household paying a subsidized rent is eligible for program funding only if the client's contribution to rent and utilities exceeds 30 percent of the client's adjusted household income.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.561, 456.625, 458.605 & 2011 OL Ch. 595, Sec. 3(4)

Hist.: HSG 13-1990(Temp), f. 10-26-90, cert. ef. 10-29-90; HSG 1-1991, f. & cert. ef. 4-26-91; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 1-1992, f. & cert. ef. 1-2-92; HSG 9-1994, f. & cert. ef. 11-9-94; OHCS 2-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-049-0020

Participation in the Low Income Rental Housing Fund Program

(1) A community action agency or other organization approved for program funding shall place and maintain program funding in an account

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satisfactory to the department for use consistent with the terms of the department's award of funding, the funding agreement, and other program requirements.

(2) The portion of the cost of rent for dwelling units that a community action agency or other provider organization may provide from program funding to any household may not exceed the maximum household assistance amount established from time to time by the department.

(3) A community action agency or other provider organization may only use program funds in a manner consistent with program requirements.

(4) A community action agency or other program provider organization may only expend an amount for administrative costs that does not exceed the portion of the program award established by the department for that purpose. To qualify for funding, administrative costs must be appropriate and reasonably related to actual administration of the program as determined by the department in its sole discretion.

(5)(a) The department may take such remedial action as it deems appropriate including, but not limited to terminating its funding agreement with a CAA or other program provider organization and requiring repayment of all program funding, if it determines (in its sole discretion) that the performance of the CAA or organization or any of its subcontractors is deficient in any manner, including with respect to program requirements.

(b) The department may, but is not required to issue deficiency notices and require the CAA or organization to correct such deficiencies in a manner satisfactory to the department within a period of time designated by the department. If any such deficiency notices are issued, the CAA or other organization shall fully correct such deficiencies to the department's satisfaction within the time specified.

(c) Issuance of a deficiency notice shall not constitute a waiver of other remedies available to the department or preclude the department from exercising such other remedies available to it under the funding agreement or other program requirements, at law or otherwise.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 456.561, 456.625, 458.605 & 2011 OL Ch. 595, Sec. 3(4)
Hist.: HSG 13-1990(Temp), f. 10-26-90, cert. ef. 10-29-90; HSG 1-1991, f. & cert. ef. 4-26-91; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 1-1992, f. & cert. ef. 1-2-92; OHCS 2-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-049-0035

Recordkeeping and Reporting; Subcontractor Obligations

(1) Community action agencies and other program provider organizations shall maintain accurate financial records satisfactory to the department, which document, inter alia, the receipt and disbursement of all funds provided through the program by the department, and have an accounting system in place satisfactory to the department, which meets, inter alia, generally accepted accounting principles.

(2) Community action agencies and other program provider organizations shall maintain all other records constituting or related to program administration. Such records shall be in substance and format satisfactory to the department.

(3) Community action agencies and other program provider organizations shall timely and accurately collect and report client household data to the department through the use of a department approved HMIS. Such data collection and reporting must be in a manner satisfactory to the department.

(4)(a) Community action agencies and other program provider organizations shall retain and keep accessible all such program records for a minimum of 5 years, or such longer period as may be required by applicable law, following final payment and termination of program involvement, or until the conclusion of any audit, controversy or litigation arising out of or related to the program, whichever date is later.

(b) Community action agencies and other program provider organizations shall make all program records available to the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives for inspection and copying.

(5) Community action agencies and other program provider organizations shall cause, and require by contract, that their subcontractors (if any) shall comply with all program requirements, including but not limited to these record keeping and reporting requirements.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 2-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-049-0040

Compliance Monitoring; Cooperation

(1) The department may from time to time audit, inspect, or otherwise review the program activities and records of community action agencies and other program provider organizations as the department determines to be appropriate, inter alia, to verify compliance with program requirements.

The Oregon Secretary of State, applicable federal agencies, and representatives of same and of the department also may audit, inspect or otherwise review program activities and records.

(2) Community action agencies and other program provider organizations also are subject to any specific audit requirement applicable to the program.

(3) Community action agencies and other program provider organizations shall cooperate fully with all compliance monitoring

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 2-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-049-0050

Review by Community Action Agency or Other Program Provider Organization

(1) Community action agencies and other program provider organizations shall establish in writing a process satisfactory to the department that, in a timely manner, enables beneficiaries of and applicants for program benefits to contest a determination by the CAA or organization that:

(a) Denies or limits the eligibility of a beneficiary or applicant for the benefits or other assistance; or

(b) Terminates or modifies benefits or other assistance awarded by the CAA or organization to a beneficiary.

(2) Households or other persons aggrieved by the action (or inaction) of a CAA or other program provider organization as described in subsection (1) may request administrative review of such action or inaction within the time frame and pursuant to the process established by the CAA or other program provider organization consistent with program requirements. At all times, the CAA or other organization must allow a minimum of thirty (30) days within which an aggrieved person may request review from the time of the contested action or inaction or from the aggrieved person's reasonable discovery of such action or inaction, whichever is longer.

(3) The CAA or organization must inform the department in writing of any request by an aggrieved party for administrative review within ten (10) days of such request.

(4) The CAA or organization must inform the department and the aggrieved party in writing of any final administrative review determination made by it, and the basis for same, within ten (10) days of such final determination.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 2-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-049-0060

Challenge of Provider Action

(1) Households or other persons aggrieved by an action taken or not taken by a community action agency or other program provider organization with respect to its program obligations may submit a written request to the department for its review of such contested action, but only after first exhausting the applicable administrative review process furnished by the relevant CAA or other provider organization and within thirty (30) days of that administrative review determination.

(2) The department may accept or deny a request for its review in whole or in part, at its sole discretion. Any department review will be in the manner determined appropriate by the department and may include, but shall not necessarily be limited to review of provided information.

(3) If the department accepts the review request, the requester of the review, the CAA or other program provider organization, and relevant subcontractors shall produce all information required by the department, including requested affidavits or testimony.

(4) The department may make a determination on a review request and require such remedial action as the department determines, in its sole discretion, to be appropriate.

(5) Department review shall not constitute a contested case review under ORS Chapter 183 unless specifically so stated by the director in writing.

(6) Timely request for department review by an aggrieved household or other person and its completion to final order by the department are requirements for exhaustion of administrative remedies by such aggrieved household or person.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 2-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

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Rule Caption: Amends the definitions, requirements and administration of the Emergency Solutions Grant Program.

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Adm. Order No.: OHCS 3-2014(Temp)

Filed with Sec. of State: 1-27-2014

Certified to be Effective: 1-27-14 thru 7-25-14

Notice Publication Date:

Rules Adopted: 813-145-0025

Rules Amended: 813-145-0000, 813-145-0010, 813-145-0020, 813-145-0030, 813-145-0040, 813-145-0050, 813-145-0060, 813-145-0070, 813-145-0080

Rules Suspended: 813-145-0090

Subject: The Emergency Solutions Grant Program (ESG) assists homeless persons and persons who are at-risk of homelessness to quickly regain stability in permanent housing after experiencing a housing crisis or homelessness. The proposed rules incorporate a name change, clarify the purpose and amend program requirements in response to the HEARTH Act and HUD. Definitions have been standardized to ensure consistency across department programs. Repeals the waiver rule which can now be found in the department's general rules.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-145-0000

Purpose

OAR chapter 813, division 145, is promulgated to accomplish the general purposes of ORS 458.505 to 458.545, and particularly 458.505 to 458.515, which authorize the Housing and Community Services Department to establish programs to assist homeless persons and those persons who are at risk of homelessness by providing funds to supplement existing local programs or to establish new programs. The administrative rules in this division describe the Emergency Solutions Grant Program, which operates through a network of service agencies at the local level. The program's purpose is to assist individuals, families and households to quickly regain stability in permanent housing after experiencing a housing crisis or homelessness.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: OHCS 5-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02; OHCS 3-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-145-0010

Definitions

All words and terms as used in OAR chapter 813, division 145 are defined in the act, in 813-005-0005 and below. As used in OAR chapter 813, division 145, unless the context indicates otherwise:

(1) "Administrative costs" mean all program costs that are not directly related to delivery of program services under OAR chapter 813, division 145.

(2) "Community action agency" or "CAA" means a private, nonprofit corporation organized under ORS Chapter 65, or an office, division or agency of a political subdivision designated as a community action agency pursuant to the Economic Opportunity Act of 1964 by the U.S. Department of Health and Human Services, which meets the requirements outlined in ORS 458.505(4).

(3) "Department" means the Housing and Community Services Department for the state of Oregon.

(4) "Emergency Solutions Grant Program operations manual" or "program manual" means the Emergency Solutions Grant Program manual as amended from time to time, incorporated herein by this reference.

(5) "Funding application" means the subgrantee agency's application to the department for a program grant.

(6) "HMIS" means the Homeless Management Information System.

(7) "Homeless" means an individual, family or household that lacks a fixed, regular and adequate nighttime residence in accordance department categorical definitions. Categorical definitions are contained in the program manual.

(8) "Household" means an individual living alone, family with or without children, or a group of individuals who are living together as one economic unit.

(9) "HUD" means the U.S. Department of Housing and Urban Development.

(10) "Program" means Emergency Solutions Grant Program administered by the department pursuant to this division and other applicable law.

(11) "Program requirements" means all funding agreement terms and conditions (including work plan objectives), department directives (including deficiency notices), and applicable state, local, and federal laws and

regulations (including these rules, other applicable department rules and the manual), executive orders, local ordinances and codes.

(12) "Program services" means allowable services for street outreach, emergency shelter, rapid re-housing, homelessness prevention and data collection activities as defined in the department program manual and eligible for funding under the program.

(13) "Service area" refers to the specific geographic area or region within which a subgrantee agency provides program services directly or by contract.

(14) "Subgrantee agency" means a private, nonprofit corporation organized under ORS Chapter 65; a housing authority established under 456.055 to 456.235, or a local government as defined in 197.015 with whom the department has contracted to administer program services at the local level.

(15) "Subcontractor" means a nonprofit corporation established under ORS Chapter 65, a housing authority established under 456.055 to 456.235, or local government as defined in 197.015, contracting with a subgrantee agency to provide program services.

(16) "Work plan" or "plan" means the subgrantee agency's plan for the use of program funds as approved by the department, which is part of its approved funding application, and included in its funding agreement with the department.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: OHCS 5-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02; OHCS 3-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-145-0020

Administration

(1) The department may contract with subgrantee agencies to provide program services at the local level. In a service area where a community action agency exists, the community action agency has a conditional right of first refusal to serve as the subgrantee agency for the service area.

(2) The department normally will allocate program funds to subgrantee agencies for the various service areas through a formula established by the department prior to the allocation process. However, the department reserves the right to modify that formula at any time in its sole discretion.

(3) A subgrantee agency may subcontract with other organizations that meet the requirements of ORS 458.505(4) to provide program services in the subgrantee agency's service area.

(4) A subgrantee agency shall identify potential applicants, certify eligibility for program services, and provide program services to eligible households within its service area. Whenever appropriate, program participants will be assisted in accessing other services designed to meet other, longer-term needs.

(5) The department normally will fund only one subgrantee agency within any service area. However, the department may, in its sole discretion, allow two or more subgrantee agencies to operate within a common service area. In such cases, the subgrantee agencies shall enter into a written agreement with the department, satisfactory to the department in its sole discretion, in order, inter alia, to insure full access to program services for all eligible persons within the service area to the extent of available funding and to prevent duplication of services.

(6) The department may conduct reviews, audits, and other compliance monitoring — and take such remedial action — as it deems appropriate with respect to each subgrantee agency and its subcontractors, inter alia, to assure compliance with program requirements.

(7)(a) The department may take such remedial action as it deems appropriate including, but not limited to terminating its funding agreement with a subgrantee agency and requiring repayment of all program funding, if it determines (in its sole discretion) that the performance of the subgrantee agency or any of its subcontractors is deficient in any manner, including with respect to program requirements.

(b) The department may, but is not required to issue deficiency notices and require the subgrantee agency to correct such deficiencies in a manner satisfactory to the department within a period of time designated by the department. If any such deficiency notices are issued, the subgrantee shall fully correct such deficiencies to the department's satisfaction within the time specified.

(c) Issuance of a deficiency notice shall not constitute a waiver of other remedies available to the department or preclude the department from exercising such other remedies available to it under the funding agreement or other program requirements, at law or otherwise.

(8)(a) A subgrantee agency may expend up to an amount authorized by the department in writing for reimbursement of reasonable and appropriate administrative costs.

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(b) If a subgrantee agency subcontracts with another organization to provide program services, that organization may expend up to an amount for administrative costs that does not exceed its proportionate share of the amount authorized by the department for reasonable and appropriate administrative costs of the funding award.

(9) A subgrantee agency and its subcontractors shall comply with the terms of the funding agreement and all other program requirements, including but not limited to department directives (including deficiency notices), applicable local, state and federal laws, rules (including the (program manual regulations, executive orders, local ordinances and codes.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: OHCS 5-2001(Temp), f & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02; OHCS 3-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-145-0025

Client Eligibility

Program services shall be available to homeless individuals, families and households in accordance with department categorical definitions as defined in the department program manual and to the degree permitted by funding levels.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: OHCS 3-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-145-0030

Use of Funds

(1) Program funds may be used only for homeless services within the allowable program activities as further defined in HUD regulations and the department program manual.

(2) Program funds provided by the department shall not be used by a subgrantee agency to replace existing funds, but may be used to supplement existing funds or to support existing programs or establish new programs.

(3) Use of program funds must be in accordance within the allowable homeless services category percentages as determined by the department.

(4) A subgrantee agency must provide matching funds for the program through cash or in-kind contributions equal to the amount. Matching funds must be from sources approved by the department, which may include local, private or other federal and state funds.

Stat. Auth.: ORS 458.555

Stats. Implemented: ORS 458.505

Hist.: OHCS 5-2001(Temp), f & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02; OHCS 3-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-145-0040

Funding Application

(1) Prior to providing program services, a subgrantee agency shall submit, on a biennial basis, a funding application satisfactory to the department, including a work plan, which must be approved in writing by the department before being operative. The subgrantee agency shall adhere to the department's requirements and deadlines for obtaining approval of this funding application. A funding application is subject to approval, including as modified by the department, or disapproval by the department.

(2) A subgrantee agency's funding application shall include details satisfactory to the department on how the subgrantee agency provided a meaningful opportunity for participation in the development of the work plan by the local continuum of care local service providers, advocates, clients, businesses, churches, governments, and other interested stakeholders.

(3) A subgrantee agency's funding application must meet all requirements established by the department for the form and content of the funding application. In cases where a community action agency has the conditional right of first refusal for antipoverty program administration, and the community action agency cannot meet the requirements for the form and content of the application, the department, in its sole discretion, may allow other eligible organizations to submit a funding application.

(4) Funding applications will be evaluated by the department for sufficiency with respect to application and other program requirements.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: OHCS 5-2001(Temp), f & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02; OHCS 3-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-145-0050

Recordkeeping and Reporting

(1) Subgrantee agencies shall maintain accurate financial records satisfactory to the department, which document, inter alia, the receipt and disbursement of all funds provided through the program by the department,

and have an accounting system in place satisfactory to the department, which meets, inter alia, generally accepted accounting principles.

(2) Subgrantee agencies also shall maintain other program records satisfactory to the department, which document, inter alia, client eligibility, receipt of allowable program services, termination of services and bases for same, housing status of clients, administrative actions, contracts with subcontractors, review of subcontractor performance, action taken with respect to deficiency notices, and any administrative review proceedings. Such records shall be in substance and format satisfactory to the department.

(3) Subgrantee agencies shall provide the department with the following reports, in form and substance satisfactory to the department:

(a) Within 20 days following the end of each calendar quarter, a program report detailing the progress made toward meeting the program performance measures and service delivery objective(s), and a fiscal report detailing all administrative and program costs;

(b) Within 60 calendar days after the close of the subgrantee agency's fiscal year, annual program and fiscal reports;

(c) Within 60 days after the close of the program, final program and fiscal reports.

(4)(a) Subgrantee agencies and their contractors shall make all program records available to the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives for inspection and copying.

(b) Subgrantee agencies and their contractors shall cooperate fully in any inspections or other monitoring actions taken by the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives.

(c) Subgrantee agencies shall retain and keep accessible all such program records for a minimum of 5 years, or such longer period as may be required by applicable law, following final payment and termination of program involvement, or until the conclusion of any audit, controversy or litigation arising out of or related to the program, whichever date is later.

(5) Subgrantee agencies shall timely and accurately collect and report eligible family household data to the department through the use of a department approved HMIS. Such data collection and reporting shall be satisfactory to the department.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: OHCS 5-2001(Temp), f & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02; OHCS 3-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-145-0060

Compliance Monitoring; Subcontractor Obligations

(1) The department may from time to time audit or otherwise review a subgrantee agency's program activities and records as the department determines to be appropriate, inter alia, to verify compliance with program requirements.

(2) In addition to the requirement of subsection (1) of this section, a subgrantee agency is also subject to any specific audit requirement applicable to the program.

(3) If a subgrantee agency receives federal funds in excess of \$300,000 in a fiscal year, the subgrantee agency shall conduct a single audit in compliance with Office of Management and Budget (OMB) Circular A-133, as revised June 24, 1997, June 6, 2003 and June 26, 2007 and most recent compliance supplements. If a subgrantee agency receives federal funds between \$100,000 and \$300,000 in a fiscal year, the subgrantee agency may elect to have a "program only" audit as provided in the same circular. A copy of the audit must be submitted to the department after its completion.

(4) Subgrantee agencies shall require by contract that their subcontractors comply with all program requirements, including but not limited to retention of records and department compliance monitoring and enforcement.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: OHCS 5-2001(Temp), f & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02; OHCS 3-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-145-0070

Challenge of Subgrantee Action

(1) Local interest groups, service providers or others aggrieved by a subgrantee agency with respect to its program obligations may submit a written request to the department for its review of such contested action, but only after first exhausting the applicable administrative review process furnished by the relevant subgrantee agency and within thirty (30) days of that administrative review determination.

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(2) The department may accept or deny a request for its review in whole or in part, at its sole discretion. Any department review will be in the manner determined appropriate by the department and may include, but shall not necessarily be limited to review of provided information.

(3) If the department accepts the review request, the requester of the review, the subgrantee agency, and relevant contractors shall produce all information required by the department, including requested affidavits or testimony.

(4) The department may make a determination on a review request and require such remedial action as the department determines, in its sole discretion, to be appropriate.

(5) Department review shall not take the form of a contested case review under ORS Chapter 183 unless specifically so stated by the director in writing.

(6) Timely request for department review by an aggrieved person or entity and its completion to final order by the department are requirements for exhaustion of administrative remedies by such aggrieved person or entity.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 5-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02; OHCS 3-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-145-0080

Review by Subgrantee

(1) Subgrantee agencies shall establish in writing a process satisfactory to the department that in a timely manner, enables beneficiaries of and applicants for program services to contest a determination by the subgrantee agency or its subcontractors that:

(a) Denies or limits the eligibility of a beneficiary or applicant for the benefits or other assistance; or

(b) Terminates or modifies benefits or other assistance awarded by the subgrantee agency or subcontractor to a beneficiary.

(2) Persons aggrieved by the action of a subgrantee agency or its subcontractors described in subsection (1) may request administrative review of such action by the subgrantee agency within the time frame and pursuant to the process established by the subgrantee agency consistent with program requirements. At all times, the subgrantee agency must allow a minimum of thirty (30) days within which an aggrieved person may request review from the time of the contested action or the aggrieved person's reasonable discovery of such action, whichever is longer.

(3) The subgrantee agency must inform the department in writing of any request by an aggrieved party for administrative review within ten (10) days of such request.

(4) The subgrantee agency must inform the department and the aggrieved party in writing of any final administrative review determination made by the subgrantee agency, and the basis for same, within ten (10) days of such final determination.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 5-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02; OHCS 3-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-145-0090

Waiver

The Director may waive or modify any requirements of the rules in OAR 813, division 145, unless such waiver or modification would violate applicable federal or state statutes or regulations.

Stat. Auth.: ORS 458.505 - 458.545
Stats. Implemented: ORS 458.505 - 458.545
Hist.: OHCS 5-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02; Suspended by OHCS 3-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

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Rule Caption: Clarifies the purpose, amends the definitions, requirements and administration of the Housing Stabilization Program

Adm. Order No.: OHCS 4-2014(Temp)

Filed with Sec. of State: 1-27-2014

Certified to be Effective: 1-27-14 thru 7-25-14

Notice Publication Date:

Rules Amended: 813-051-0000, 813-051-0010, 813-051-0020, 813-051-0030, 813-051-0040, 813-051-0050, 813-051-0060, 813-051-0070, 813-051-0080, 813-051-0090

Rules Suspended: 813-051-0100

Subject: The Housing Stabilization Program provides safe, stable and affordable housing for eligible households that are homeless or at-risk of becoming homeless through the provision of housing sta-

bilization services. The amendments reflect the alignment of common definitions across department homeless programs, incorporates consistency and flexibility in language to accommodate easier program changes, reduces the length of time to receive services, and replaces allowable costs with the service categories as approved by the Department of Human Services. Repeals the waiver rule which can now be found in the department's general rules.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-051-0000

Purpose and Objectives

OAR chapter 813, division 51 is promulgated to accomplish the general purposes of ORS 458.505 to 458.545, and particularly 458.505, which designates the Housing and Community Services Department as the state agency responsible for administering state and federal antipoverty programs in Oregon. The Housing Stabilization Program addressed in this division is one such program subject to department administration and has as its purpose the stabilization of safe, stable and affordable housing for eligible households that are homeless or at risk of becoming homeless through the provision of housing stabilization services. This program is partially funded through the Department of Human Services (DHS) and by agreement with DHS is administered by the department.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02; OHCS 4-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-051-0010

Definitions

All words and terms that are used in OAR chapter 813, division 51 are defined in the act, and in 813-005-0005 and below. As used in OAR chapter 813, division 51, unless the context indicates otherwise:

(1) "Administrative costs" means all program costs that are not directly related to delivery of housing stabilization services under OAR chapter 813, division 51.

(2) "DHS" means the Department of Human Services for the state of Oregon.

(3) "Community action agency" or "CAA" means a private, nonprofit corporation organized under ORS chapter 65, or an office, division or agency of a political subdivision designated as a community action agency pursuant to the Economic Opportunity Act of 1964 by the Department of Health and Human Services, which meets the requirements of ORS 458.505(4).

(4) "Department" means the Housing and Community Services Department for the state of Oregon.

(5) "Funding application" means a subgrantee agency's application to the department for a program grant.

(6) "Household" means an individual or couple with an eligible dependent child or children living together as one low-income economic unit or a single low-income pregnant woman in the month before her due date as defined in the department program manual.

(7) "HMIS" means the Homeless Management Information System.

(8) "Homeless" means a household that lacks a fixed, regular and adequate residence in accordance with department categorical definitions. Categorical definitions are contained in the department program manual.

(9) "Household income" means the total household income from all sources before taxes, subject to being reduced by the amount of social security income and other deductions allowed by the department.

(10) "Housing stabilization program operations manual," "program manual" or "manual" means the Housing Stabilization Program manual as amended from time to time incorporated herein by this reference.

(11) "Low-Income" means total household income as defined in the department program manual.

(12) "Maintenance of effort" means nonfederal cash contributions used to supplement program services in an amount that equals the subgrantee agency's program allocation as defined in the department program manual.

(13) "Program" means the Housing Stabilization Program administered by the department in accordance with this division.

(14) "Program requirements" means all funding agreement terms and conditions (including work plan objectives), department directives (including deficiency notices), and applicable state, local and federal laws and regulations (including these rules and the manual), executive orders, local ordinances and codes.

(15) "Program services" means temporary financial assistance or support services not exceeding a department-determined time limit provided

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pursuant to the Housing Stabilization Program and designed to address emergency non-recurrent needs that are preventing access by the household to and/or maintenance of safe, stable and affordable housing.

(16) “Service area” means the specific geographic area or region within which a subgrantee agency provides program services directly or by contract.

(17) “Subcontractor” means a nonprofit corporation established under ORS Chapter 65, a housing authority established under 456.055 to 456.235, or local government as defined in 197.015, contracting with a subgrantee agency to provide program services.

(18) “Subgrantee agency” means a private, nonprofit corporation organized under ORS Chapter 65, a housing authority established under 456.055 to 456.235, or a local government as defined in 197.015 with whom the department has contracted to administer program services at the local level.

(19) “Work plan” means the subgrantee agency’s plan for the use of program funds as approved by the department, which is part of its approved funding application and included in its funding agreement with the department.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02; OHCS 4-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-051-0020 Administration

(1) The department may contract with subgrantee agencies to provide program services at the local level. In a service area where a community action agency exists, the community action agency has a conditional right of first refusal to serve as the subgrantee agency.

(2) The department will allocate program funds to service areas through a formula established by the department prior to the allocation process. However, the department reserves the right to modify such formula at any time in its sole discretion.

(3) A subgrantee agency may subcontract with other organizations that meet the requirements of ORS 458.505(4) to provide program housing stabilization services in the subgrantee agency’s service area.

(4) A subgrantee agency shall identify potential applicants, certify eligibility and provide housing stabilization services to eligible family households within its service area. Whenever appropriate, program participants will be assisted in accessing other services designed to meet other, longer-term needs.

(5) The department normally will fund only one subgrantee agency within any service area. However, the department may, in its sole discretion, allow two or more subgrantee agencies to operate within a common service area. In such cases the subgrantee agencies shall enter into a written agreement with the department, satisfactory to the department in its sole discretion, in order, inter alia, to insure full access to the program’s housing stabilization services for all eligible family households within the service area and to prevent duplication of services.

(6) The department may conduct reviews, audits, and other compliance monitoring — and take such remedial action — as it deems appropriate with respect to each subgrantee agency, inter alia, to assure compliance with program requirements.

(7)(a) The department may take such remedial action as it deems appropriate including, but not limited to terminating its funding agreement with a subgrantee agency and requiring repayment of all program funding, if it determines (in its sole discretion) that the performance of the subgrantee agency or any of its subcontractors is deficient in any manner, including with respect to program requirements.

(b) The department may, but is not required to issue deficiency notices and require the subgrantee agency to correct such deficiencies in a manner satisfactory to the department within a period of time designated by the department. If any such deficiency notices are issued, the subgrantee shall fully correct such deficiencies to the department’s satisfaction within the time specified.

(c) Issuance of a deficiency notice shall not constitute a waiver of other remedies available to the department or preclude the department from exercising such other remedies available to it under the funding agreement or other program requirements, at law or otherwise.

(8)(a) A subgrantee agency may expend up to an amount authorized by the department in writing for reimbursement of reasonable and appropriate administrative costs.

(b) If a subgrantee agency subcontracts with another organization to provide program services, that organization may expend up to an amount for administrative costs that does not exceed its proportionate share of the

amount authorized by the department for reasonable and appropriate administrative costs of the funding award.

(9) A subgrantee agency and its subcontractors shall comply with the terms of the funding agreement and all other program requirements, including but not limited to department directives (including deficiency notices), applicable local, state and federal laws, rules (including the manual), regulations, executive orders, local ordinances and codes.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02; OHCS 4-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-051-0030 Client Eligibility

(1) Program services shall be available to homeless individuals, families and households in accordance with department categorical definitions as defined in the department program manual and to the degree permitted by funding levels.

(2) A subgrantee agency may consider an eligible family household’s self-declaration or referral from local, state or federal human service agencies, if no other verifiable documentation is available, to determine applicant eligibility for housing stabilization services.

(3) Members of an eligible family household must be United States citizens or have qualified non-citizen status and be Oregon residents.

(4) An eligible family household may receive program services for a maximum length of time as determined by the department.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02; OHCS 4-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-051-0040 Use of Funds

(1) The department may provide program assistance in the form of a grant or other funding award to a subgrantee agency to provide the following program services directly or through subcontracting with another organization(s):

(a) Housing-related costs including but not limited to moving, rent, utilities, home repairs and shelter;

(b) Auxiliary services including but not limited to employment-related expenses, transportation and education/training fees;

(c) Case management services; and

(d) Department-required data collection including data entry into a department approved HMIS and client follow-up to determine performance outcomes.

(2) Housing stabilization services provided to an eligible family household are subject to a maximum dollar amount limitation set by the department.

(3) Subgrantee agency shall supplement the program with maintenance of effort funding as required and approved by the department and in compliance with 45 CFR 263.2 through 263.6, 45 CFR 92.24 and 45 CFR 92.3. The department may allow third-party in-kind contributions towards the satisfaction of this requirement.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02; OHCS 4-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-051-0050 Funding Application

(1) Prior to providing program services, a subgrantee agency shall submit, on a biennial basis, a funding application satisfactory to the department, including a work plan, which must be approved by the department before being operative. The subgrantee agency shall adhere to the department’s requirements and deadlines for obtaining approval of this application. A funding application is subject to approval, including as modified by the department, or disapproval by the department.

(2) A subgrantee agency’s funding application shall include details satisfactory to the department on how the subgrantee agency provided a meaningful opportunity for participation in the development of the program work plan by local DHS branch offices(s), service providers, advocates, clients, businesses, churches, governments and other interested stakeholders.

(3) A subgrantee agency’s funding application must meet all requirements established by the department for the form and content of the funding application. In cases where a community action agency has the conditional right of first refusal for antipoverty program administration, and the agency cannot meet the requirements for the form and content of the fund-

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ing application as determined by the department in its sole discretion, the department may allow other eligible organizations to submit a funding application with respect to that service area.

(4) Funding applications will be evaluated by the department for sufficiency with respect to application and other program requirements.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02; OHCS 4-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-051-0060

Recordkeeping and Reporting

(1) Subgrantee agencies shall maintain accurate financial records satisfactory to the department, which document, inter alia, the receipt and disbursement of all funds provided through the program by the department; and has an accounting system in place satisfactory to the department, which meets, inter alia, generally accepted accounting principles.

(2) Subgrantee agencies also shall maintain other program records satisfactory to the department, which document, inter alia, client eligibility, receipt of allowable program services, termination of services and bases for same, housing status of clients, administrative actions, contracts with subcontractors, review of subcontractor performance, action taken with respect to deficiency notices, and any administrative review proceedings. Such records shall be in substance and format satisfactory to the department.

(3) Subgrantee agencies shall provide the department with the following reports, in form and substance satisfactory to the department;

(a) Within 20 days following the end of each calendar quarter, a program report detailing the progress made toward meeting the program performance measures and service delivery objective(s), and a fiscal report detailing all administrative and program costs;

(b) Within 60 calendar days after the close of the subgrantee agency's fiscal year, annual program and fiscal reports;

(c) Within 60 days after the close of the program, final program and fiscal reports.

(4)(a) Subgrantee agencies and their contractors shall make all program records available to the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives for inspection and copying.

(b) Subgrantee agencies and their contractors shall cooperate fully in any inspections or other monitoring actions taken by the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives.

(c) Subgrantee agencies shall retain and keep accessible all such program records for a minimum of 5 years, or such longer period as may be required by applicable law, following final payment and termination of program involvement, or until the conclusion of any audit, controversy or litigation arising out of or related to the program, whichever date is later.

(5) Subgrantee agencies shall timely and accurately collect and report eligible family household data to the department through the use of a department approved HMIS. Such data collection and reporting shall be satisfactory to the department.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02; OHCS 4-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-051-0070

Compliance Monitoring; Subcontractor Obligations

(1) The department may from time to time audit or otherwise review a subgrantee agency's program activities and records as the department determines to be appropriate, inter alia, to verify compliance with program requirements.

(2) In addition to the requirement of subsection (1) of this section, a subgrantee agency is also subject to any specific audit requirement applicable to the program.

(3) Subgrantee agencies shall require by contract that their subcontractors comply with all program requirements, including but not limited to retention of records and department compliance monitoring and enforcement.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02; OHCS 4-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-051-0080

Challenge of Subgrantee Action

(1) Local interest groups, service providers or others aggrieved by a subgrantee agency with respect to its program obligations may submit a

written request to the department for its review of such contested action, but only after first exhausting the applicable administrative review process furnished by the relevant subgrantee agency and within thirty (30) days of that administrative review determination.

(2) The department may accept or deny a request for its review in whole or in part, at its sole discretion. Any department review will be in the manner determined appropriate by the department and may include, but shall not necessarily be limited to review of provided information.

(3) If the department accepts the review request, the requester of the review, the subgrantee agency, and relevant contractors shall produce all information required by the department, including requested affidavits or testimony.

(4) The department may make a determination on a review request and require such remedial action as the department determines, in its sole discretion, to be appropriate.

(5) Department review shall not take the form of a contested case review under ORS Chapter 183 unless specifically so stated by the director in writing.

(6) Timely request for department review by an aggrieved person or entity and its completion to final order by the department are requirements for exhaustion of administrative remedies by such aggrieved person or entity.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02; OHCS 4-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-051-0090

Review by Subgrantee

(1) Subgrantee agencies shall establish in writing a process satisfactory to the department that, in a timely manner, enables beneficiaries of and applicants for program services to contest a determination by the subgrantee agency or its subcontractors that:

(a) Denies or limits the eligibility of a beneficiary or applicant for the benefits or other assistance; or

(b) Terminates or modifies benefits or other assistance awarded by the subgrantee agency or subcontractor to a beneficiary.

(2) Persons aggrieved by the action of a subgrantee agency or its subcontractors described in subsection (1) may request administrative review of such action by the subgrantee agency within the time frame and pursuant to the process established by the subgrantee agency consistent with program requirements. At all times, the subgrantee agency must allow a minimum of thirty (30) days within which an aggrieved person may request review from the time of the contested action or the aggrieved person's reasonable discovery of such action, whichever is longer.

(3) The subgrantee agency must inform the department in writing of any request by an aggrieved party for administrative review within ten (10) days of such request.

(4) The subgrantee agency must inform the department and the aggrieved party in writing of any final administrative review determination made by the subgrantee agency, and the basis for same, within ten (10) days of such final determination.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02; OHCS 4-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-051-0100

Waiver

The Director may waive or modify any requirements of these rules in OAR 813, division 51, unless such waiver or modification would violate applicable federal or state statutes or regulations.

Stat. Auth.: ORS 458.505 - 458.545
Stats. Implemented: ORS 458.505 - 458.545
Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02; Suspended by OHCS 4-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

Rule Caption: Amends the definitions, requirements and administration for the Low Income Home Energy Assistance Program.

Adm. Order No.: OHCS 5-2014(Temp)

Filed with Sec. of State: 1-27-2014

Certified to be Effective: 1-27-14 thru 7-25-14

Notice Publication Date:

Rules Adopted: 813-200-0007, 813-200-0017, 813-200-0019, 813-200-0055, 813-200-0070

Rules Amended: 813-200-0001, 813-200-0005, 813-200-0010, 813-200-0020, 813-200-0030, 813-200-0040, 813-200-0050

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Rules Suspended: 813-200-0060

Subject: The Low Income Home Energy Assistance Program assists low income households with their energy needs through a variety of means, including assistance payments, client education and weatherization activities. The proposed rules clarify the program requirements, amends the name of the program, and provides consistency by providing consistent definitions for common terms. The amendments also align the rule language to be consistent with other program rules. The records retention requirements for program records are also amended from three to five years.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-200-0001

Purpose and Objectives

OAR chapter 813, division 200, is promulgated to accomplish the general purposes of ORS 458.505 to 458.545, and particularly 458.505 to 458.515, which designates the Housing and Community Services Department as the state agency responsible for administering state and federal antipoverty programs in Oregon. The department has been designated as the state agency responsible for implementing the Low-Income Home Energy Assistance Act in Oregon. OAR chapter 813, division 200, describes the Low-Income Home Energy Assistance Program (LIHEAP), which operates through a network of subgrantee agencies at the local level. The objective of the program is to assist low-income households with their energy needs through a variety of means, including assistance payments, client education and weatherization activities.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03; OHCS 5-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-200-0005

Definitions

All terms used in OAR chapter 813, division 200, are defined in the Act, in 813-005-0005 and below. As used in OAR 813, division 200, unless otherwise indicated by the context:

(1) “Administrative costs” means all program costs that are not directly related to the delivery of program services.

(2) “Crisis assistance” means the assistance provided to help low-income households to meet energy crisis situations such as supply shortages, loss of household heat, minor fuel source repairs, furnace repairs and other situations approved by the department as described in the LIHEAP state plan and in the manual.

(3) “Department” means the Housing and Community Services Department for the state of Oregon.

(4) “Eligible services” or “program services” means the services described in OAR 813-200-0030 or allowed thereunder.

(5) “Energy assistance payment” means a payment made under this program to or on behalf of an eligible household.

(6) “Funding agreement” means that master grant agreement or other written agreement, together with all incorporated documents and references, to be executed by and between the department and subgrantee agencies in form and substance satisfactory to the department as a condition precedent for receipt of program funding from the department.

(7) “Funding application” means a subgrantee agency’s application to the department for program funds.

(8) “OPUS” means the energy assistance database.

(9) “Home energy” means the type of energy or fuel, including but not limited to fuel oil, natural gas, electricity, wood or propane, supplying the major portion of the household’s heat.

(10) “Home energy supplier” means a supplier who either delivers home energy in bulk to households, or provides home energy continuously via wire or pipe.

(11) “Household” means any individual living alone, a family with or without children, or group of individuals who are living together as one economic unit and purchase residential energy in common.

(12) “Household income” means the total household receipts before taxes from all sources. Income may be reduced by deductions allowed by the department. Income does not include assets or funds over which the members of the household have no control.

(13) “Incidental fees” means charges imposed by the home energy suppliers other than the actual cost of energy or fuel and includes reconnection charges and deposits.

(14) “Indirect heaters” means renters whose heating costs are included as an undifferentiated part of their rent payments.

(15) “Low-income household” means a household with a gross annual income as specified in the manual.

(16) “LIHEAP” or “program” means the Low-Income Home Energy Assistance Program administered by the department in accordance with, inter alia, this division.

(17) “LIHEAP manual,” “program manual” or “manual” means the Low-Income Housing Energy Assistance Program Manual incorporated herein by this reference.

(18) “Poverty line” means the applicable poverty line standard as established by the U.S. Department of Health and Human Services.

(19) “Program requirements” means all funding agreement terms and conditions, department directives (including deficiency notices), and applicable state, local, and federal laws and regulations (including these rules, other applicable department rules, the LIHEAP state plan, and the manual), executive orders, local ordinances and codes.

(20) “Program services” means any or all program services, assistance, or other activities.

(21) “Service area” means the specific geographic area or region within which a subgrantee agency provides program services directly or by contract.

(22) “Subgrantee agency” or “agency” means a private, nonprofit corporation organized under ORS chapter 65, a housing authority established under ORS 456.055 to 456.235, or a local government as defined in 197.015 with whom the department has contracted to administer the program at the local level.

(23) “Work plan” or “plan” means the subgrantee agency’s plan for the use of program funds as approved by the department, which is part of its funding application and is included in its funding agreement with the department.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: HR 1-1982, f. & ef. 1-11-82; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0000; HSG 2-1993, f. & cert. ef. 4-2-93; Renumbered from 813-200-0000; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03; OHCS 5-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-200-0007

Subgrantee Agency Program Application; Contracting

(1) The department may contract with subgrantee agencies to provide program services at the local level.

(2) The department normally will fund only one subgrantee agency within any service area. However, the department may, in its sole discretion, allow two or more subgrantee agencies to operate within a common service area. In such cases the subgrantee agencies shall enter into a written agreement with the department, satisfactory to the department in its sole discretion, in order, inter alia, to insure full access to program services for all eligible households within the service area to the extent of available funding and to prevent duplication of services.

(3)(a) In order to be eligible to administer the program at the local level, subgrantee agencies normally must submit, on a biennial basis, a funding application (including a work plan,) which the department must approve before it is operative.

(b) Funding applications must meet all requirements established by the department, to the department’s satisfaction, for the form and content of the application, including the work plan (which the department may modify or decline).

(c) Funding applications will be evaluated by the department for sufficiency with respect to application and other program requirements.

(d) In cases where a community action agency has the conditional right of first refusal for antipoverty program administration, and the community action agency cannot meet the sufficiency requirements for the form and content of the funding application as determined by the department in its sole discretion, the department may allow other eligible organizations to submit a funding application with respect to that service area.

(4) Subgrantee agencies must execute a funding agreement with the department, satisfactory to the department in its sole discretion, in order to receive program funding and administer the program within its service area.

(5) If a subgrantee agency subcontracts with other organizations for the delivery of program services within its service area, it must require and provide by contract that such other organizations shall adhere to and be subject to the terms and conditions of the subgrantee agency’s funding agreement with the department and other program requirements, including but not limited to records retention and reporting, department monitoring, and department remedial action.

(6) The department may otherwise initiate a program funding award with a subgrantee agency.

ADMINISTRATIVE RULES

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 5-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

Stats. Implemented: ORS 458.505
Hist.: OHCS 5-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-200-0010 Administration

(1)(a) Subgrantee agencies shall comply with the terms of the funding agreement and all other program requirements, including but not limited to department directives (including deficiency notices), applicable local, state and federal laws, rules (including the LIHEAP State Plan and manual), regulations, executive orders, local ordinances and codes.

(b) Subgrantee agencies shall familiarize themselves with and adhere to procedures outlined in the LIHEAP manual. These procedures, inter alia, describe the methods for accurate completion of intake documentation and entry of the resultant data into OPUS or other department-approved data system, for authorizing program payments, for paying home energy suppliers and clients, for making and reporting program funding request draws, and for end-of-year and other program reporting to the department.

(c) Subgrantee agencies shall attend and participate in program training made available or conducted by the department.

(2) Subgrantee agencies shall take applications for program services from households, verify household eligibility and contract with and monitor local home energy suppliers to determine that household clients are both eligible and receiving appropriate program services — all in a manner consistent with program requirements and satisfactory to the department.

(3) Subgrantee agencies shall make good faith attempts satisfactory to the department to recover any overpayment of program funds made to a household client, home energy supplier, or otherwise.

(4)(a) Subgrantee agencies may expend up to an amount authorized by the department in writing for reimbursement of reasonable and appropriate administrative costs.

(b) If a subgrantee agency subcontracts with other organizations to provide program services, that organization may expend up to an amount for administrative costs that does not exceed its proportionate share of the amount authorized by the department for reasonable and appropriate administrative costs of the funding award.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: HR 1-1982, f. & ef. 1-11-82; HR 4-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0005; HSG 2-1993, f. & cert. ef. 4-2-93; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03; OHCS 5-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-200-0017 Recordkeeping and Reporting

(1) Subgrantee agencies shall maintain accurate financial records satisfactory to the department, which document, inter alia, the receipt and disbursement of all funds provided through the program by the department, and have an accounting system in place satisfactory to the department, which meets, inter alia, generally accepted accounting principles.

(2) Subgrantee agencies also shall maintain other program records satisfactory to the department, which document, inter alia, client eligibility, receipt of allowable program services, termination of services and the bases for same, housing status of clients, administrative actions, contracts with subcontractors, review of subcontractor performance, action taken with respect to deficiency notices, and any review proceedings. Such records shall be in substance and format satisfactory to the department.

(3) Subgrantee agencies also shall provide the department with reports, data, and financial statements, in form and substance satisfactory to the department, as may be required under the manual or requested by the department.

(4)(a) Subgrantee agencies shall make all program records available to the department, the Oregon Secretary of State's Office, the federal government (if applicable), and their duly authorized representatives for inspection and copying.

(b) Subgrantee agencies and their contractors shall cooperate fully in any inspections or other monitoring actions taken by the department, the Oregon Secretary of State's Office, the federal government (if applicable), and their duly authorized representatives.

(c) Subgrantee agencies shall retain and keep accessible all such program records for a minimum of 5 years, or such longer period as may be required by applicable law, following final payment and termination of program involvement, or until the conclusion of any audit, controversy or litigation arising out of or related to the program, whichever date is later.

(5) Subgrantee agencies shall timely and accurately collect and report eligible household data to the department through the use of OPUS. Such data collection and reporting shall be satisfactory to the department.

Stat. Auth.: ORS 456.555

813-200-0019 Compliance Monitoring; Remedies

(1) The department may conduct reviews, audits, and other compliance monitoring as it deems appropriate with respect to each subgrantee agency and its subcontractors, inter alia, to assure compliance with program requirements. Subgrantee agencies and their subcontractors shall cooperate fully with the department in its compliance monitoring.

(2)(a) The department may take such remedial action as it deems appropriate including, but not limited to terminating its funding agreement with a subgrantee agency and requiring repayment of all program funding, if it determines (in its sole discretion) that the performance of the subgrantee agency or any of its subcontractors is deficient in any manner, including with respect to program requirements.

(b) The department may, but is not required to issue deficiency notices and require the subgrantee agency to correct such deficiencies in a manner satisfactory to the department within a period of time designated by the department. If any such deficiency notices are issued, the subgrantee shall fully correct such deficiencies to the department's satisfaction within the time specified.

(c) Issuance of a deficiency notice shall not constitute a waiver of other remedies available to the department or preclude the department from exercising such other remedies available to it under the funding agreement or other program requirements, at law or otherwise.

(3) The department may take such remedial action and exercise such other remedies as may be available to it under program requires, law or otherwise with respect to program applicants and participants as it determines to be appropriate.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 5-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-200-0020 Client Eligibility

To be eligible to receive program services, a household must satisfy applicable program requirements, including income and need standards as provided herein and more fully set forth in the manual.

(1) These requirements include, but are not limited to:

(a) Meeting income guidelines for the program, as described in the manual; and

(b) Having a demonstrated utility cost, as defined in the manual.

(2) The period of time relevant to the determination of a household's eligibility is not more than the past 12 months and not less than the 30 days immediately preceding the date of application by the household for program services, unless the department gives its prior approval to a modification of such time period.

(3) An eligible household may normally only apply for assistance from the subgrantee agency in the service area in which the household resides.

(4) Households in similar circumstances shall receive similar benefits to the extent of program funding.

(5) Both renters and homeowners may be eligible under the program.

(6) An applicant living in an institution is not eligible for program services. Institutions include hospitals, licensed domiciliary care facilities, intermediate care facilities, skilled nursing facilities or homes, alcohol and drug rehabilitation centers or treatment programs, dormitories, fraternities, sororities, temporary protective facilities such as domestic violence shelters and homeless shelters.

(7) Residents of governmental subsidized housing may:

(a) Be eligible for up to 50 percent of a regularly available energy assistance payment, depending on household size and household income, and

(b) Be eligible for a crisis payment under crisis assistance guidelines in the LIHEAP state plan or manual.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: HR 1-1982, f. & ef. 1-11-82; HR 4-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0010; HSG 2-1993, f. & cert. ef. 4-2-93; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03; OHCS 5-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-200-0030 Eligible Services

One or more of the following services may be provided to an eligible household, subject to compliance with manual and other program requirements:

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(1) Heating assistance, including:

(a) A payment to a home energy supplier for the costs of home energy. A payment may also be made for supplier charges other than those that apply to the actual cost of energy or fuel, and may include reconnection charges and deposits as well as charges incurred by a household for eligible services delivered before or after the household is determined to be eligible for program services. Payments may not be used to cover on-bill loan financing without prior approval from the department; and

(b) The following direct payments to an eligible household:

(A) Payments to an indirect heater equal to energy assistance payments made to or on behalf of homeowners in similar circumstances;

(B) Payments to a household if the household's home energy supplier has not signed a contract with the subgrantee agency in the service area; and;

(C) Reimbursement of prepayment for home energy costs as in the case of bulk oil or wood deliveries, up to the amount for which the household is eligible. A household must provide applicable receipts prior to reimbursement.

(2) Weatherization assistance, including as outlined in the LIHEAP State Plan.

(3) Crisis Assistance. In order to qualify for crisis assistance under the program, a household shall:

(a) Have been evaluated for, and received, an energy assistance payment (regular or subsidized in the same program year) other than for crisis assistance; and;

(b) Meet the guidelines for crisis assistance outlined in the LIHEAP state plan and in the manual.

(4) Client Education. All eligible households shall be offered information designed to help reduce energy consumption.

(5) Leveraging Incentive Fund Assistance. Leveraging incentive funds must be used as outlined in the state plan.

(6) A subgrantee agency shall assist applicants in determining program services most appropriate for the household.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: HR 1-1982, f. & ef. 1-11-82; HR 4-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0015; HSG 2-1993, f. & cert. ef. 4-2-93; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03; OHCS 5-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-200-0040

Assistance Levels

Energy assistance payments made under this program shall not exceed the amount of funds made available to the department under the Omnibus Reconciliation Act of 1981, Public Law 97-35, sections 2601-11, as amended.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: HR 1-1982, f. & ef. 1-11-82; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0020; HSG 2-1993, f. & cert. ef. 4-2-93; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03; OHCS 5-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-200-0050

Coordination with Home Energy Suppliers

(1) Subgrantee agencies must execute a contract with a home energy supplier in order for the home energy supplier to receive an energy assistance payment under the program.

(2) Subgrantee agencies must use a contract template provided or approved by the department in fulfillment of its obligations under subsection (1) hereof.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: HR 1-1982, f. & ef. 1-11-82; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0025; HSG 2-1993, f. & cert. ef. 4-2-93; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03; OHCS 5-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-200-0055

Review of Subgrantee Action

(1) Subgrantee agencies shall provide a review process for aggrieved persons as outlined in the LIHEAP manual.

(2) The subgrantee agency must inform the department in writing of any request by an aggrieved party for review of subgrantee agency action within ten (10) days of such request.

(3) The subgrantee agency must inform the department and the aggrieved party in writing of any final review determination made by the subgrantee agency, and the basis for same, within ten (10) days of such final determination.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: OHCS 5-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-200-0060

Administrative Review

A Subgrantee Agency shall provide an administrative review process, which shall include an administrative hearing, to individuals whose claims for assistance under the Program are denied or deemed denied because of the failure of the Subgrantee Agency to process a request for assistance.

Stat. Auth.: ORS 458.505 - ORS 458.545

Stats. Implemented: ORS 458.505 - ORS 458.545

Hist.: HR 1-1982, f. & ef. 1-11-82; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0030; HSG 2-1993, f. & cert. ef. 4-2-93; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03; Suspended by OHCS 5-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-200-0070

Department Review

(1) Persons aggrieved by an action of a subgrantee agency with respect to its program obligations may submit a written request to the department for its review of such contested action, but only after first exhausting the applicable review process furnished by the relevant subgrantee agency and within thirty (30) days of that agency review determination.

(2) The department may accept or deny a request for its review in whole or in part, at its sole discretion. Any department review will be in the manner determined appropriate by the department and may include, but shall not necessarily be limited to review of provided information.

(3) If the department accepts the review request, the requester of the review, the subgrantee agency, and relevant contractors shall produce all information required by the department, including requested affidavits or testimony.

(4) The department may make a determination on a review request and require such remedial action as the department determines, in its sole discretion, to be appropriate.

(5) Department review shall not take the form of a contested case review under ORS Chapter 183 unless specifically so stated by the director in writing.

(6) Timely request for department review by an aggrieved person or entity, and its completion to final order by the department, are requirements for exhaustion of administrative remedies by such aggrieved person or entity.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: OHCS 5-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

Rule Caption: Renumbers rules to improve readability for participants of the Community Services Block Grant Program.

Adm. Order No.: OHCS 6-2014

Filed with Sec. of State: 1-27-2014

Certified to be Effective: 1-27-14

Notice Publication Date:

Rules Renumbered: 813-210-0010 to 813-210-0025, 813-210-0030 to 813-210-0015

Subject: The Community Services Block Grant funds certain efforts to alleviate the causes and conditions of poverty in local communities. The proposed rule renumbering will improve the readability of the rules.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-210-0015

Funding Application

(1) In order to be eligible for Program funds, a Subgrantee Agency shall, within 90 days prior to the beginning of the Program's year submit a Funding Application to the Department. All Funding Applications approved by the Department shall remain on file with the Department.

(2) A Subgrantee Agency's Funding Application shall contain, at a minimum, the following:

(a) A description of both the programmatic and administrative capabilities of the Subgrantee Agency to carry out the activities as set forth in OAR 813-210-0020;

(b) A description of how the Subgrantee Agency determines its community's needs, including what forum it used to solicit input and who participated in the forum;

(c) A needs assessment for the Service Area;

(d) A narrative for each service or activity of the Subgrantee Agency funded by the Program describing with specificity the goals, objectives and

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any other information required by the Department, which shall include, but not be limited to:

- (A) Achievement of the Program's goals and objectives;
 - (B) The impact of the Subgrantee Agency's services and activities that are funded by the Program;
 - (C) Coordination by the Subgrantee Agency with other agencies; and
 - (D) The amount and value of other resources applied to the Subgrantee Agency's services and activities;
- (e) A detailed annual budget for each service or activity funded by the Program;
- (f) A narrative and budget which details any proposed activity not directly related to the activities as specified in OAR 813-210-0020 ("administrative activity");

(g) An evaluation plan describing:

(A) The methodology to measure the results (i.e., outcomes) of each of the services and activities funded by the Program in terms of the Program's goals and objectives; and

(B) how that the specific data and/or products used to measure outcomes shall be collected and reported; and

(h) A quarterly reporting requirement that requires the Subgrantee Agency to deliver to the Department, within 15 working days after the end of each calendar quarter, a detailed and accurate report (including unaudited financial statements) of the Subgrantee Agency's activities during the just completed calendar quarter.

(3) Within 45 days of receipt of a completed Funding Application from a Subgrantee Agency, the Department shall notify in writing all applicants in the Service Area of the results of its review, including its request(s) for additional information if necessary.

(4) A Funding Application shall be in the format prescribed and/or provided by the Department.

(5) The Department shall contract with Subgrantee Agencies to administer the Program at the local level. In a Service Area where a Community Action Agency exists, it will have the right of first refusal to serve as the Subgrantee Agency. A Subgrantee Agency may, with the prior written approval of the Department, subcontract with another organization to provide a service or activity in the Subgrantee Agency's Service Area.

Stat. Auth.: ORS 184 & ORS 458.505 - ORS 458.515

Stats. Implemented: ORS 458.505 - ORS 458.545

Hist.: HR 5-1982, f. & ef. 2-5-82; HR 3-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-060-0015; HSG 7-1993, f. & cert. ef. 10-1-93; OHCS 2-2001(Temp), f. & cert. ef. 10-3-01 thru 4-1-02; Administrative correction 4-12-02; OHCS 2-2002, f. & cert. ef. 4-15-02; Renumbered from 813-210-0030 by OHCS 6-2014, f. & cert. ef. 1-27-14

813-210-0025

Eligible Activities

(1) A Subgrantee Agency is free to use different strategic approaches to reduce or eliminate one or more conditions that block the achievement of self-sufficiency for Low-Income Households. These strategies and activities, which may include a range of services, both direct and/or indirect, must have a measurable and potentially major impact on the causes of poverty in communities in the Service Area where poverty is a particularly acute problem.

(2) Funds made available under the Program may be used for services and activities that assist Low-Income Households, including the elderly poor. These services and activities may include, but are not limited to, those that help members of Low-Income Households:

(a) To secure and retain meaningful employment;

(b) To attain an adequate education;

(c) To make better use of available income;

(d) To obtain and maintain adequate housing and a suitable living environment;

(e) To obtain emergency assistance through loans or grants to meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing and employment-related assistance;

(f) To remove obstacles and solve problems that block the achievement of self-sufficiency;

(g) To achieve greater participation in the affairs of the community; and

(h) To make effective use of other programs related to the purpose of this OAR chapter 813, division 210.

(3) A Subgrantee Agency may also use the funds for a variety of services and activities intended to reduce or eliminate poverty conditions in communities in the Service Area, including but not limited to:

(a) To provide on an emergency basis for the provision of such supplies and services, nutritious foodstuffs, and related services as may be nec-

essary to counteract conditions of starvation and malnutrition among the poor;

(b) To coordinate and establish linkages between government and other social service programs to assure the effective delivery of such services to Low Income Households; and

(c) To encourage the use of entities in the private sector of the community in efforts to ameliorate poverty in the community.

Stat. Auth.: ORS 184 & 458.505 - 458.515
Stats. Implemented: ORS 458.505 - 458.545

Hist.: HR 5-1982, f. & ef. 2-5-82; HR 3-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-060-0005; HSG 7-1993, f. & cert. ef. 10-1-93; OHCS 2-2001(Temp), f. & cert. ef. 10-3-01 thru 4-1-02; Administrative correction 4-12-02; OHCS 2-2002, f. & cert. ef. 4-15-02; Renumbered from 813-210-0010 by OHCS 6-2014, f. & cert. ef. 1-27-14

Rule Caption: Amends the definitions, program requirements and administration of the Community Services Block Grant Program.

Adm. Order No.: OHCS 7-2014(Temp)

Filed with Sec. of State: 1-27-2014

Certified to be Effective: 1-27-14 thru 7-25-14

Notice Publication Date:

Rules Adopted: 813-210-0022, 813-210-0056, 813-210-0075, 813-210-0085

Rules Amended: 813-210-0001, 813-210-0009, 813-210-0015, 813-210-0025, 813-210-0050, 813-210-0052, 813-210-0060

Rules Suspended: 813-210-0040, 813-210-0055, 813-210-0065

Subject: The Community Services Block Grant Program funds certain efforts to alleviate the causes and conditions of poverty in local communities. The proposed rules clarify the purpose of the program, provides consistent definitions for common terms, standardizes and aligns language with other program rules, and amends the records retention requirements for program records from three to five years.

Rules Coordinator: Sandy McDonnell — (503) 986-2012

813-210-0001

Purpose

OAR chapter 813, division 210, is promulgated to accomplish the general purposes of ORS 458.505 to 458.545, and particularly 458.505 to 458.515, which designate the Housing and Community Services Department as the state agency responsible for administering state and federal antipoverty programs in Oregon. OAR chapter 813, division 210, describes the Community Services Block Grant ("CSBG") Program, through which the department funds certain efforts to alleviate the causes and conditions of poverty in local communities.

Stat. Auth.: ORS 456.555 & 458.235

Stats. Implemented: ORS 458.210 - 458.240 & 458.505

Hist.: OHCS 2-2002, f. & cert. ef. 4-15-02; OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-210-0009

Definitions

All terms used in OAR chapter 813, division 210, are defined in the Act, in 813-005-0005 and in this 813-210-0010. As used in OAR chapter 813, division 210, unless otherwise indicated by the context:

(1) "Community action agency" or "CAA" means a private nonprofit corporation organized under ORS Chapter 65, or an office, division or agency of a political subdivision designated by the Department of Health and Human Services as a community action agency pursuant to the Economic Opportunity Act of 1964, which meets the requirements outlined in 458.505(4).

(2) "CSBG program" or "program" means Community Services Block Grant program administered by the department and described in this division.

(3) "Department" means the Housing and Community Services Department of the state of Oregon."

(4) "Eligible services" or "program services" means strategies and activities, including a range of direct and indirect services that have a measurable effect on alleviating the causes and conditions of poverty affecting low-income households and that are eligible for funding by the department under this program.

(5) "Funding agreement" means that written agreement, together with all incorporated documents and references, executed by and between the department and the subgrantee agency in form and substance satisfactory to the department, which is a condition precedent for receipt of program funding from the department.

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(6) "Funding application" means a subgrantee agency's application to the department for program funding.

(7) "HMIS" means the Homeless Management Information System.

(8) "Household" means an individual living alone or a group of individuals (including a family with or without children) who are living together as one economic unit.

(9) "Household income" means the total annual household receipts before taxes from all sources. Income does not include assets or funds over which the program applicant has no control.

(10) "Low-income household" means a household with household income at or less than 125% of the poverty line.

(11) "Migrant and seasonal farmworker organization" means a private nonprofit organization organized under ORS chapter 65 that serves migrant and seasonal farmworkers and their families.

(12) "Political activity" means:

(a) Directly or indirectly to attempt to influence or actually to influence elections and/or nominations for political office;

(b) Directly or indirectly to solicit or coerce contributions for use in elections or in nominations for political office;

(c) Directly or indirectly to provide voters or prospective voters with transportation to polls, nomination caucuses or similar activities; or

(d) Directly or indirectly to provide assistance with an election, nomination, or voter registration activity.

(13) "Population" means inhabitants of a political subdivision as enumerated by the U.S. Census, or official state estimates prepared by the Center for Population Research and Census at Portland State University.

(14) "Poverty line" means the official standard for poverty in Oregon established by the Secretary of the U.S. Department of Health and Human Services.

(15) "Program requirements" means all funding agreement terms and conditions, department directives (including corrective notices), and applicable state, local, and federal laws and regulations (including these rules, other applicable department rules, and the manual), executive orders, local ordinances and codes.

(16) "Service area" means the specific geographic area or region within which a subgrantee agency provides program services directly or by contract to eligible households.

(17) "Subgrantee agency" means a private, nonprofit corporation organized under ORS Chapter 65 or a local government as defined in ORS 197.015 that is designated as a community action agency or other appropriate organization with which the department has contracted to administer the program at the local level.

Stat. Auth.: ORS 456.555 & 458.235

Stats. Implemented: ORS 458.210 - 458.240 & 458.505

Hist.: HR 5-1982, f. & ef. 2-5-82; HR 3-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-060-0000; HSG 7-1993, f. & cert. ef. 10-1-93; OHCS 2-2001(Temp), f. & cert. ef. 10-3-01 thru 4-1-02; Administrative correction 4-12-02; OHCS 2-2002, f. & cert. ef. 4-15-02, Renumbered from 813-210-0000; OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-210-0015

Subgrantee Agency Program Application; Contracting

(1) The department may contract with subgrantee agencies to provide program services at the local level. In a service area where a community action agency exists, the community action agency has a conditional right of first refusal to serve as the subgrantee agency.

(2) The department normally will fund only one subgrantee agency within any service area. However, the department may, in its sole discretion, allow two or more subgrantee agencies to operate within a common service area. In such cases the subgrantee agencies shall enter into a written agreement with the department, satisfactory to the department in its sole discretion, in order, inter alia, to insure full access to program services for all eligible households within the service area to the extent of available funding and to prevent duplication of services.

(3)(a) In order to be eligible to administer the program at the local level, subgrantee agencies normally must submit, on a biennial basis, a funding application (including a work plan), which the department must approve before it is operative.

(b) A subgrantee agency's funding application shall include details satisfactory to the department as to how the subgrantee agency provided a meaningful opportunity for participation in the development of the work plan by local service providers, advocates, clients, businesses, churches, citizens, governments, and other interested stakeholders.

(c) Funding applications must meet all requirements established by the department, to the department's satisfaction, for the form and content of the application, including the work plan (which the department may modify or decline).

(d) Funding applications will be evaluated by the department for sufficiency with respect to application and other program requirements.

(e) In cases where a community action agency has the conditional right of first refusal for antipoverty program administration, and the community action agency cannot meet the sufficiency requirements for the form and content of the funding application as determined by the department in its sole discretion, the department may allow other eligible organizations to submit a funding application with respect to that service area.

(4) Subgrantee agencies must execute a funding agreement with the department, satisfactory to the department in its sole discretion, in order to receive program funding and administer the program within its service area.

(5) If a subgrantee agency subcontracts with other organizations for the delivery of program services within its service area, it must require and provide by contract that such other organizations shall adhere to and be subject to the terms and conditions of the subgrantee agency's funding agreement with the department and other program requirements, including but not limited to records retention and reporting, department monitoring, and department remedial action.

(6) The department normally will allocate program funds to service areas through a formula established by the department prior to the allocation process. However, the department reserves the right to modify the formula at any time, at its sole discretion.

(7) The department may otherwise initiate a program funding award with a subgrantee agency.

Stat. Auth.: ORS 456.555 & 458.235

Stats. Implemented: ORS 458.210 - 458.240 & 458.505

Hist.: HR 5-1982, f. & ef. 2-5-82; HR 3-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-060-0015; HSG 7-1993, f. & cert. ef. 10-1-93; OHCS 2-2001(Temp), f. & cert. ef. 10-3-01 thru 4-1-02; Administrative correction 4-12-02; OHCS 2-2002, f. & cert. ef. 4-15-02; Renumbered from 813-210-0030 by OHCS 6-2014, f. & cert. ef. 1-27-14; OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-210-0022

Administration

(1)(a) Subgrantee agencies shall comply with the terms of the funding agreement and all other program requirements, including but not limited to department directives (including deficiency notices), applicable local, state and federal laws, rules (including the manual), regulations, executive orders, local ordinances and codes.

(b) Subgrantee agencies shall familiarize themselves with and adhere to procedures outlined in the manual. These procedures, inter alia, describe the methods for accurate completion of intake documentation and entry of the resultant data into HMIS or other department-approved data system, for authorizing program payments, for making and reporting program funding request draws, and for end-of-year and other program reporting to the department.

(c) Subgrantee agencies shall attend and participate in program training made available or conducted by the department.

(2) Subgrantee agencies shall take applications for program services from households, verify household eligibility, deliver, contract for (as applicable), and monitor the use of appropriate program services — all in a manner consistent with program requirements and satisfactory to the department.

(3) Subgrantee agencies shall make good faith attempts satisfactory to the department to recover any overpayment of program funds.

(4)(a) Subgrantee agencies may expend up to an amount authorized by the department in writing for reimbursement of reasonable and appropriate administrative costs.

(b) If a subgrantee agency subcontracts with other organizations to provide program services, that organization may expend up to an amount for administrative costs that does not exceed its proportionate share of the amount authorized by the department for reasonable and appropriate administrative costs of the funding award.

Stat. Auth.: ORS 456.555 & 458.235

Stats. Implemented: ORS 458.210 - 458.240 & 458.505

Hist.: OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-210-0025

Program Activities

(1) Subgrantee agencies shall provide program services to eligible households to the extent of available funding, subject to compliance with manual and other program requirements. Subject to its funding agreement, a subgrantee agency may use different strategic approaches to reduce or eliminate the causes or conditions of poverty in its service area. These strategies and activities, which may include a range of services, both direct and indirect, must have a measurable and potentially major impact on the

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causes of poverty in communities in the service area where poverty is a particularly acute problem.

(2) Program funds may be used for services that assist low-income households, including the elderly poor. These services must conform to program requirements, but normally may include, (and are not necessarily limited to), services that help members of eligible households:

- (a) Secure and retain meaningful employment;
- (b) Attain an adequate education;
- (c) Make better use of available income;
- (d) Obtain and maintain adequate housing and a suitable living environment;

(e) Obtain emergency assistance through loans or grants to meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing and employment-related assistance;

(f) Remove obstacles and solve problems blocking the achievement of self-sufficiency;

- (g) Achieve greater participation in the affairs of the community; or
- (h) Make effective use of other programs that complement the purposes of this program.

(3) Subgrantee agencies also may use program funds for program services to reduce or eliminate poverty conditions in communities in the service area, including but not limited to:

(a) Enabling on an emergency basis for the provision of nutritious food, household supplies, and related services as may be necessary to counteract conditions of starvation and malnutrition among the poor;

(b) Coordinating and establishing linkages between government and other social service programs to assure the effective delivery of anti-poverty services to eligible low income households; and

(c) Encouraging private sector participation in meaningful efforts to ameliorate poverty in the community.

Stat. Auth.: ORS 456.555 & 458.235

Stats. Implemented: ORS 458.210 - 458.240 & 458.505

Hist.: HR 5-1982, f. & ef. 2-5-82; HR 3-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-060-0005; HSG 7-1993, f. & cert. ef. 10-1-93; OHCS 2-2001(Temp), f. & cert. ef. 10-3-01 thru 4-1-02; Administrative correction 4-12-02; OHCS 2-2002, f. & cert. ef. 4-15-02; Renumbered from 813-210-0010 by OHCS 6-2014, f. & cert. ef. 1-27-14; OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-210-0040

Review of a Funding Application

(1) A Subgrantee Agency shall submit to the Department a report covering the matters described in OAR 813-210-0030(2)(h) within 15 working days following the end of each calendar quarter.

(2) Each calendar quarter the Department may evaluate a Subgrantee Agency's services and activities in accordance with the evaluation plan described in OAR 813-210-00030(1)(d) and/or receive an evaluation report from the Subgrantee Agency that complies with the requirements of the evaluation plan described in 813-210-00030(2)(g) based upon the goals and objectives stated in the Subgrantee Agency's approved Funding Application.

Stat. Auth.: ORS 184 & 458.505 - 458.515

Stats. Implemented: ORS 458.505 - 458.545

Hist.: HR 5-1982, f. & ef. 2-5-82; HR 3-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-060-0020; HSG 7-1993, f. & cert. ef. 10-1-93; OHCS 2-2001(Temp), f. & cert. ef. 10-3-01 thru 4-1-02; Administrative correction 4-12-02; OHCS 2-2002, f. & cert. ef. 4-15-02; Suspended by OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-210-0050

Recordkeeping and Reporting

(1) Subgrantee agencies shall maintain accurate financial records satisfactory to the department, which document, inter alia, the receipt and disbursement of all funds provided through the program by the department, and have an accounting system in place satisfactory to the department, which meets, inter alia, generally accepted accounting principles.

(2) Subgrantee agencies also shall maintain other program records satisfactory to the department, which document, inter alia, client eligibility, receipt of allowable program services, termination of services and the bases for same, housing status of clients and services received, administrative actions, contracts with subcontractors, review of subcontractor performance, action taken with respect to deficiency notices, and any review proceedings. Such records shall be in substance and format satisfactory to the department.

(3) Subgrantee agencies also shall provide the department with reports, data, and financial statements, in form and substance satisfactory to the department, as may be required under the manual or requested from time to time by the department, including but not limited to quarterly reports covering items set forth in OAR 813-210-0025(2) and (3), which

shall be in a format prescribed by the department. Such quarterly reports shall be coded in such a way as to allow the linking and analysis of expenditures for each separate service funded by the program in the annual funding application.

(4)(a) Subgrantee agencies shall make all program records available to the department, the Oregon Secretary of State's Office, the federal government (if applicable), and their duly authorized representatives for inspection and copying.

(b) Subgrantee agencies and their contractors shall cooperate fully in any inspections or other monitoring actions taken by the department, the Oregon Secretary of State's Office, the federal government (if applicable), and their duly authorized representatives.

(c) Subgrantee agencies shall retain and keep accessible all such program records for a minimum of 5 years, or such longer period as may be required by applicable law, following final payment and termination of program involvement, or until the conclusion of any audit, controversy or litigation arising out of or related to the program, whichever date is later.

(5) Subgrantee agencies shall timely and accurately collect and report household program data to the department through the use of a department approved HMIS or other data reporting system. Such data collection and reporting shall be satisfactory to the department.

Stat. Auth.: ORS 456.555 & 458.235

Stats. Implemented: ORS 458.210 - 458.240 & 458.505

Hist.: HR 5-1982, f. & ef. 2-5-82; HR 3-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-060-0025; HSG 7-1993, f. & cert. ef. 10-1-93; OHCS 2-2001(Temp), f. & cert. ef. 10-3-01 thru 4-1-02; Administrative correction 4-12-02; OHCS 2-2002, f. & cert. ef. 4-15-02; OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-210-0052

Audits

(1) Subgrantee agencies shall provide quarterly financial statements to the department with respect to their program participation, which reports do not need to be formal audits. Such quarterly financial statement shall be satisfactory to the department in its sole discretion.

(2) Subgrantee agencies also shall conduct and provide to the department an annual audit of the program operations of the subgrantee agency, including delegated funds, as part of the subgrantee agency's normal annual audit cycle. This annual audit shall be satisfactory to the department in its sole discretion.

(3) The audit report of the subgrantee agency's program year just ended shall be submitted by the subgrantee agency to the department within six months after the close of that program year.

(4) The audit shall be conducted by a qualified and independent certified public accountant and shall meet the standards established by the Comptroller General of the United States and published in "Standards for Audit of Governmental Organizations, Programs, Activities and Functions" (USGOP Stock No. 2000-00110), "Guidelines for Financial and Compliance Audits of Federally Assisted Program" (USGOP Stock No. 020-000-0081-0) published by the United States General Accounting Office and the audit standards supplements series of publications, each as amended from time to time. These publications are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402;

(5) The annual audit must include a management letter.

(6) The department may, in its sole and absolute discretion, comment on the auditor's statements contained in the annual audit report, along with any other problems reflected in the report, such as any differences between the annual audited financial statements and the quarterly unaudited financial statements submitted by the subgrantee agency to the department. A subgrantee agency must correct all audit deficiencies promptly but in any event within 90 days of date the department receives the subgrantee agency's audit report, unless the department, in its sole and absolute discretion, grants a 90 day extension.

(7) System Certification:

(a) A subgrantee agency's financial management system shall be certified as adequate to safeguard and account for program funds by a qualified independent certified public accountant.

(b) A subgrantee agency's financial management system shall be maintained at an acceptable level and recertified annually by its outside auditors in the subgrantee agency's annual audit report.

(c) Subgrantee agencies having financial management systems in place that are certified by "pre-audit surveys" and recertified by acceptable annual audits will not be required to obtain the certifications described in this subsection.

(d) First time subgrantee agencies must obtain certification as required in this subsection before program funds can be expended or obligated by it.

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(e) If, in the department's opinion, an annual audit report submitted by a subgrantee agency indicates significant financial management system or system maintenance weakness, the department may, in its sole and absolute discretion, withhold further disbursement of program funds until it receives from the subgrantee agency satisfactory recertification of its financial management system from a qualified and independent certified public accountant.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 456.555 & 458.235
Stats. Implemented: ORS 458.210 - 458.240 & 458.505
Hist.: OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-210-0055

Funding

(1) Reimbursement by the Department for a Subgrantee Agency's Program expenditures will be based upon the timely receipt by the Department of the Subgrantee Agency's quarterly and annual audit reports and upon the Subgrantee Agency's conformance to its budget estimates.

(2) The Department may, in its sole and absolute discretion, advance to a Subgrantee Agency funds required by that Subgrantee Agency for operations funded by the Program.

Stat. Auth.: ORS 458.505 - 458.515
Stats. Implemented: ORS 458.505 - 458.545
Hist.: OHCS 2-2002, f. & cert. ef. 4-15-02; Suspended by OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-210-0056

Compliance Monitoring; Remedies

(1) The department may conduct reviews, audits, and other compliance monitoring as it deems appropriate with respect to each subgrantee agency and its subcontractors, inter alia, to assure compliance with program requirements. Subgrantee agencies and their subcontractors shall cooperate fully with the department in its compliance monitoring.

(2)(a) The department may take such remedial action as it deems appropriate including, but not limited to terminating its funding agreement with a subgrantee agency and requiring repayment of all program funding, if it determines (in its sole discretion) that the performance of the subgrantee agency or any of its subcontractors is deficient in any manner, including with respect to program requirements.

(b) The department may, but is not required to issue deficiency notices and require the subgrantee agency to correct such deficiencies in a manner satisfactory to the department within a period of time designated by the department. If any such deficiency notices are issued, the subgrantee shall fully correct such deficiencies to the department's satisfaction within the time specified.

(c) Issuance of a deficiency notice shall not constitute a waiver of other remedies available to the department or preclude the department from exercising such other remedies available to it under the funding agreement or other program requirements, at law or otherwise.

Stat. Auth.: ORS 456.555 & 458.235
Stats. Implemented: ORS 458.210 - 458.240 & 458.505
Hist.: OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-210-0060

Reduction or Termination of CSBG Funding

(1) No migrant and seasonal farmworker organization that received program funding in the previous federal fiscal year shall have its program funding terminated or reduced below the proportional share of funding it received in the previous federal fiscal year unless, after notice and opportunity for hearing on the record, the department determines that cause existed for such termination or reduction, subject to the procedures and review by the director and Secretary for the United States Department of Health and Human Resources.

(2) For purposes of making a determination with respect to program funding reductions or terminations with respect to a recipient migrant and seasonal farmworker organization, the term "cause" includes but is not limited to:

(a) A statewide redistribution of CSBG funds to respond to:

(A) The results of the most recently available census or other appropriate data; or

(B) The establishment of a new migrant and seasonal farmworker organization; and

(b) The failure of a migrant and seasonal farmworker organization to comply with the terms of its funding agreement with the department or the Community Services Block Grant Act as amended by Public Law 101-501.

Stat. Auth.: ORS 456.555 & 458.235
Stats. Implemented: ORS 458.210 - 458.240 & 458.505

Hist.: HSG 7-1993, f. & cert. ef. 10-1-93; OHCS 2-2001(Temp), f. & cert. ef. 10-3-01 thru 4-1-02; Administrative correction 4-12-02; OHCS 2-2002, f. & cert. ef. 8-15-02; OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-210-0065

Waiver

The Director may waive or modify any requirements of the rules in OAR 813, division 210, unless such waiver or modification would violate applicable federal or state statutes or regulations.

Stat. Auth.: ORS 458.505 - 458.515
Stats. Implemented: ORS 458.505 - 458.545
Hist.: OHCS 2-2002, f. & cert. ef. 8-15-02; Suspended by OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-210-0075

Review of Subgrantee Action

(1) Subgrantee agencies shall provide a review process satisfactory to the department for persons aggrieved by agency action or inaction with respect to program obligations.

(2) The subgrantee agency must inform the department in writing of any request by an aggrieved party for review of subgrantee agency action within ten (10) days of such request.

(3) The subgrantee agency must inform the department and the aggrieved party in writing of any final review determination made by the subgrantee agency, and the basis for same, within ten (10) days of such final determination.

Stat. Auth.: ORS 456.555 & 458.235
Stats. Implemented: ORS 458.210 - 458.240 & 458.505
Hist.: OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-210-0085

Department Review

(1) Persons aggrieved by an action of a subgrantee agency with respect to its program obligations may submit a written request to the department for its review of such contested action, but only after first exhausting the applicable review process furnished by the relevant subgrantee agency and within thirty (30) days of that agency review determination.

(2) The department may accept or deny a request for its review in whole or in part, at its sole discretion. Any department review will be in the manner determined appropriate by the department and may include, but shall not necessarily be limited to review of provided information.

(3) If the department accepts the review request, the requester of the review, the subgrantee agency, and relevant contractors shall produce all information required by the department, including requested affidavits or testimony.

(4) The department may make a determination on a review request and require such remedial action as the department determines, in its sole discretion, to be appropriate.

(5) Department review shall not take the form of a contested case review under ORS Chapter 183 unless specifically so stated by the director in writing.

(6) Timely request for department review by an aggrieved person or entity, and its completion to final order by the department, are requirements for exhaustion of administrative remedies by such aggrieved person or entity.

Stat. Auth.: ORS 456.555 & 458.235
Stats. Implemented: ORS 458.210 - 458.240 & 458.505
Hist.: OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

Rule Caption: Amends the definitions, requirements and administration of the Oregon Hunger Response Fund Program.

Adm. Order No.: OHCS 8-2014(Temp)

Filed with Sec. of State: 1-27-2014

Certified to be Effective: 1-27-14 thru 7-25-14

Notice Publication Date:

Rules Adopted: 813-250-0005, 813-250-0015, 813-250-0055, 813-250-0060, 813-250-0070

Rules Amended: 813-250-0000, 813-250-0020, 813-250-0030, 813-250-0040

Subject: The Oregon Hunger Response Fund Program allocates funds for the statewide network of food banks and emergency food programs to acquire food and new food sources, build network capacities and link emergency food clients to other services. The proposed rules clarify the program purpose, adds consistent definitions for common terms, establishes how program providers will be select-

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ed, provides clarification on how the department will administer the program, the review of a program provider and the remedies available to the department if a program provider is not in compliance with program requirements, and the process to request a department review.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-250-0000

Purpose and Objectives

(1) OAR chapter 813, division 250 establishes and implements the Oregon Hunger Response Fund Program which is funded by general fund moneys and designed to carry out the department's responsibility as the lead public body in administering the state policy on hunger under ORS 458.525 to 458.545. The Oregon Hunger Response Fund Program is the means by which the department allocates funds for the statewide network of food banks and emergency food programs to acquire food and new food sources, build network capacities and link emergency food clients to other services.

(2) The Oregon Food Bank, a nonprofit corporation organized under ORS Chapter 65, is the organization currently designated by the department to coordinate delivery of food to eligible program recipients.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 456.625 & 458.525 - 458.545
Hist.: HSG 1-1994, f. & cert. ef. 3-2-94; OHCS 4-2003, f. & cert. ef. 5-12-03; OHCS 4-2008, f. & cert. ef. 4-11-08; OHCS 6-2012(Temp), f. & cert. ef. 12-6-12 thru 6-4-13; OHCS 4-2013, f. & cert. ef. 6-4-13; OHCS 8-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-250-0005

Definitions

All terms used in OAR chapter 813, division 250, are defined in the Act, in 813-005-0005, and in this 813-250-0005. As used in OAR 813, division 250, unless the context indicates otherwise:

(1) "Administrative costs" means all program costs that are not directly related to delivery of program services.

(2) "Department" means the Housing and Community Services Department for the state of Oregon.

(3) "Federal poverty guideline" means the federal poverty guideline for the state of Oregon established from time to time by the U.S. Department of Health and Human Services.

(4) "Funding agreement" means that written agreement, together with all incorporated documents and references, executed by and between the department and the Oregon Food Bank, in form and substance satisfactory to the department, as a condition precedent for receipt of program funding from the department.

(5) "Household" means any individual living alone, family with or without children, or group of individuals who are living together as one economic unit.

(6) "Household income" means the total annual household receipts before taxes from all sources. Income does not include assets or funds over which the program applicant has no control.

(7) "Local service provider" or "recipient agency" means an organization that directly provides program services within a local service area to eligible households pursuant to a written agreement with the department or a program provider.

(8) "Oregon Food Bank" means the nonprofit corporation organized under ORS chapter 65, which is the program provider designated by the department to coordinate delivery of food to eligible program recipients through local service providers.

(9) "OHRF" or "fund" means the Oregon Hunger Response Fund Account from which moneys are continuously appropriated for carrying out the purposes of the program.

(10) "OHRFP" or "program" means the Oregon Hunger Response Fund Program administered by the department pursuant to ORS 458.530 to 458.545.

(11) "Program provider" means the organization or organizations so designated by the department and with which it has executed a funding agreement to administer the program, or aspects thereof, consistent with program requirements as further provided in the funding agreement.

(12) "Program requirements" means all funding agreement terms and conditions, department directives (including corrective notices), and applicable state, local, and federal laws and regulations (including these rules and other applicable department rules, executive orders, local ordinances and codes).

(13) "Program services" means any or all program services, assistance, or other activities made available to eligible households under the

program, including but not limited to relieving situations of emergency and distress by enabling the provision of food to eligible households.

(14) "Service area" means the local geographic area or region within which a local service provider provides program services to eligible households.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 456.625 & 458.525 - 458.545
OHCS 8-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-250-0015

Provider Selection

(1) The department may administer the program directly or, in whole or in part, by written agreement with one or more program providers or local service providers.

(2) The department may select program providers and local service providers on a competitive basis or otherwise as it determines best serves the purposes of the program.

(3) Any program provider must execute a funding agreement with the department, satisfactory to the department in its sole discretion, in order to act in that capacity and receive program funding.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 456.625 & 458.525 - 458.545
OHCS 8-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-250-0020

Administration

(1) Program providers may select and subcontract with local service providers to provide program services within a service area. Such subcontracts must be in writing and, at a minimum, include provisions specifying:

(a) The funding amount;

(b) The provision of program services, including determination of household eligibility and appropriate program services;

(c) The effective date and duration of the agreement;

(d) Fiscal and other program reporting requirements;

(e) Audit and compliance requirements; and

(f) Obligations to the department as a third-party beneficiary, including specifying department compliance monitoring and remedy rights consistent with program requirements.

(2) Subcontract agreements are subject to review and approval by the department, at its choosing and in its sole discretion.

(3) The department may require terms and conditions in addition to or different from those specified in subsection (1) of this section in its sole discretion.

(4) The department may terminate a subcontract agreement upon written notice to the program provider and local service provider in its sole discretion. Local service providers shall not be entitled to payment for program services provided after receipt of a termination notice from the department.

(5) Exercise of a termination remedy by the department is not exclusive of any other remedy or right available to the department and does not constitute a waiver, or create a bar to the exercise, (at any time) of such other rights and remedies.

(6) A recipient agency must execute a written agreement with a program provider or the department in order to receive program funding and provide program services.

(7) A recipient agency may recommend guidelines to its program provider or the department for the uses and disbursement of program funds.

(8) Program providers may use program funds to supplement but not supplant other existing resources available for supporting their activities and the activities of local service providers. Program funds may only be used for appropriate program services or as otherwise expressly allowed by program requirements.

(9) Neither service provider nor a recipient agency may require a program recipient to make any payments in money, materials or services for, or in connection with, the receipt of program services.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 456.625 & 458.525 - 458.545

Hist.: HSG 1-1994, f. & cert. ef. 3-2-94; OHCS 4-2003, f. & cert. ef. 5-12-03; OHCS 4-2008, f. & cert. ef. 4-11-08; OHCS 6-2012(Temp), f. & cert. ef. 12-6-12 thru 6-4-13; OHCS 4-2013, f. & cert. ef. 6-4-13; OHCS 8-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-250-0030

Eligible Program Services

(1) The department and program providers, including through local service providers, may use program funds for:

(a) Capacity building activities and equipment purchases to strengthen or expand the infrastructure of recipient agencies to facilitate expansion of the food supply, including the transportation of commodities;

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(b) Acquisition and distribution of food in bulk form that is repackaged for household use; and

(c) Linkage grants to appropriate recipient agencies for outreach to under-served areas so that emergency food recipients can obtain needed nutrition education and other support services.

(2) Program providers and recipient agencies may use program funds to pay for their reasonable program administrative costs up to limits established by the department.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 456.625 & 458.525 - 458.545
Hist.: HSG 1-1994, f. & cert. ef. 3-2-94; OHCS 4-2003, f. & cert. ef. 5-12-03; OHCS 4-2008, f. & cert. ef. 4-11-08; OHCS 6-2012(Temp), f. & cert. ef. 12-6-12 thru 6-4-13; OHCS 4-2013, f. & cert. ef. 6-4-13; OHCS 8-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-250-0040

Fiscal Control and Reporting Requirements

(1) Program providers and recipient agencies:

(a) Shall create and maintain records satisfactory to the department that documents the use of program funds, including for linkage activities and the receipt and distribution of purchased commodities;

(b) Shall create and maintain records satisfactory to the department that relate to program services; and

(c) Maintain such records for a period of five years or until the completion of audits, claims or litigation to which they are relevant, whichever is longer.

(2) Program providers and recipient agencies shall make such records available to the department for inspection and copying upon its request. Recipient agencies also shall make such records available to their program provider for inspection and copying upon its request.

(3) Each recipient agency shall report annually to its program provider regarding the type and amount of food purchased with program funds in a manner satisfactory to the program provider and department.

(4) Program providers shall provide the department:

(a) An annual audit of program activities and fiscal transactions within nine months following the end of the fiscal audit period;

(b) A year-end report of linkage projects carried out by each recipient agency and acquisitions of goods by the program provider; and

(c) Such other information as the department may require.

Stat. Auth.: ORS 456.555
Stats. Implemented: OL 1993 Ch. 725, ORS 456.625 & 458.525 - 458.545
Hist.: HSG 1-1994, f. & cert. ef. 3-2-94; OHCS 4-2003, f. & cert. ef. 5-12-03; OHCS 4-2008, f. & cert. ef. 4-11-08; OHCS 6-2012(Temp), f. & cert. ef. 12-6-12 thru 6-4-13; OHCS 4-2013, f. & cert. ef. 6-4-13; OHCS 8-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-250-0055

Compliance Monitoring; Remedies

(1) The department may conduct reviews, audits, and other compliance monitoring as it deems appropriate with respect to each program provider and local service provider, inter alia, to assure compliance with program requirements. Program providers and local service providers shall cooperate fully with the department in its compliance monitoring.

(2)(a) The department may take such remedial action as it deems appropriate including, but not limited to terminating its funding agreement with program providers or terminating subcontract agreements with local service providers and requiring repayment of all program funding, if it determines (in its sole discretion) that the performance of the program provider or local service provider is deficient in any manner, including with respect to program requirements.

(b) The department may, but is not required to issue deficiency notices and require a program provider or local service provider to correct such deficiencies in a manner satisfactory to the department within a period of time designated by the department. If any such deficiency notices are issued, the program provider or local service provider shall fully correct such deficiencies to the department's satisfaction within the time specified.

(c) Issuance of a deficiency notice shall not constitute a waiver of other remedies available to the department or preclude the department from exercising such other remedies available to it under the funding agreement, a relevant subcontract agreement, or other program requirements, at law or otherwise.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 456.625 & 458.525 - 458.545
Hist.: OHCS 8-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-250-0060

Review of Program Provider and Local Service Provider Action

(1) Program providers shall provide a review process satisfactory to the department for persons aggrieved by program provider or local service provider action or inaction with respect to program obligations.

(2) The program provider must inform the department in writing of any qualifying request by an aggrieved party for review of relevant action or inaction within ten (10) days of such request.

(3) The program provider must inform the department and the aggrieved party in writing of any final review determination made by the subgrantee agency, and the basis for same, within ten (10) days of such final determination.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 456.625 & 458.525 - 458.545
Hist.: OHCS 8-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-250-0070

Department Review

(1) Persons aggrieved by an action of a program provider or local service provider with respect to its program obligations may submit a written request to the department for its review of such contested action, but only after first exhausting the applicable review process furnished by the relevant program provider and within thirty (30) days of that program provider's review determination.

(2) The department may accept or deny a request for its review in whole or in part, at its sole discretion. Any department review will be in the manner determined appropriate by the department and may include, but shall not necessarily be limited to review of provided information.

(3) If the department accepts the review request, the requester of the review, the program provider, and the local service provider shall produce all information required by the department, including requested affidavits or testimony.

(4) The department may make a determination on a review request and require such remedial action as the department determines, in its sole discretion, to be appropriate.

(5) Department review shall not take the form of a contested case review under ORS Chapter 183 unless specifically so stated by the director in writing.

(6) Timely request for department review by an aggrieved person or entity, and its completion to final order by the department, are requirements for exhaustion of administrative remedies by such aggrieved person or entity.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 456.625 & 458.525 - 458.545
Hist.: OHCS 8-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

Rule Caption: Adds purpose and amends the definitions, requirements and administration of the Oregon Energy Assistance Program

Adm. Order No.: OHCS 9-2014(Temp)

Filed with Sec. of State: 1-27-2014

Certified to be Effective: 1-27-14 thru 7-25-14

Notice Publication Date:

Rules Adopted: 813-202-0001, 813-202-0008, 813-202-0017, 813-202-0019, 813-202-0070

Rules Amended: 813-202-0005, 813-202-0010, 813-202-0020, 813-202-0030, 813-202-0040, 813-202-0050, 813-202-0060

Rules Suspended: 813-202-0015

Subject: The Oregon Energy Assistance Program provides low-income households with electric bill payment assistance. The proposed rules add a purpose statement, provides consistent definitions for common terms, provides clarification by removing language that is better defined within the program manual, adds compliance requirements and modifies the responsibilities of energy suppliers to be in compliance with current requirements.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-202-0001

Purpose

OAR chapter 813, division 202, is promulgated to carry out the Oregon Energy Assistance Program. The purpose of the program is to provide low-income households with electric bill payment assistance. Funding is generated from all categories of customers receiving electricity services through investor-based electricity providers in Oregon.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 456.587, 458.505, 757.612 & 757.617
Hist.: OHCS 9-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

ADMINISTRATIVE RULES

813-202-0005

Definitions

All terms used in OAR chapter 813, division 202, are defined in the act, in 813-005-0005, and in this 813-202-0005. As used in OAR 813, division 202, unless the context indicates otherwise:

(1) "Administrative costs" means all program costs that are not directly related to delivery of program services.

(2) "Community action agency" or "CAA" means a private non-profit corporation organized under ORS Chapter 65, or an office, division or agency of a political subdivision designated by the U.S. Department of Health and Human Services as a community action agency pursuant to the Economic Opportunity Act of 1964, which meets the requirements outlined in ORS 458.505(4).

(3) "Department" means the Housing and Community Services Department for the state of Oregon.

(4) "DHS" means the Department of Human Services for the state of Oregon.

(5) "Energy assistance" means the services provided under the program and may include energy bill payment assistance and client education.

(6) "Energy assistance payments" means payments for the energy costs of eligible households made to energy suppliers or eligible households.

(7) "Energy costs" means costs related to the use of electricity within the dwelling unit of a household participating in the program.

(8) "Expenditure area" means the utility service territory of the originating utility. This expenditure area may include multiple counties.

(9) "Funding agreement" means that master grant agreement or other written agreement, together with all incorporated documents and references, to be executed by and between the department and subgrantee agencies in form and substance satisfactory to the department as a condition precedent for receipt of program funding from the department.

(10) "Funding application" means a subgrantee agency's application to the department for program funds.

(11) "Home energy supplier" means a utility company that provides electricity continuously via wires as the sources of residential energy.

(12) "Household" means any individual living alone, a family with or without children, or group of individuals who are living together as one economic unit and who purchase residential energy in common.

(13) "Household Income" means the total annual household receipts before taxes from all sources. Income does not include assets or funds over which the applicant has no control.

(14) "OEAP" or "program" means the Oregon Energy Assistance Program administered by the department.

(15) "OEAP manual" or "manual" means the Oregon Energy Assistance program manual incorporated herein by reference.

(16) "OPUS" means the energy assistance database.

(17) "Oregon median income" means the median income in Oregon, based on the guideline for the non-farm population of the state of Oregon produced by the U.S. Department of Health and Human Resources.

(18) "Originating utility" means the utility company from which the funds being expended under the program were collected.

(19) "Program requirements" means all funding agreement terms and conditions, department directives (including deficiency notices), and applicable state, local, and federal laws and regulations (including these rules, other applicable department rules, and the manual), executive orders, local ordinances and codes.

(20) "Program services" means any or all program services, assistance, or other activities.

(21) "Service area" means the specific geographic area or region within which a local subgrantee agency provides program services.

(22) "Subgrantee agency" or "agency" means a private nonprofit corporation organized under ORS Chapter 65, a housing authority established under ORS 456.055 to 456.235, or a local government as defined in ORS 197.015 with whom the department has contracted to administer program services at the local level.

(23) "Utility service territory" means the geographic area in Oregon in which a utility provides electricity service.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.587, 458.505, 757.612 & 757.617

Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03; OHCS 9-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-202-0008

Subgrantee Agency Program Application; Contracting

(1) The department may contract with subgrantee agencies to provide program services at the local level. In a service area where a community

action agency exists, the community action agency has a conditional right of first refusal to serve as the subgrantee agency.

(2) The department normally will fund only one subgrantee agency within any service area. However, the department may, in its sole discretion, allow two or more subgrantee agencies to operate within a common service area. In such cases the subgrantee agencies shall enter into a written agreement with the department, satisfactory to the department in its sole discretion, in order, inter alia, to insure full access to program services for all eligible households within the service area to the extent of available funding and to prevent duplication of services.

(3)(a) In order to be eligible to administer the program at the local level, subgrantee agencies normally must submit, on a biennial basis, a funding application (including a work plan,) which the department must approve before it is operative.

(b) Funding applications must meet all requirements established by the department, to the department's satisfaction, for the form and content of the application, including the work plan (which the department may modify or decline).

(c) Funding applications will be evaluated by the department for sufficiency with respect to application and other program requirements.

(d) In cases where a community action agency has the conditional right of first refusal for antipoverty program administration, and the community action agency cannot meet the sufficiency requirements for the form and content of the funding application as determined by the department in its sole discretion, the department may allow other eligible organizations to submit a funding application with respect to that service area.

(4) Subgrantee agencies must execute a funding agreement with the department, satisfactory to the department in its sole discretion, in order to receive program funding and administer the program within its service area.

(5) If a subgrantee agency subcontracts with other organizations for the delivery of program services within its service area, it must require and provide by contract that such other organizations shall adhere to and be subject to the terms and conditions of the subgrantee agency's funding agreement with the department and other program requirements, including but not limited to records retention and reporting, department monitoring, and department remedial action.

(6) The department normally will allocate program funds to service areas through a formula established by the department prior to the allocation process. However, the department reserves the right to modify the formula at any time, at its sole discretion.

(7) The department may otherwise initiate a program funding award with a subgrantee agency.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.587, 458.505, 757.612 & 757.617

Hist.: ; OHCS 9-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-202-0010

Administration

(1)(a) Subgrantee agencies shall comply with the terms of the funding agreement and all other program requirements, including but not limited to department directives (including deficiency notices), applicable local, state and federal laws, rules (including the manual), regulations, executive orders, local ordinances and codes.

(b) Subgrantee agencies shall familiarize themselves with and adhere to procedures outlined in the manual. These procedures, inter alia, describe the methods for accurate completion of intake documentation and entry of the resultant data into OPUS or other department-approved data system, for authorizing program payments, for paying energy suppliers and clients, for making and reporting program funding request draws, and for end-of-year and other program reporting to the department.

(c) Subgrantee agencies shall attend and participate in program training made available or conducted by the department.

(2) Subgrantee agencies shall take applications for program services from households, verify household eligibility and contract with and monitor energy suppliers to determine that household clients are both eligible and receiving appropriate program services – all in a manner consistent with program requirements and satisfactory to the department.

(3) Subgrantee agencies shall make good faith attempts satisfactory to the department to recover any overpayment of program funds made to a household client, energy supplier, or otherwise.

(4)(a) Subgrantee agencies may expend up to an amount authorized by the department in writing for reimbursement of reasonable and appropriate administrative costs.

(b) If a subgrantee agency subcontracts with other organizations to provide program services, that organization may expend up to an amount

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for administrative costs that does not exceed its proportionate share of the amount authorized by the department for reasonable and appropriate administrative costs of the funding award.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 456.587, 458.505, 757.612 & 757.617
Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03; OHCS 9-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-202-0015

Responsibilities of Local Service Providers

(1) Local service providers shall provide Program services to or on behalf of those households and residents within its service area. Local service providers shall take applications, verify the income of applicants, complete payment authorizations and contract with and monitor energy suppliers to ensure that eligible households within their service areas receive proper benefits and services. Local service providers are responsible to ensure that disbursed funds are expended in the utility service territory of the Originating Utility.

(2) Local service providers are responsible to ensure funds are disbursed in a timely manner. Funds not expended by a local service provider in a timely manner are subject to being reallocated and redistributed to statewide service providers of the Originating Utilities for distribution within the utility service territory of these Originating Utilities.

(3) Local service providers shall attempt to recover overpayments made to energy suppliers on behalf of eligible households within their service areas. When recovery from an energy supplier is not possible, the name and social security number of the customer receiving unrecovered overpayments shall be turned over by OHCS to the Oregon Department of Revenue for recovery through the Set Off Individual Liability (SOIL) program.

Stat. Auth.: ORS 184, 456.555, 757.612 & 757.617
Stats. Implemented: ORS 456.555
Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03; Suspended by OHCS 9-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-202-0017

Recordkeeping and Reporting

(1) Subgrantee agencies shall maintain accurate financial records satisfactory to the department, which document, inter alia, the receipt and disbursement of all funds provided through the program by the department, and have an accounting system in place satisfactory to the department, which meets, inter alia, generally accepted accounting principles.

(2) Subgrantee agencies also shall maintain other program records satisfactory to the department, which document, inter alia, client eligibility, receipt of allowable program services, termination of services and the bases for same, housing status of clients, administrative actions, contracts with subcontractors, review of subcontractor performance, action taken with respect to deficiency notices, and any review proceedings. Such records shall be in substance and format satisfactory to the department.

(3) Subgrantee agencies also shall provide the department with reports, data, and financial statements, in form and substance satisfactory to the department, as may be required under the manual or requested by the department.

(4)(a) Subgrantee agencies shall make all program records available to the department, the Oregon Secretary of State's Office, the federal government (if applicable), and their duly authorized representatives for inspection and copying.

(b) Subgrantee agencies and their contractors shall cooperate fully in any inspections or other monitoring actions taken by the department, the Oregon Secretary of State's Office, the federal government (if applicable), and their duly authorized representatives.

(c) Subgrantee agencies shall retain and keep accessible all such program records for a minimum of five (5) years, or such longer period as may be required by applicable law, following final payment and termination of program involvement, or until the conclusion of any audit, controversy or litigation arising out of or related to the program, whichever date is later.

(5) Subgrantee agencies shall timely and accurately collect and report eligible household data to the department through the use of OPUS. Such data collection and reporting shall be satisfactory to the department.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 456.587, 458.505, 757.612 & 757.617
Hist.: OHCS 9-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-202-0019

Compliance Monitoring; Remedies

(1) The department may conduct reviews, audits, and other compliance monitoring as it deems appropriate with respect to each subgrantee agency and its subcontractors, inter alia, to assure compliance with program

requirements. Subgrantee agencies and their subcontractors shall cooperate fully with the department in its compliance monitoring.

(2)(a) The department may take such remedial action as it deems appropriate including, but not limited to terminating its funding agreement with a subgrantee agency and requiring repayment of all program funding, if it determines (in its sole discretion) that the performance of the subgrantee agency or any of its subcontractors is deficient in any manner, including with respect to program requirements.

(b) The department may, but is not required to issue deficiency notices and require the subgrantee agency to correct such deficiencies in a manner satisfactory to the department within a period of time designated by the department. If any such deficiency notices are issued, the subgrantee shall fully correct such deficiencies to the department's satisfaction within the time specified.

(c) Issuance of a deficiency notice shall not constitute a waiver of other remedies available to the department or preclude the department from exercising such other remedies available to it under the funding agreement or other program requirements, at law or otherwise.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 456.587, 458.505, 757.612 & 757.617
Hist.: OHCS 9-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-202-0020

Client Eligibility

(1) A household must satisfy program requirements, including as outlined in the manual in order to be eligible to receive program services. Program requirements include, but are not limited to:

(a) Meeting income guidelines for the program, as described in the manual; and

(b) Demonstrating an energy burden, as defined in the manual.

(2) The period of time relevant to the determination of a household's eligibility is not be more than the past 12 months and not less than the 30 days immediately preceding the date of application by the household for program services, unless the department gives its prior approval to a modification of such time period.

(3) A renter household or homeowner may apply for program services.

(4) An applicant is not eligible for program services if the applicant lives in an institutional facility as that term is described in the manual.

(5) A resident of subsidized housing may apply for program services consistent with program requirements and as provided in the manual.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 456.587, 458.505, 757.612 & 757.617
Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03; OHCS 3-2005(Temp), f. & cert. ef. 11-9-05 thru 5-8-06; Administrative correction 7-21-06; OHCS 9-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-202-0030

Program Services

(1) Subgrantee agencies shall provide program services to eligible households to the extent of available funding, subject to compliance with manual and other program requirements.

(2) Subgrantee agencies shall prioritize providing program services to eligible households that are in danger of having electricity service disconnected.

(3) Subgrantee agencies shall help applicants determine the program services that are most appropriate for the applicant.

(4) The following program services may be provided to eligible households to the extent of program funding:

(a) Regular energy assistance, including payments to energy suppliers for the energy costs of eligible households.

(b) Emergency energy assistance approved before disbursement by an authorized person other than an intake worker on behalf of the subgrantee agency. Households eligible for emergency energy assistance payments include households with annual energy costs exceeding 20 percent of household income, and households that suffer a serious, unexpected financial hardship.

(c) Client education designed to help household clients effectively reduce energy. Consumption may be provided to the extent of available program funding.

(5) Households in similar circumstances shall receive similar benefits to the extent of available program funding.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 456.587, 458.505, 757.612 & 757.617
Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03; OHCS 9-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

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813-202-0040

Limitation on Energy Assistance Payments

Energy assistance payments are limited to the amount of funds made available under ORS 757.612(7)(b)(c) and (d) and as outlined in the OEAP manual.

Stat. Auth.: ORS 184& 456.555

Stats. Implemented: ORS 456.587, 458.505, 757.612 & 757.617

Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03; OHCS 9-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-202-0050

Coordination with Home Energy Suppliers

(1) Subgrantee agencies must execute a contract with a home energy supplier in order for the home energy supplier to receive an energy assistance payment under the program.

(2) Subgrantee agencies must use a contract template provided or approved by the department in fulfillment of its obligations under subsection (1) hereof.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03; OHCS 9-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-202-0060

Administrative Hearings; Review of Subgrantee Action

(1) Subgrantee agencies shall provide a review process satisfactory to the department for persons aggrieved by agency action or inaction with respect to program obligations.

(2) The subgrantee agency must inform the department in writing of any request by an aggrieved party for review of subgrantee agency action within ten (10) days of such request.

(3) The subgrantee agency must inform the department and the aggrieved party in writing of any final review determination made by the subgrantee agency, and the basis for same, within ten (10) days of such final determination.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.587, 458.505, 757.612 & 757.617

Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03; OHCS 9-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-202-0070

Department Review

(1) Persons aggrieved by an action of a subgrantee agency with respect to its program obligations may submit a written request to the department for its review of such contested action, but only after first exhausting the applicable review process furnished by the relevant subgrantee agency and within thirty (30) days of that agency review determination.

(2) The department may accept or deny a request for its review in whole or in part, at its sole discretion. Any department review will be in the manner determined appropriate by the department and may include, but shall not necessarily be limited to review of provided information.

(3) If the department accepts the review request, the requester of the review, the subgrantee agency, and relevant contractors shall produce all information required by the department, including requested affidavits or testimony.

(4) The department may make a determination on a review request and require such remedial action as the department determines, in its sole discretion, to be appropriate.

(5) Department review shall not take the form of a contested case review under ORS Chapter 183 unless specifically so stated by the director in writing.

(6) Timely request for department review by an aggrieved person or entity, and its completion to final order by the department, are requirements for exhaustion of administrative remedies by such aggrieved person or entity.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.587, 458.505, 757.612 & 757.617

Hist.: OHCS 9-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

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Rule Caption: Amends the definitions, program requirements and administration of the Emergency Food Assistance Program.

Adm. Order No.: OHCS 10-2014(Temp)

Filed with Sec. of State: 1-27-2014

Certified to be Effective: 1-27-14 thru 7-25-14

Notice Publication Date:

Rules Adopted: 813-220-0080

Rules Amended: 813-220-0001, 813-220-0005, 813-220-0010, 813-220-0015, 813-220-0020, 813-220-0030, 813-220-0050, 813-220-0060

Rules Suspended: 813-220-0070

Subject: The Emergency Food Assistance Program provides lower income households in Oregon with food for their home use. The proposed rules clarify the purpose of the program, amend the definitions to provide clear and consistent definitions for common terms, standardizes and aligns language to be consistent with other department rules, and adds language regarding remedies available when a subgrantee fails to comply with any stipulated material obligation. The waiver rule has been repealed as this language has been included in the department's general rules. Other amendments within the rules are administrative in nature and are for clarification.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-220-0001

Purpose and Objectives

OAR chapter 813, division 220, is promulgated to accomplish the general purpose of ORS 458.505 to 458.545, and more specifically 458.525 to 458.530, which designates the Oregon Housing and Community Services Department as the lead agency in administration of the Emergency Food Assistance Program. The program is designed to coordinate state efforts in meeting the problem of hunger through a network of local service-provider agencies. The department has designated the Oregon Food Bank (OFB) as the entity responsible for coordinating the distribution of FNS commodities in Oregon in accordance program requirements. The program's purpose is to provide lower-income households in Oregon with food for their home use.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.525 - 458.545

Hist.: OHCS 3-2003, f. & cert. ef. 5-12-03; OHCS 3-2008, f. & cert. ef. 3-31-08; OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-220-0005

Definitions

All terms used in OAR chapter 813, division 220, are defined in the Act, and in OAR 813-005-0005. As used in OAR chapter 813, division 220, unless otherwise indicated by the context:

(1) "Eligible services" means services provided in accordance with the rules and regulations governing the program.

(2) "FNS" means Food and Nutrition Services (FNS), a division of USDA.

(3) "FNS commodities" means food and other related commodities provided to low-income households under the program.

(4) "Low income household" means a household with an income at or below 185 percent of the federal poverty line.

(5) "Program" or "Emergency Food Assistance program" means the Emergency Food Assistance Program authorized by Public Law 98-8 and as extended by Public Law 98-92.

(6) "Regional Food Bank" or "RFB" means any public agency or non-profit private entity that has subcontracted with the Oregon Food Bank to relieve situations of hunger through distribution of FNS commodities to local designated food assistance programs such as congregate meal sites, temporary shelters and emergency food pantries.

(7) "Oregon Food Bank" or "OFB" means the nonprofit private organization designated by the department to coordinate the distribution of FNS commodities in Oregon.

(8) "Storage and distribution funds" means direct funds incurred by the department, OFB and/or RFB for the operation of the program, including but not limited to, intrastate storage and distribution of FNS commodities.

(9) "USDA" means the United States Department of Agriculture.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.525 - 458.545

Hist.: HR 2-1983(Temp), f. & ef. 7-28-83; HR 1-1984, f. & ef. 5-30-84; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0000; HSG 8-1993, f. & cert. ef. 10-1-93; OHCS 3-2003, f. & cert. ef. 5-12-03, Renumbered from 813-220-0000; OHCS 3-2008, f. & cert. ef. 3-31-08; OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-220-0010

Administration

(1) The department has, through the master grant agreement, designated the OFB, a nonprofit corporation organized under ORS chapter 65, as the program's responsible agency to distribute FNS commodities statewide.

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(2) OFB may select and subcontract with RFBs to carry out program activities at the local level.

(3) The reimbursement of federal funds shall be paid by the department to the OFB. OFB in consultation with OHCS will calculate the proportionate share of the moneys received from the department as reimbursement for program storage and distribution funds.

(4) OFB and its RFBs shall comply with all applicable state and federal rules and regulations.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.525 - 458.545
Hist.: HR 2-1983(Temp), f. & ef. 7-28-83; HR 1-1984, f. & ef. 5-30-84; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0005; HSG 8-1993, f. & cert. ef. 10-1-93; OHCS 3-2003, f. & cert. ef. 5-12-03; OHCS 3-2008, f. & cert. ef. 3-31-08; OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-220-0015

Requirements Imposed on RFBs

OFB and its RFBs are the responsible agencies designated for the distribution of food commodities and allocation of funds. Prior to providing services, OFB and the RFBs will have entered into an agreement for such distribution and receipt of program commodities. Specific terms and conditions for doing so include:

(1) Each distribution site must collect and maintain records for each household receiving the Emergency Food Assistance Program (TEFAP) commodities for home consumption. TEFAP records should contain:

(a) The name of household members receiving commodities,

(b) The address of the household (to the extent practicable, homeless persons, or people who have just arrived in the area, may not be able to provide an address),

(c) The number of persons in the household, and

(d) The basis for determining that the household is eligible to receive commodities for home consumption.

(A) No distribution site will collect Social Security numbers for households applying for the TEFAP program.

(B) No supporting documentation is required for an income eligibility determination for the TEFAP Program.

(2) All records must be retained for a period of three (3) years from the close of the federal fiscal year to which they pertain, or longer if related to an audit or investigation in progress. Records must be reasonably accessible at all time for use during management evaluation reviews, audits or investigations. OFB and their RFBs shall maintain records as required by federal and state rules in accordance with Federal Regulations 7 CFR 251.00 through 251-30.

(3) OFB and RFB agencies shall be responsible for the loss of USDA commodities including:

(a) Loss of commodities from improper distribution or use of any commodities or failure to provide proper storage, care, or handling.

(b) RFBs will need to immediately submit a claim to OFB and the department if the loss of the commodities value exceeds \$500.

(4) Under no circumstances shall program recipients be required to make any payments in money materials or services in connection with participation in this program.

Stat. Auth.: ORS 183 & 458.505 - 458.515
Stats Implemented: ORS 458.525 - 458.530
Hist.: OHCS 3-2003, f. & cert. ef. 5-12-03; OHCS 3-2008, f. & cert. ef. 3-31-08; OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-220-0020

Client Eligibility

(1) FNS commodities shall be made available to low income households. Participation in qualifying programs such as Supplemental Nutrition Assistance Program, Temporary Assistance to Low Income Families, Social Security Insurance, State General Assistance, Low-Income Energy Assistance and the Oregon Supplemental Income Program shall establish a household's eligibility under the program. A creditable indication of such participation is sufficient. No special letter or other special verifying document is required.

(2) Households may establish their eligibility to participate in the program through a credible self-declaration of income at or below 185 percent of the federal poverty line.

(3) Eligibility determinations are to be made in accordance with the federal income guidelines. Eligibility guidelines must, at a minimum, conform within the applicable federal guidelines at 7 CFR 251.5.

(a) Income for eligible households must meet the federal low-income guidelines set forth. Eligible households may receive commodities by signing a statement that declares that their income is at or below 185% of the federal income guidelines.

(b) Households must reside in the geographic location served by the distribution site at the time of applying for assistance, but length of residency shall not be used as an eligibility criterion. Households should not be denied service for the reason that they are in transit from one locality to another.

(4) Each distribution site must ensure that households demonstrate eligibility as described in subsection (3).

Stat. Auth.: ORS 183 & 458.505 - 458.515
Stats. Implemented: ORS 458.505 - 458.515
Hist.: HR 2-1983(Temp), f. & ef. 7-28-83; HR 1-1984, f. & ef. 5-30-84; HR 2-1985, f. & ef. 2-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0010; OHCS 3-2003, f. & cert. ef. 5-12-03; OHCS 3-2008, f. & cert. ef. 3-31-08; OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-220-0030

Allowable Services

(1) OFB and their RFBs will distribute FNS commodities to low income households through emergency food box programs, congregate meal sites, temporary shelters, and emergency food pantries.

(2) OFB and their RFBs may conduct outreach to under-served areas so that qualified households may obtain needed nutrition education and other support services.

(3) RFBs may publicize the availability of FNS commodities and distribute those commodities in their respective service areas in a manner such that a maximum number of qualified households are served.

Stat. Auth.: ORS 184 & 458.505 - 458.515
Stats. Implemented: ORS 458.505 - 458.515
Hist.: HR 1-1984, f. & ef. 5-30-84; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0015; HSG 8-1993, f. & cert. ef. 10-1-93; OHCS 3-2003, f. & cert. ef. 5-12-03; OHCS 3-2008, f. & cert. ef. 3-31-08; OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-220-0050

Fiscal Controls

(1) OFB and their RFBs will use funds made available under the federal guidelines at 7 CFR 251.8 for direct expenses associated with the distribution of USDA commodities and commodities secured from other sources to the extent that the commodities are ultimately distributed by eligible RFBs. OFB will furnish reports when and as required by OMB Circular A-133.

(2) Internal controls satisfactory to OHCS including, but not limited to, the use of vouchers and receipts to substantiate all expenditures will be maintained by the OFB and RFBs. OHCS may conduct monitoring of expenses and the accounting system as it determines appropriate. The OFB and RFBs shall cooperate fully with OHCS audits and investigations, including making all records available for inspection and copying.

(3) The OFB shall provide the department with an annual written audit of program and fiscal transactions satisfactory to the department within 9 months after the close of the fiscal audit period in accordance with OMB Circular A-133.

(4) Records of program activities and fiscal transactions shall be maintained by the OFB and their RFBs for a period of 3 years. These records shall be made available to federal, state and OFB monitoring staff upon request.

(5) The OFB and their RFBs shall insure that proper records are kept at all distribution sites.

(6) Fiscal reports and program reports, audit requirements, as well as storage and distribution funds for the month shall be maintained by the OFB.

(7) Each RFB shall provide monthly reports to the OFB in a format prescribed by the OFB and the department.

(8) Allowable administrative funds may be used to pay direct expenses associated with the distribution of commodities and appropriate commodities secured from other sources. Direct expenses include the following:

(a) Intrastate and interstate transport, storing, handling, repackaging, processing, and distribution of commodities.

(b) Funds associated with determination of eligibility, verification, and documentation.

(c) Funds of providing information to persons receiving USDA commodities concerning the appropriate storage and preparation of such commodities.

(d) Funds involved in publishing announcements of times and locations of distribution, and

(e) Funds of recordkeeping, auditing, and other administrative procedures required for program participation.

Stat. Auth.: ORS 184 & 458.505 - 458.515
Stats. Implemented: ORS 458.505 - 458.515

ADMINISTRATIVE RULES

Hist.: HR 2-1983(Temp), f. & ef. 7-28-83; HR 1-1984, f. & ef. 5-30-84; HR 2-1985, f. & ef. 2-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0025; HSG 8-1993, f. & cert. ef. 10-1-93; OHCS 3-2003, f. & cert. ef. 5-12-03; OHCS 3-2008, f. & cert. ef. 3-31-08; OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-220-0060

Monitoring

(1) The department will conduct on-site evaluations of the OFB each federal fiscal year and selectively monitor OFB's RFBs as determined to be appropriate. The department may conduct other on-site and records evaluations as it deems appropriate.

(2) Evaluations and reviews, as applicable, may include eligibility determinations, food ordering procedures, storage and warehousing practices, inventory controls, approval of distribution sites, reporting and recordkeeping requirements, civil rights policies, and copies of monitoring records of the RFB sub-distribution sites.

(3) If the department determines that OFB or its RFBs are not in compliance with applicable state or federal regulations, the department shall, within 30 working days of the close of the on-site evaluation, send OFB a corrective action notice that shall include at a minimum:

- (a) A description of the identified deficiency;
- (b) The possible causes of the deficiency;
- (c) The time frame within which that corrective action must be taken;

and

- (d) Any requirements for documenting corrective action taken.

Stat. Auth.: ORS 184 & 458.505 - 458.515

Stats. Implemented: ORS 458.505 - 458.515

Hist.: HR 2-1985, f. & ef. 2-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0030; HSG 8-1993, f. & cert. ef. 10-1-93; OHCS 3-2003, f. & cert. ef. 5-12-03; OHCS 3-2008, f. & cert. ef. 3-31-08; OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-220-0070

Waiver

The Director may waive or modify any requirements of OAR 813, division 220, unless such waiver or modification would violate applicable federal or state statutes or regulations.

Stat. Auth.: ORS 183 & 458.505 - 458.515

Stats Implemented: ORS 458.525 - 458.530

Hist.: OHCS 3-2003, f. & cert. ef. 5-12-03; Suspended by OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-220-0080

Compliance Monitoring; Remedies

If OHCS determines, in its sole discretion, that subgrantee has failed to comply timely with any material obligation under this agreement, including but not limited to any OHCS directive or term of a corrective (2013–2014 MGA Standard Terms & Conditions Page 7 of 14) action plan, OHCS may exercise any remedy available to it under this agreement, applicable law, or otherwise. Such remedies may include, but are not limited to:

- (1) Terminating any part or all of this agreement;
- (2) Modifying any NOA under this agreement;
- (3) Withholding and/or reducing grant funds;
- (4) Disallowing costs;
- (5) Suspending and/or recouping payments;
- (6) Appointing a receiver for the receipt and administration of grant funds under this agreement;
- (7) Requiring corrective action as it may determine to be appropriate;
- (8) Bringing suit or action in an appropriate forum for the enforcement of this agreement and any remedy, as well as the recovery of damages, including by temporary restraining order, injunction, specific performance or otherwise;
- (9) Debarring or otherwise limiting subgrantee's eligibility for other funding from OHCS;
- (10) Instituting criminal action for misstatements or fraud; and
- (11) Requesting investigation, audit and/or sanction by other governmental bodies.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.525 - 458.545

Hist.: OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

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Rule Caption: Amends the definitions, requirements and administration of the Emergency Housing Assistance Program.

Adm. Order No.: OHCS 11-2014(Temp)

Filed with Sec. of State: 1-27-2014

Certified to be Effective: 1-27-14 thru 7-25-14

Notice Publication Date:

Rules Amended: 813-046-0000, 813-046-0011, 813-046-0021, 813-046-0040, 813-046-0045, 813-046-0050, 813-046-0061, 813-046-0065, 813-046-0070, 813-046-0081

Rules Suspended: 813-046-0100

Subject: The Emergency Housing Account (EHA) establishes a program to assist homeless persons and those at-risk of becoming homeless. The proposed rule amendments clarify the program purpose, eligibility requirements and expands the eligible/targeted population. Language has been standardized to ensure consistency in definitions, for common requirements and to be consistent with the master grant agreement elements. Amendments change the reporting deadlines and the retention requirements for program records.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-046-0000

Purpose

OAR chapter 813, division 46, is promulgated to accomplish the general purposes of ORS 458.505 and 458.600 to 458.650, and particularly 458.650, which authorizes the department to establish a program to assist homeless persons and those at risk of becoming homeless by supplementing funding for existing local homeless programs or by enabling the establishment of new programs. Emergency housing assistance provided in accordance with this division to low-income and very-low-income homeless persons and those persons who are at risk of becoming homeless is intended to help them quickly regain stability in permanent housing after experiencing a housing crisis or homelessness.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505, 458.620 & 458.650

Hist.: HSG 5-1991(Temp), f. & cert. ef. 10-10-91; HSG 5-1992, f. & cert. ef. 6-16-92; OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; Renumbered from 813-046-0010; OHCS 3-2002, f. & cert. ef. 5-15-02; OHCS 11-2014(Temp), f. 1-27-14 thru 7-25-14

813-046-0011

Definitions

All words and terms that are used in OAR chapter 813, division 46, are defined in the act, and in 813-005-0005 and 813-005-0015 and below. As used in OAR chapter 813, division 46, unless the context indicates otherwise:

(1) "Account" means the Emergency Housing Account, a revolving account within the Oregon Housing Fund created under ORS 458.620.

(2) "Administrative costs" means all program costs that are not directly related to delivery of program services under OAR chapter 813, division 46.

(3) "Community action agency" means a private, nonprofit corporation organized under ORS Chapter 65, or an office, division or agency of a political subdivision designated as a community action agency pursuant to the Economic Opportunity Act of 1964 by the U.S. Department of Health and Human Services, which meets the requirements of 458.505(4).

(4) "Department" means the Housing and Community Services Department for the state of Oregon.

(5) "Emergency Housing Assistance Program operations manual" or "program manual" means the Emergency Housing Assistance Program operations manual as amended from time to time, incorporated herein by this reference.

(6) "Funding application" means a subgrantee agency's application to the department for a program grant.

(7) "HMIS" means the Homeless Management Information System.

(8) "Homeless" means an individual, family or household that lacks a fixed, regular and adequate nighttime residence in accordance with department categorical definitions contained in the program manual.

(9) "Household" means an individual living alone, a family with or without children or a group of individuals who are living together as one economic unit.

(10) "Household income" means the total household income from all sources before taxes. Income under this definition may be reduced by deductions allowed by the department. Income does not include assets or funds over which the applicant/household has no control.

(11) "HUD" means the U.S. Department of Housing and Urban Development.

(12) "Low-income household" means a household with an annual household income that is more than fifty (50) percent but at or below eighty (80) percent of the area median income based on HUD determined guidelines as adjusted for family size.

(13) "Program" means the Emergency Housing Assistance Program administered by the department in accordance with this division.

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(14) "Program requirements" means all funding agreement terms and conditions (including work plan objectives), department directives (including deficiency notices), and applicable state, local, and federal laws and regulations (including these rules and the program manual), executive orders, local ordinances and codes.

(15) "Program services" means emergency shelter, transitional housing, supportive housing services, rapid re-housing, homeless prevention services and data collection activities as further described by the department in its program manual.

(16) "Self-sufficiency" means meeting basic needs and achieving stability in areas including, but not limited to, housing, household income, nutrition and health care and accessing needed services.

(17) "Service area" means the specific geographic area or region within which a subgrantee agency provides program services directly or by contract.

(18) "Subcontractor" means a nonprofit corporation established under ORS Chapter 65, a housing authority established under ORS 456.055 to 456.235, or local government as defined in 197.015, contracting with a subgrantee agency to provide program services.

(19) "Subgrantee agency" means a private, nonprofit corporation organized under ORS Chapter 65, a housing authority established under 456.055 to 456.235, or a local government as defined in 197.015 with which the department has contracted to administer program services at the local level.

(20) "Very low-income household" means a household with an annual household income that is fifty (50) percent or less of the area median income based on HUD determined guidelines, adjusted for family size.

(21) "Work plan" or "plan" means the subgrantee agency's work plan for the use of program funds, which (as modified by the department) is part of its approved funding application, and included in its funding agreement with the department.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505, 458.620 & 458.650

Hist.: HSG 5-1991(Temp), f. & cert. ef. 10-10-91; HSG 5-1992, f. & cert. ef. 6-16-92; HSG 9-1994, f. & cert. ef. 11-9-94; OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; Renumbered from 813-046-0020; OHCS 3-2002, f. & cert. ef. 5-15-02; OHCS 11-2014(Temp), f. 1-27-14 thru 7-25-14

813-046-0021

Administration

(1) The department may contract with subgrantee agencies to provide program services at the local level. In a service area where a community action agency exists, the community action agency has a conditional right of first refusal to serve as the subgrantee agency for the service area.

(2) The department normally will allocate program funds to subgrantee agencies for the various service areas through a formula established by the department prior to the allocation process. The department reserves the right to modify such formula at any time at its sole discretion.

(3) A subgrantee agency may subcontract with other organizations that meet the requirements of ORS 458.505(4) to provide program services in the subgrantee agency's service area.

(4) A subgrantee agency shall identify potential applicants, certify eligibility and provide program services to eligible households within its service area.

(5) The department normally will fund only one subgrantee agency within any service area. However, the department may, in its sole discretion, allow two or more subgrantee agencies to operate within a common service area. In such cases, the subgrantee agencies shall enter into a written agreement with the department, satisfactory to the department in its sole discretion, in order, inter alia, to ensure full access to program services for all eligible households within the service area to the extent of available funding and to prevent duplication of services.

(6) The department may conduct reviews, audits, and other compliance monitoring - and take such remedial action - as it deems appropriate with respect to each subgrantee agency and its subcontractors, inter alia, to assure compliance with program requirements.

(7)(a) The department may take such remedial action as it deems appropriate including, but not limited to terminating its funding agreement with a subgrantee agency and requiring repayment of all program funding if it determines (in its sole discretion) that the performance of the subgrantee agency or any of its subcontractors is deficient in any manner, including with respect to program requirements.

(b) The department may, but is not required to issue deficiency notices and require the subgrantee agency to correct such deficiencies in a manner satisfactory to the department within a period of time designated by the department. If any such deficiency notices are issued, the subgrantee

agency shall fully correct such deficiencies to the department's satisfaction within the time specified.

(c) Issuance of a deficiency notice shall not constitute a waiver of other remedies available to the department or preclude the department from exercising such other remedies available to it under the funding agreement or other program requirements, at law or otherwise.

(8)(a) A subgrantee agency may expend up to an amount authorized by the department in writing for reimbursement of reasonable and appropriate administrative costs.

(b) If a subgrantee agency subcontracts with other organizations to provide program services, that organization may expend up to an amount for administrative costs that does not exceed the subgrantee agency's amount authorized by the department for reasonable and appropriate administrative costs of the funding award.

(c) The ultimate determination of reasonable and appropriate administrative costs is reserved to the department in its sole discretion.

(9) A subgrantee agency and its subcontractors shall comply with the terms of the funding agreement and all other program requirements, including but not limited to department directives (including deficiency notices), applicable local, state and federal laws, rules (including the program manual), regulations, executive orders, local ordinances and codes.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505, 458.620 & 458.650

Hist.: OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02; OHCS 11-2014(Temp), f. 1-27-14 thru 7-25-14

813-046-0040

Client Eligibility

(1) Program services will be available to low-income and very low-income households, including but not limited to veterans, persons more than 65 years of age, persons with disabilities, farmworkers, and Native Americans, that are homeless or at risk of being homeless and that are otherwise eligible.

(2) A subgrantee agency may consider a household's self-declaration or referral of a household from local, state or federal human service agencies, if no other verifiable documentation is available, to determine eligibility of that household for program services.

(3) A subgrantee agency will not require residency within its service area or legal status as client eligibility criteria.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505, 458.620 & 458.650

Hist.: HSG 5-1991(Temp), f. & cert. ef. 10-10-91; HSG 5-1992, f. & cert. ef. 6-16-92; OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02; OHCS 11-2014(Temp), f. 1-27-14 thru 7-25-14

813-046-0045

Use of Funds

(1) The department may provide program assistance in the form of a grant or other funding award to a subgrantee agency to provide the following program services directly or through contracts with other organizations:

(a) Emergency shelter and support services;

(b) Housing services designed to assist households to make the transition from homelessness to permanent housing and economic independence;

(c) Supportive housing services designed to enable persons to continue living in their own homes or to provide in-home services for persons for whom suitable programs do not exist in their geographic area;

(d) Programs that provide emergency payment of home payments, rents or utilities, and/or transitional housing capacity;

(e) Programs, activities and projects that expand emergency shelter, rapid re-housing and/or transitional housing capacity; and

(f) Department-required data collection including data entry into department-approved HMIS and client follow-up to determine performance outcomes.

(2) Subgrantee agencies may require all recipients of program services to participate in programs or activities that will increase household self-sufficiency.

(3) Program funds granted or otherwise awarded shall not be used by a subgrantee agency to replace funds currently being received from other sources, available or reasonably expected to be available to the subgrantee agency but may be used to supplement these other sources of funds or to support existing programs and establish new programs.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505, 458.620 & 458.650

Hist.: HSG 5-1991(Temp), f. & cert. ef. 10-10-91; HSG 5-1992, f. & cert. ef. 6-16-92; HSG 9-1994, f. & cert. ef. 11-9-94; OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02; Renumbered to 813-046-0045 by OHCS 1-2014, f. & cert. ef. 1-27-14; OHCS 11-2014(Temp), f. 1-27-14 thru 7-25-14

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813-046-0050

Funding Application

(1) Prior to providing any program services, a subgrantee agency shall submit on a biennial basis, a funding application satisfactory to the department, including a work plan, which must be approved by the department before being operative. The subgrantee agency shall adhere to the department's requirements and deadlines for obtaining approval of this funding application. All funding applications are subject to approval, including as modified by the department, or disapproval by the department.

(2) A subgrantee agency's funding application shall include details satisfactory to the department on how the subgrantee agency provided a meaningful opportunity for participation in the development of the work plan by local continuum of care, local service providers, advocates, clients, businesses, churches, citizens, governments and other interested stakeholders.

(3) Funding applications must meet all requirements established by the department for the form and content of the funding application. In cases where a community action agency has the conditional right of first refusal for antipoverty program administration, and the subgrantee agency cannot meet the requirements for the form and content of the funding application as determined by the department in its sole discretion, the department may allow other eligible organizations to submit a funding application with respect to that service area.

(4) Funding applications will be evaluated by the department for sufficiency with respect to application and other program requirements.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505, 458.620 & 458.650

Hist.: HSG 5-1991(Temp), f. & cert. ef. 10-10-91; HSG 5-1992, f. & cert. ef. 6-16-92; OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02; OHCS 11-2014(Temp), f. 1-27-14 thru 7-25-14

813-046-0061

Reporting and Recordkeeping

(1) Subgrantee agencies shall maintain accurate financial records satisfactory to the department, which document, inter alia, the receipt and disbursement of all funds provided through the program by the department; and have an accounting system in place satisfactory to the department, which meets, inter alia, generally accepted accounting principles.

(2) Subgrantee agencies also shall maintain other program records satisfactory to the department, which document, inter alia, client eligibility, receipt of allowable program services, termination of services and the bases for same, housing status of clients, administrative actions, contracts with subcontractors, review of subcontractor performance, action taken with respect to deficiency notices, and any administrative review proceedings. Such records shall be in substance and format satisfactory to the department.

(3) Subgrantee agencies shall provide the department with the following reports, in form and substance satisfactory to the department:

(a) Within twenty (20) days following the end of each calendar quarter, a program report detailing the progress made toward meeting the program performance measures and service delivery objective(s), and a fiscal report detailing all administrative and program costs;

(b) Within sixty (60) days after the close of the subgrantee agency's fiscal year, annual program and fiscal reports;

(c) Within sixty (60) days after the close of the program, final program and fiscal reports.

(4)(a) Subgrantee agencies and their subcontractors shall furnish representatives of the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives access to and permit copying of all books, accounts, documents, records and allow reasonable access to the project and other property pertaining to the program, at any such representative's request.

(b) Subgrantee agencies and their subcontractors shall cooperate fully in any inspections or other monitoring actions taken by the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives.

(c) Subgrantee agencies and their subcontractors shall retain and keep accessible all program records according to the retention as required by the state of Oregon or Oregon Housing and Community Services records retention, following final payment and termination of program involvement, or until the conclusion of any audit, controversy or litigation arising out of or related to their program involvement, whichever date is later.

(5) Subgrantee agencies shall ensure that data is reported, collected and organized accurately, timely, and otherwise in a manner satisfactory to the department, through the use of a department-approved HMIS.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505, 458.620 & 458.650

Hist.: OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02; OHCS 11-2014(Temp), f. 1-27-14 thru 7-25-14

813-046-0065

Compliance Monitoring; Subcontractor Obligations

(1) The department may from time to time audit or otherwise review a subgrantee agency's program activities and records as the department determines to be appropriate, inter alia, to verify compliance with program requirements.

(2) In addition to the requirement of subsection (1) of this section, a subgrantee agency is also subject to any specific audit requirement applicable to the program.

(3) Subgrantee agencies shall require by contract that their subcontractors comply with all program requirements, including but not limited to retention of records and department compliance monitoring and enforcement.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505, 458.620 & 458.650

Hist.: OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02; OHCS 11-2014(Temp), f. 1-27-14 thru 7-25-14

813-046-0070

Challenge of Subgrantee Action

(1) Local interest groups, service providers or others aggrieved by a subgrantee agency with respect to its program obligations may submit a written request to the department for its review of such contested action, but only after first exhausting the applicable administrative review process furnished by the relevant subgrantee agency and within thirty (30) days of that administrative review determination or refusal by the subgrantee agency to provide such administrative review determination.

(2) The department may accept or deny a request for its review in whole or in part, at its sole discretion. Any department review will be in the manner determined appropriate by the department and may include, but will not necessarily be limited to review of provided information.

(3) If the department accepts the review request, the requester of the review, the subgrantee agency, and relevant subcontractors will produce all information required by the department, including requested affidavits or testimony.

(4) The department may make a determination on a review request and require such remedial action as the department determines, in its sole discretion, to be appropriate.

(5) Department review will not take the form of a contested case review under ORS Chapter 183 unless specifically so stated by the director in writing.

(6) Timely request for department review by an aggrieved person or entity and its completion to final order by the department are requirements for exhaustion of administrative remedies by such aggrieved person or entity.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505, 458.620 & 458.650

Hist.: HSG 5-1991(Temp), f. & cert. ef. 10-10-91; HSG 5-1992, f. & cert. ef. 6-16-92; OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02; OHCS 11-2014(Temp), f. 1-27-14 thru 7-25-14

813-046-0081

Review By Subgrantee

(1) Subgrantee agencies will establish in writing a process satisfactory to the department that, in a timely manner, enables beneficiaries and applicants for program services to contest a determination by the subgrantee agency or its subcontractors that:

(a) Denies or limits the eligibility of a beneficiary or applicant for benefits or other assistance; or

(b) Terminates or modifies benefits or other assistance awarded by the subgrantee agency or subcontractor to a beneficiary.

(2) Persons aggrieved by the action of a subgrantee agency or its subcontractors described in subsection (1) may request administrative review of such action by the subgrantee agency within the time frame and pursuant to the process established by the subgrantee agency consistent with program requirements. At all times, the subgrantee agency will allow a minimum of thirty (30) days within which an aggrieved person may request review from the time of the contested action or the aggrieved person's reasonable discovery of such action, whichever is longer.

(3) The subgrantee agency will inform the department in writing of any request by an aggrieved party for administrative review within ten (10) days of such request.

(4) The subgrantee agency will inform the department and the aggrieved party in writing of any final administrative review determination

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made by the subgrantee agency, and the basis for same, within ten (10) days of such final determination.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620 & 458.650
Hist.: OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02; OHCS 11-2014(Temp), f. 1-27-14 thru 7-25-14

813-046-0100

Waiver

The Director may waive or modify any requirements of OAR 813, division 46, unless such waiver or modification would violate applicable federal or state statutes or regulations.

Stat. Auth.: ORS 458.620, 458.630 & 458.650
Stats. Implemented: ORS 458.650
Hist.: HSG 5-1991(Temp), f. & cert. ef. 10-10-91; HSG 5-1992, f. & cert. ef. 6-16-92; OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02; Suspended by OHCS 11-2014(Temp), f. 1-27-14 thru 7-25-14

Rule Caption: Renumbers rules to improve readability for participants of the State Homeless Assistance Program.

Adm. Order No.: OHCS 12-2014

Filed with Sec. of State: 1-27-2014

Certified to be Effective: 1-27-14

Notice Publication Date:

Rules Renumbered: 813-240-0030 to 813-240-0015

Subject: The State Homeless Assistance Program (SHAP) funds emergency shelters and the supportive services directly related to them in order to meet the emergency needs of the homeless. The proposed rule renumbering will improve the readability of the rules.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-240-0015

Use of Funds

(1) Eligible Services funded under this Program includes shelter and auxiliary activities designed to stabilize the housing situation of the participant or lead the participant out of the shelter. Such activities may include, but are not limited to, case management, nutritional assistance, personal hygiene and referral.

(2) Eligible Services obtained through the Program shall not be utilized for purposes of rent or house payment to prevent eviction or foreclosure.

(3) The Department may expend for Administrative Costs no more than five percent of the appropriation for this Program.

(a) A Subgrantee Agency may expend for Administrative Costs of the services and activities funded by the Program no more than ten percent of its funding award.

(b) If a Subgrantee Agency subcontracts with another organization to provide a Program service or activity, that organization may expend for Administrative Costs of the service and activity funded by the Program no more than five percent of its Program award.

Stat. Auth.: ORS 411 & 458.505 - 458.515
Stats. Implemented: ORS 458.505 - 458.515
Hist.: AFS 65-1985, f. & ef. 11-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 461-100-0015; HSG 10-1993, f. & cert. ef. 10-1-93; OHCS 6-2002, f. & cert. ef. 5-15-02; Renumbered from 813-240-0030 by OHCS 12-2014, f. & cert. ef. 1-27-14

Rule Caption: Amends the definitions, requirements and administration of the State Homeless Assistance Program.

Adm. Order No.: OHCS 13-2014(Temp)

Filed with Sec. of State: 1-27-2014

Certified to be Effective: 1-27-14 thru 7-25-14

Notice Publication Date:

Rules Amended: 813-240-0001, 813-240-0005, 813-240-0010, 813-240-0015, 813-240-0020, 813-240-0041, 813-240-0050, 813-240-0060, 813-240-0070, 813-240-0080

Rules Suspended: 813-240-0090

Subject: The State Homeless Assistance Program (SHAP) funds emergency shelters and the supportive services directly related to them in order to meet the emergency needs of the homeless. The proposed rule amendments rename the program, clarifies the program purpose, provides consistent definitions for common terms, clarifies and standardizes language to be consistent with other department programs, amends the reporting and records retention requirements,

and repeals the waiver rule which can now be found in the department's general rules.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-240-0001

Purpose

OAR chapter 813, division 240, is promulgated to accomplish the general purposes of ORS 458.505 to 458.545, and particularly 458.505, which designates the Housing and Community Services Department as the state agency responsible for administering state and federal antipoverty programs in Oregon. The State Homeless Assistance Program addressed in this division is one such program subject to department administration and has as its purpose the funding of emergency shelters and the supportive services directly related to them in order to meet the emergency needs of the homeless.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02; OHCS 13-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-240-0005

Definitions

All words and terms are used in OAR chapter 813, division 240, defined in the Act, in 813-005-0005 and in this 813-240-0005. As used in OAR chapter 813, division 240, unless the context indicates otherwise:

(1) "Administrative costs" means all program costs that are not directly related to delivery of eligible services under OAR chapter 813, division 240.

(2) "Community action agency" or "CAA" means a private, nonprofit corporation organized under ORS Chapter 65, or office, division or agency of a political subdivision designated as a community action agency pursuant to the Economic Opportunity Act of 1964, by the U.S. Department of Health and Human Services, which meets the requirements outlined in 458.505(4).

(3) "Department" means the Housing and Community Services Department for the state of Oregon.

(4) "Emergency shelter" means any appropriate facility that has the primary purpose of providing temporary or transitional shelter for the homeless in general or for specific populations of the homeless and the use of which does not require occupants to sign leases or occupancy agreements.

(5) "Funding application" means a subgrantee agency's application to the department for a program grant.

(6) "HMIS" means the Homeless Management Information System.

(7) "Homeless" means an individual, family or household that lacks a fixed, regular and adequate nighttime residence in accordance with Department categorical definitions. Categorical definitions are contained in the program operations manual.

(8) "Household" means an individual living alone, a family with or without children, or a group of individuals who are living together as one economic unit.

(9) "Program" means the State Homeless Assistance Program administered by the department.

(10) "Program costs" means those costs directly associated with eligible program services.

(11) "Program requirements" means all funding agreement terms and conditions (including work plan objectives), department directives (including deficiency notices), and applicable state, local, and federal laws and regulations (including these rules, other applicable department rules, and the manual), executive orders, local ordinances and codes.

(12) "Program services" means activities related to emergency shelter funding and operation including, but not limited to, operational costs, shelter conversion or rehabilitation, case management, other support services for clients and data collection.

(13) "Service area" refers to the specific geographic area or region within which a subgrantee agency provides program services directly or by contract.

(14) "State Homeless Assistance Program operations manual," "program manual" means the State Homeless Assistance Program Manual as amended from time to time, incorporated herein by this reference.

(15) "Subcontractor" means a nonprofit corporation established under ORS Chapter 65, a housing authority established under 456.055 to 456.235 or local government as defined in 197.015, contracting with a subgrantee agency to provide program services.

(16) "Subgrantee agency" means a private, nonprofit corporation organized under ORS Chapter 65; a housing authority established under

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456.055 to 456.235, or a local government as defined in 197.015 with which the department has contracted to administer program services at the local level.

(17) “Work plan” or “plan” means the subgrantee agency’s plan for the use of program funds as approved by the department, which is part of its approved funding application, and included in its funding agreement with the department.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505 - 458.515

Hist.: AFS 65-1985, f. & ef. 11-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 461-100-0000; HSG 10-1993, f. & cert. ef. 10-1-93; OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; Renumbered from 813-240-0000; OHCS 6-2002, f. & cert. ef. 5-15-02; OHCS 13-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-240-0010

Administration

(1) The department may contract with a subgrantee agency to provide program services at the local level. In a service area where a community action agency exists, the community action agency has a conditional right of first refusal to serve as the subgrantee agency for the service area.

(2) The department normally will allocate program funds to subgrantee agencies for the various service areas through a formula established by the department prior to the allocation process. However, the department reserves the right to modify such formula at any time at its sole discretion.

(3) A subgrantee agency may subcontract with other organizations that meet the requirements of ORS 458.505(4) to provide program eligible services in the subgrantee agency’s service area.

(4) Subgrantee shall identify those in need of shelter, certify their homeless status and provide eligible services including linkage with other services designed to meet longer-term needs.

(5) The department normally will fund only one subgrantee agency within any service area; however, the department may, in its sole discretion, allow two or more subgrantee agencies to operate within a common service area. In such cases, the subgrantee agencies shall enter into a written agreement with the department, satisfactory to the department in its sole discretion, in order, inter alia, to insure full access to program services for all eligible households within the service area to the extent of available funding and to prevent duplication of services.

(6) The department may conduct reviews, audits, and other compliance monitoring – and take such remedial action – as it deems appropriate with respect to each subgrantee agency and its subcontractors, inter alia, to assure compliance with program requirements.

(7)(a) The department may take such remedial action as it deems appropriate including, but not limited to terminating its funding agreement with a subgrantee agency and requiring repayment of all program funding, if it determines (in its sole discretion) that the performance of the subgrantee agency or any of its subcontractors is deficient in any manner, including with respect to program requirements.

(b) The department may, but is not required to issue deficiency notices and require the subgrantee agency to correct such deficiencies in a manner satisfactory to the department within a period of time designated by the department. If any such deficiency notices are issued, the subgrantee shall fully correct such deficiencies to the department’s satisfaction within the time specified.

(c) Issuance of a deficiency notice shall not constitute a waiver of other remedies available to the department or preclude the department from exercising such other remedies available to it under the funding agreement or other program requirements, at law or otherwise.

(8)(a) A subgrantee agency may expend up to an amount authorized by the department in writing for reimbursement of reasonable and appropriate administrative costs.

(b) If a subgrantee agency subcontracts with another organization to provide program services, that organization may expend up to an amount for administrative costs that does not exceed its proportionate share of the amount authorized by the department for reasonable and appropriate administrative costs of the funding award.

(9) A subgrantee agency and its subcontractors shall comply with the terms of the funding agreement and all other program requirements, including but not limited to department directives (including deficiency notices), applicable local, state and federal laws, rules (including the manual), regulations, executive orders, local ordinances and codes.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505 - 458.515

Hist.: AFS 65-1985, f. & ef. 11-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 461-100-0005; HSG 10-1993, f. & cert. ef. 10-1-93; OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02; OHCS 13-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-240-0015

Use of Funds

(1) The department may provide program assistance in the form of a grant or other funding award to a subgrantee agency to provide the following program services directly or through contracts with other organization(s):

(a) Emergency shelter operations including, but not limited to major rehabilitation, conversion or renovation of a building to serve as a homeless shelter. Property acquisition and new construction are not eligible uses of funds;

(b) Shelter resident support services designed to address participant barriers to housing or lead the participant out of the shelter. Such services may include, but are not limited to, case management, nutritional assistance, personal hygiene and referral; and

(c) Department required data collection including data entry into department approved HMIS and client follow-up to determine performance outcomes.

(2) Eligible services obtained through the program shall not be utilized for purposes of rent or house payment to prevent eviction or foreclosure.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505 - 458.515

Hist.: AFS 65-1985, f. & ef. 11-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 461-100-0015; HSG 10-1993, f. & cert. ef. 10-1-93; OHCS 6-2002, f. & cert. ef. 5-15-02; Renumbered from 813-240-0030 by OHCS 12-2014, f. & cert. ef. 1-27-14; OHCS 13-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-240-0020

Client Eligibility

(1) Program services shall be available to households that are certified by the subgrantee agency as homeless to the degree permitted by funding levels.

(2) A subgrantee agency may consider a household’s self-declaration or referral of a household from local, state or federal human service agencies, if no other verifiable documentation is available, to determine eligibility of that household for program services.

(3) Residency within a subgrantee agency’s service area shall not be an eligibility requirement.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: AFS 65-1985, f. & ef. 11-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 461-100-0010; OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02; OHCS 13-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-240-0041

Funding Application

(1) Prior to providing program services, a subgrantee agency shall submit on a biennial basis, a funding application satisfactory to the department, including a work plan, which must be approved by the department before being operative. The subgrantee agency shall adhere to the department’s requirements and deadlines for obtaining approval of this funding application. The funding application is subject to approval, including as modified by the department, or disapproval by the department.

(2) A subgrantee agency’s funding application shall include details satisfactory to the department on how the subgrantee agency provided a meaningful opportunity for participation in the development of the work plan by the local continuum of care, local service providers, advocates, clients, businesses, churches, governments and other interested stakeholders.

(3) Funding applications must meet all requirements established by the department for the form and content of the funding application. In cases where a community action agency has the conditional right of first refusal for antipoverty program administration, and the community action agency cannot meet the requirements for the form and content of the funding application as determined by the department in its sole discretion, the department may allow other eligible organizations to submit a funding application with respect to that service area.

(4) Funding applications will be evaluated by the department for sufficiency with respect to application and other program requirements.

Stat. Auth.: ORS 456.555

Stats Implemented: ORS 458.505

Hist.: OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02; OHCS 13-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-240-0050

Recordkeeping and Reporting

(1) Subgrantee agencies shall maintain accurate financial records satisfactory to the department, which document, inter alia, the receipt and disbursement of all funds provided through the program by the department,

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and have an accounting system in place satisfactory to the department, which meets, inter alia, generally accepted accounting principles.

(2) Subgrantee agencies also shall maintain other program records satisfactory to the department, which document, inter alia, client eligibility, receipt of allowable program services, termination of services and bases for same, housing status of clients, administrative actions, contracts with subcontractors, review of subcontractor performance, action taken with respect to deficiency notices, and any administrative review proceedings. Such records shall be in substance and format satisfactory to the department.

(3) Subgrantee agencies shall provide the department with the following reports, in form and substance satisfactory to the department:

(a) Within 20 days following the end of each calendar quarter, a program report detailing the progress made toward meeting the program performance measures and service delivery objective(s), and a fiscal report detailing all administrative and program costs;

(b) Within 60 calendar days after the close of the subgrantee agency's fiscal year, annual program and fiscal reports;

(c) Within 60 days after the close of the program, final program and fiscal reports.

(4)(a) Subgrantee agencies and their contractors shall make all program records available to the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives for inspection and copying.

(b) Subgrantee agencies and their contractors shall cooperate fully in any inspections or other monitoring actions taken by the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives.

(c) Subgrantee agencies shall retain and keep accessible all such program records for a minimum of 5 years, or such longer period as may be required by applicable law, following final payment and termination of program involvement, or until the conclusion of any audit, controversy or litigation arising out of or related to the program, whichever date is later.

(5) Subgrantee agencies shall timely and accurately collect and report eligible family household data to the department through the use of a department approved HMIS. Such data collection and reporting shall be satisfactory to the department.

Stat. Auth.: ORS 456.555
Stat. Implemented: ORS 458.505
Hist.: AFS 65-1985, f. & ef. 11-5-85; AFS 37-1988, f. 5-12-88, cert. ef. 5-12-88 (and corrected 5-18-88); HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 461-100-0025; HSG 10-1993, f. & cert. ef. 10-1-93; OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02; OHCS 13-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-240-0060

Compliance Monitoring; Subcontractor Obligations

(1) The department may from time to time audit or otherwise review a subgrantee agency's program activities and records as the department determines to be appropriate, inter alia, to verify compliance with program requirements

(2) In addition to the requirement of subsection (1) of this section, a subgrantee agency is also subject to any specific audit requirement applicable to the program.

(3) Subgrantee agencies shall require by contract that their subcontractors comply with all program requirements, including but not limited to retention of records and department compliance monitoring and enforcement.

Stat. Auth.: ORS 456.555
Stat. Implemented: ORS 458.505
Hist.: AFS 65-1985, f. & ef. 11-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 461-100-0030; HSG 10-1993, f. & cert. ef. 10-1-93; OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02; OHCS 13-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-240-0070

Challenge of Subgrantee Action

(1) Local interest groups, service providers or others aggrieved by a subgrantee agency with respect to its program obligations may submit a written request to the department for its review of such contested action, but only after first exhausting the applicable administrative review process furnished by the relevant subgrantee agency and within thirty (30) days of that administrative review determination.

(2) The department may accept or deny a request for its review in whole or in part, at its sole discretion. Any department review will be in the manner determined appropriate by the department and may include, but shall not necessarily be limited to review of provided information.

(3) If the department accepts the review request, the requester of the review, the subgrantee agency, and relevant contractors shall produce all

information required by the department, including requested affidavits or testimony.

(4) The department may make a determination on a review request and require such remedial action as the department determines, in its sole discretion, to be appropriate.

(5) Department review shall not take the form of a contested case review under ORS Chapter 183 unless specifically so stated by the director in writing.

(6) Timely request for department review by an aggrieved person or entity and its completion to final order by the department are requirements for exhaustion of administrative remedies by such aggrieved person or entity.

Stat. Auth.: ORS 456.555
Stat. Implemented: ORS 458.505
Hist.: OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02; OHCS 13-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-240-0080

Review by Subgrantee

(1) Subgrantee agencies shall establish in writing a process satisfactory to the department that, in a timely manner, enables beneficiaries of and applicants for program services to contest a determination by the subgrantee agency or its subcontractors that:

(a) Denies or limits the eligibility of a beneficiary or applicant for the benefits or other assistance; or

(b) Terminates or modifies benefits or other assistance awarded by the subgrantee agency or subcontractor to a beneficiary.

(2) Persons aggrieved by the action of a subgrantee agency or its subcontractors described in subsection (1) may request administrative review of such action by the subgrantee agency within the time frame and pursuant to the process established by the subgrantee agency consistent with program requirements. At all times, the subgrantee agency must allow a minimum of thirty (30) days within which an aggrieved person may request review from the time of the contested action or the aggrieved person's reasonable discovery of such action, whichever is longer.

(3) The subgrantee agency must inform the department in writing of any request by an aggrieved party for administrative review within ten (10) days of such request.

(4) The subgrantee agency must inform the department and the aggrieved party in writing of any final administrative review determination made by the subgrantee agency, and the basis for same, within ten (10) days of such final determination.

Stat. Auth.: ORS 456.555
Stat. Implemented: ORS 458.505
Hist.: OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02; OHCS 13-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

813-240-0090

Waiver

The Director may waive or modify any requirements of OAR 813, division 240, unless such waiver or modification would violate applicable federal or state statutes or regulations.

Stat. Auth.: ORS 411 & 458.505 - 458.515
Stat. Implemented: ORS 458.505
Hist.: OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02; Suspended by OHCS 13-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14

Rule Caption: Suspends temporary rules adopted on January 27, 2014 for the Emergency Housing Assistance Program.

Adm. Order No.: OHCS 14-2014(Temp)

Filed with Sec. of State: 2-10-2014

Notified to be Effective: 2-10-14 thru 7-27-14

Notice Publication Date:

Rules Suspended: 813-046-0000(T), 813-046-0011(T), 813-046-0021(T), 813-046-0040(T), 813-046-0045(T), 813-046-0050(T), 813-046-0061(T), 813-046-0065(T), 813-046-0070(T), 813-046-0081(T), 813-046-0100(T)

Subject: This action retroactively suspends the temporary rules adopted on January 27, 2014 for the Emergency Housing Assistance Program (EHA).

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-046-0000

Purpose

OAR chapter 813, division 46, is promulgated to accomplish the general purposes of ORS 458.505 and 458.600 to 458.650, and particularly 458.650, which authorizes the department to establish a program to assist

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homeless persons and those at risk of becoming homeless by supplementing funding for existing local homeless programs or by enabling the establishment of new programs. Emergency housing assistance provided in accordance with this division to low-income and very-low-income homeless persons and those persons who are at risk of becoming homeless is intended to help them quickly regain stability in permanent housing after experiencing a housing crisis or homelessness.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505, 458.620 & 458.650

Hist.: HSG 5-1991(Temp), f. & cert. ef. 10-10-91; HSG 5-1992, f. & cert. ef. 6-16-92; OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; Renumbered from 813-046-0010; OHCS 3-2002, f. & cert. ef. 5-15-02; OHCS 11-2014(Temp), f. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 14-2014(Temp), f. & cert. ef. 2-10-14 thru 7-27-14

813-046-0011

Definitions

All words and terms that are used in OAR chapter 813, division 46, are defined in the act, and in 813-005-0005 and 813-005-0015 and below. As used in OAR chapter 813, division 46, unless the context indicates otherwise:

(1) "Account" means the Emergency Housing Account, a revolving account within the Oregon Housing Fund created under ORS 458.620.

(2) "Administrative costs" means all program costs that are not directly related to delivery of program services under OAR chapter 813, division 46.

(3) "Community action agency" means a private, nonprofit corporation organized under ORS Chapter 65, or an office, division or agency of a political subdivision designated as a community action agency pursuant to the Economic Opportunity Act of 1964 by the U.S. Department of Health and Human Services, which meets the requirements of 458.505(4).

(4) "Department" means the Housing and Community Services Department for the state of Oregon.

(5) "Emergency Housing Assistance Program operations manual" or "program manual" means the Emergency Housing Assistance Program operations manual as amended from time to time, incorporated herein by this reference.

(6) "Funding application" means a subgrantee agency's application to the department for a program grant.

(7) "HMIS" means the Homeless Management Information System.

(8) "Homeless" means an individual, family or household that lacks a fixed, regular and adequate nighttime residence in accordance with department categorical definitions contained in the program manual.

(9) "Household" means an individual living alone, a family with or without children or a group of individuals who are living together as one economic unit.

(10) "Household income" means the total household income from all sources before taxes. Income under this definition may be reduced by deductions allowed by the department. Income does not include assets or funds over which the applicant/household has no control.

(11) "HUD" means the U.S. Department of Housing and Urban Development.

(12) "Low-income household" means a household with an annual household income that is more than fifty (50) percent but at or below eighty (80) percent of the area median income based on HUD determined guidelines as adjusted for family size.

(13) "Program" means the Emergency Housing Assistance Program administered by the department in accordance with this division.

(14) "Program requirements" means all funding agreement terms and conditions (including work plan objectives), department directives (including deficiency notices), and applicable state, local, and federal laws and regulations (including these rules and the program manual), executive orders, local ordinances and codes.

(15) "Program services" means emergency shelter, transitional housing, supportive housing services, rapid re-housing, homeless prevention services and data collection activities as further described by the department in its program manual.

(16) "Self-sufficiency" means meeting basic needs and achieving stability in areas including, but not limited to, housing, household income, nutrition and health care and accessing needed services.

(17) "Service area" means the specific geographic area or region within which a subgrantee agency provides program services directly or by contract.

(18) "Subcontractor" means a nonprofit corporation established under ORS Chapter 65, a housing authority established under ORS 456.055 to 456.235, or local government as defined in 197.015, contracting with a subgrantee agency to provide program services.

(19) "Subgrantee agency" means a private, nonprofit corporation organized under ORS Chapter 65, a housing authority established under 456.055 to 456.235, or a local government as defined in 197.015 with which the department has contracted to administer program services at the local level.

(20) "Very low-income household" means a household with an annual household income that is fifty (50) percent or less of the area median income based on HUD determined guidelines, adjusted for family size.

(21) "Work plan" or "plan" means the subgrantee agency's work plan for the use of program funds, which (as modified by the department) is part of its approved funding application, and included in its funding agreement with the department.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505, 458.620 & 458.650

Hist.: HSG 5-1991(Temp), f. & cert. ef. 10-10-91; HSG 5-1992, f. & cert. ef. 6-16-92; HSG 9-1994, f. & cert. ef. 11-9-94; OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; Renumbered from 813-046-0020; OHCS 3-2002, f. & cert. ef. 5-15-02; OHCS 11-2014(Temp), f. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 14-2014(Temp), f. & cert. ef. 2-10-14 thru 7-27-14

813-046-0021

Administration

(1) The department may contract with subgrantee agencies to provide program services at the local level. In a service area where a community action agency exists, the community action agency has a conditional right of first refusal to serve as the subgrantee agency for the service area.

(2) The department normally will allocate program funds to subgrantee agencies for the various service areas through a formula established by the department prior to the allocation process. The department reserves the right to modify such formula at any time at its sole discretion.

(3) A subgrantee agency may subcontract with other organizations that meet the requirements of ORS 458.505(4) to provide program services in the subgrantee agency's service area.

(4) A subgrantee agency shall identify potential applicants, certify eligibility and provide program services to eligible households within its service area.

(5) The department normally will fund only one subgrantee agency within any service area. However, the department may, in its sole discretion, allow two or more subgrantee agencies to operate within a common service area. In such cases, the subgrantee agencies shall enter into a written agreement with the department, satisfactory to the department in its sole discretion, in order, inter alia, to ensure full access to program services for all eligible households within the service area to the extent of available funding and to prevent duplication of services.

(6) The department may conduct reviews, audits, and other compliance monitoring - and take such remedial action - as it deems appropriate with respect to each subgrantee agency and its subcontractors, inter alia, to assure compliance with program requirements.

(7)(a) The department may take such remedial action as it deems appropriate including, but not limited to terminating its funding agreement with a subgrantee agency and requiring repayment of all program funding if it determines (in its sole discretion) that the performance of the subgrantee agency or any of its subcontractors is deficient in any manner, including with respect to program requirements.

(b) The department may, but is not required to issue deficiency notices and require the subgrantee agency to correct such deficiencies in a manner satisfactory to the department within a period of time designated by the department. If any such deficiency notices are issued, the subgrantee agency shall fully correct such deficiencies to the department's satisfaction within the time specified.

(c) Issuance of a deficiency notice shall not constitute a waiver of other remedies available to the department or preclude the department from exercising such other remedies available to it under the funding agreement or other program requirements, at law or otherwise.

(8)(a) A subgrantee agency may expend up to an amount authorized by the department in writing for reimbursement of reasonable and appropriate administrative costs.

(b) If a subgrantee agency subcontracts with other organizations to provide program services, that organization may expend up to an amount for administrative costs that does not exceed the subgrantee agency's amount authorized by the department for reasonable and appropriate administrative costs of the funding award.

(c) The ultimate determination of reasonable and appropriate administrative costs is reserved to the department in its sole discretion.

(9) A subgrantee agency and its subcontractors shall comply with the terms of the funding agreement and all other program requirements, including but not limited to department directives (including deficiency notices),

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applicable local, state and federal laws, rules (including the program manual), regulations, executive orders, local ordinances and codes.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620 & 458.650
Hist.: OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02; OHCS 11-2014(Temp), f. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 14-2014(Temp), f. & cert. ef. 2-10-14 thru 7-27-14

813-046-0040

Client Eligibility

(1) Program services will be available to low-income and very low-income households, including but not limited to veterans, persons more than 65 years of age, persons with disabilities, farmworkers, and Native Americans, that are homeless or at risk of being homeless and that are otherwise eligible.

(2) A subgrantee agency may consider a household's self-declaration or referral of a household from local, state or federal human service agencies, if no other verifiable documentation is available, to determine eligibility of that household for program services.

(3) A subgrantee agency will not require residency within its service area or legal status as client eligibility criteria.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620 & 458.650
Hist.: HSG 5-1991(Temp), f. & cert. ef. 10-10-91; HSG 5-1992, f. & cert. ef. 6-16-92; OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02; OHCS 11-2014(Temp), f. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 14-2014(Temp), f. & cert. ef. 2-10-14 thru 7-27-14

813-046-0045

Use of Funds

(1) The department may provide program assistance in the form of a grant or other funding award to a subgrantee agency to provide the following program services directly or through contracts with other organizations:

(a) Emergency shelter and support services;

(b) Housing services designed to assist households to make the transition from homelessness to permanent housing and economic independence;

(c) Supportive housing services designed to enable persons to continue living in their own homes or to provide in-home services for persons for whom suitable programs do not exist in their geographic area;

(d) Programs that provide emergency payment of home payments, rents or utilities, and/or transitional housing capacity;

(e) Programs, activities and projects that expand emergency shelter, rapid re-housing and/or transitional housing capacity; and

(f) Department-required data collection including data entry into department-approved HMIS and client follow-up to determine performance outcomes.

(2) Subgrantee agencies may require all recipients of program services to participate in programs or activities that will increase household self-sufficiency.

(3) Program funds granted or otherwise awarded shall not be used by a subgrantee agency to replace funds currently being received from other sources, available or reasonably expected to be available to the subgrantee agency but may be used to supplement these other sources of funds or to support existing programs and establish new programs.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620 & 458.650
Hist.: HSG 5-1991(Temp), f. & cert. ef. 10-10-91; HSG 5-1992, f. & cert. ef. 6-16-92; HSG 9-1994, f. & cert. ef. 11-9-94; OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02; Renumbered to 813-046-0045 by OHCS 1-2014, f. & cert. ef. 1-27-14; OHCS 11-2014(Temp), f. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 14-2014(Temp), f. & cert. ef. 2-10-14 thru 7-27-14

813-046-0050

Funding Application

(1) Prior to providing any program services, a subgrantee agency shall submit on a biennial basis, a funding application satisfactory to the department, including a work plan, which must be approved by the department before being operative. The subgrantee agency shall adhere to the department's requirements and deadlines for obtaining approval of this funding application. All funding applications are subject to approval, including as modified by the department, or disapproval by the department.

(2) A subgrantee agency's funding application shall include details satisfactory to the department on how the subgrantee agency provided a meaningful opportunity for participation in the development of the work plan by local continuum of care, local service providers, advocates, clients, businesses, churches, citizens, governments and other interested stakeholders.

(3) Funding applications must meet all requirements established by the department for the form and content of the funding application. In cases

where a community action agency has the conditional right of first refusal for antipoverty program administration, and the subgrantee agency cannot meet the requirements for the form and content of the funding application as determined by the department in its sole discretion, the department may allow other eligible organizations to submit a funding application with respect to that service area.

(4) Funding applications will be evaluated by the department for sufficiency with respect to application and other program requirements.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620 & 458.650
Hist.: HSG 5-1991(Temp), f. & cert. ef. 10-10-91; HSG 5-1992, f. & cert. ef. 6-16-92; OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02; OHCS 11-2014(Temp), f. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 14-2014(Temp), f. & cert. ef. 2-10-14 thru 7-27-14

813-046-0061

Reporting and Recordkeeping

(1) Subgrantee agencies shall maintain accurate financial records satisfactory to the department, which document, inter alia, the receipt and disbursement of all funds provided through the program by the department; and have an accounting system in place satisfactory to the department, which meets, inter alia, generally accepted accounting principles.

(2) Subgrantee agencies also shall maintain other program records satisfactory to the department, which document, inter alia, client eligibility, receipt of allowable program services, termination of services and the bases for same, housing status of clients, administrative actions, contracts with subcontractors, review of subcontractor performance, action taken with respect to deficiency notices, and any administrative review proceedings. Such records shall be in substance and format satisfactory to the department.

(3) Subgrantee agencies shall provide the department with the following reports, in form and substance satisfactory to the department:

(a) Within twenty (20) days following the end of each calendar quarter, a program report detailing the progress made toward meeting the program performance measures and service delivery objective(s), and a fiscal report detailing all administrative and program costs;

(b) Within sixty (60) days after the close of the subgrantee agency's fiscal year, annual program and fiscal reports;

(c) Within sixty (60) days after the close of the program, final program and fiscal reports.

(4)(a) Subgrantee agencies and their subcontractors shall furnish representatives of the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives access to and permit copying of all books, accounts, documents, records and allow reasonable access to the project and other property pertaining to the program, at any such representative's request.

(b) Subgrantee agencies and their subcontractors shall cooperate fully in any inspections or other monitoring actions taken by the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives.

(c) Subgrantee agencies and their subcontractors shall retain and keep accessible all program records according to the retention as required by the state of Oregon or Oregon Housing and Community Services records retention, following final payment and termination of program involvement, or until the conclusion of any audit, controversy or litigation arising out of or related to their program involvement, whichever date is later.

(5) Subgrantee agencies shall ensure that data is reported, collected and organized accurately, timely, and otherwise in a manner satisfactory to the department, through the use of a department-approved HMIS.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620 & 458.650
Hist.: OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02; OHCS 11-2014(Temp), f. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 14-2014(Temp), f. & cert. ef. 2-10-14 thru 7-27-14

813-046-0065

Compliance Monitoring; Subcontractor Obligations

(1) The department may from time to time audit or otherwise review a subgrantee agency's program activities and records as the department determines to be appropriate, inter alia, to verify compliance with program requirements.

(2) In addition to the requirement of subsection (1) of this section, a subgrantee agency is also subject to any specific audit requirement applicable to the program.

(3) Subgrantee agencies shall require by contract that their subcontractors comply with all program requirements, including but not limited to retention of records and department compliance monitoring and enforcement.

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Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620 & 458.650
Hist.: OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02; OHCS 11-2014(Temp), f. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 14-2014(Temp), f. & cert. ef. 2-10-14 thru 7-27-14

[Suspended by OHCS 11-2014(Temp), f. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 14-2014(Temp), f. & cert. ef. 2-10-14 thru 7-27-14]

813-046-0070

Challenge of Subgrantee Action

(1) Local interest groups, service providers or others aggrieved by a subgrantee agency with respect to its program obligations may submit a written request to the department for its review of such contested action, but only after first exhausting the applicable administrative review process furnished by the relevant subgrantee agency and within thirty (30) days of that administrative review determination or refusal by the subgrantee agency to provide such administrative review determination.

(2) The department may accept or deny a request for its review in whole or in part, at its sole discretion. Any department review will be in the manner determined appropriate by the department and may include, but will not necessarily be limited to review of provided information.

(3) If the department accepts the review request, the requester of the review, the subgrantee agency, and relevant subcontractors will produce all information required by the department, including requested affidavits or testimony.

(4) The department may make a determination on a review request and require such remedial action as the department determines, in its sole discretion, to be appropriate.

(5) Department review will not take the form of a contested case review under ORS Chapter 183 unless specifically so stated by the director in writing.

(6) Timely request for department review by an aggrieved person or entity and its completion to final order by the department are requirements for exhaustion of administrative remedies by such aggrieved person or entity.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620 & 458.650
Hist.: HSG 5-1991(Temp), f. & cert. ef. 10-10-91; HSG 5-1992, f. & cert. ef. 6-16-92; OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02; OHCS 11-2014(Temp), f. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 14-2014(Temp), f. & cert. ef. 2-10-14 thru 7-27-14

813-046-0081

Review By Subgrantee

(1) Subgrantee agencies will establish in writing a process satisfactory to the department that, in a timely manner, enables beneficiaries and applicants for program services to contest a determination by the subgrantee agency or its subcontractors that:

(a) Denies or limits the eligibility of a beneficiary or applicant for benefits or other assistance; or

(b) Terminates or modifies benefits or other assistance awarded by the subgrantee agency or subcontractor to a beneficiary.

(2) Persons aggrieved by the action of a subgrantee agency or its subcontractors described in subsection (1) may request administrative review of such action by the subgrantee agency within the time frame and pursuant to the process established by the subgrantee agency consistent with program requirements. At all times, the subgrantee agency will allow a minimum of thirty (30) days within which an aggrieved person may request review from the time of the contested action or the aggrieved person's reasonable discovery of such action, whichever is longer.

(3) The subgrantee agency will inform the department in writing of any request by an aggrieved party for administrative review within ten (10) days of such request.

(4) The subgrantee agency will inform the department and the aggrieved party in writing of any final administrative review determination made by the subgrantee agency, and the basis for same, within ten (10) days of such final determination.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505, 458.620 & 458.650
Hist.: OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02; OHCS 11-2014(Temp), f. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 14-2014(Temp), f. & cert. ef. 2-10-14 thru 7-27-14

813-046-0100

Waiver

The Director may waive or modify any requirements of OAR 813, division 46, unless such waiver or modification would violate applicable federal or state statutes or regulations.

Stat. Auth.: ORS 458.620, 458.630 & 458.650
Stats. Implemented: ORS 458.650
Hist.: HSG 5-1991(Temp), f. & cert. ef. 10-10-91; HSG 5-1992, f. & cert. ef. 6-16-92; OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02;

Rule Caption: Suspends temporary rules adopted January 27, 2014 for the Housing Stabilization Program.

Adm. Order No.: OHCS 15-2014(Temp)

Filed with Sec. of State: 2-10-2014

Certified to be Effective: 2-10-14 thru 7-25-14

Notice Publication Date:

Rules Suspended: 813-051-0000(T), 813-051-0010(T), 813-051-0020(T), 813-051-0030(T), 813-051-0040(T), 813-051-0050(T), 813-051-0060(T), 813-051-0070(T), 813-051-0080(T), 813-051-0090(T), 813-051-0100(T)

Subject: This action retroactively suspends the temporary rules adopted on January 27, 2014 for the Housing Stabilization Program.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-051-0000

Purpose and Objectives

OAR chapter 813, division 51 is promulgated to accomplish the general purposes of ORS 458.505 to 458.545, and particularly 458.505, which designates the Housing and Community Services Department as the state agency responsible for administering state and federal antipoverty programs in Oregon. The Housing Stabilization Program addressed in this division is one such program subject to department administration and has as its purpose the stabilization of safe, stable and affordable housing for eligible households that are homeless or at risk of becoming homeless through the provision of housing stabilization services. This program is partially funded through the Department of Human Services (DHS) and by agreement with DHS is administered by the department.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02; OHCS 4-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 15-2014(Temp), f. 2-10-14 thru 7-25-14

813-051-0010

Definitions

All words and terms that are used in OAR chapter 813, division 51 are defined in the act, and in 813-005-0005 and below. As used in OAR chapter 813, division 51, unless the context indicates otherwise:

(1) "Administrative costs" means all program costs that are not directly related to delivery of housing stabilization services under OAR chapter 813, division 51.

(2) "DHS" means the Department of Human Services for the state of Oregon.

(3) "Community action agency" or "CAA" means a private, nonprofit corporation organized under ORS chapter 65, or an office, division or agency of a political subdivision designated as a community action agency pursuant to the Economic Opportunity Act of 1964 by the Department of Health and Human Services, which meets the requirements of ORS 458.505(4).

(4) "Department" means the Housing and Community Services Department for the state of Oregon.

(5) "Funding application" means a subgrantee agency's application to the department for a program grant.

(6) "Household" means an individual or couple with an eligible dependent child or children living together as one low-income economic unit or a single low-income pregnant woman in the month before her due date as defined in the department program manual.

(7) "HMIS" means the Homeless Management Information System.

(8) "Homeless" means a household that lacks a fixed, regular and adequate residence in accordance with department categorical definitions. Categorical definitions are contained in the department program manual.

(9) "Household income" means the total household income from all sources before taxes, subject to being reduced by the amount of social security income and other deductions allowed by the department.

(10) "Housing stabilization program operations manual," "program manual" or "manual" means the Housing Stabilization Program manual as amended from time to time incorporated herein by this reference.

(11) "Low-Income" means total household income as defined in the department program manual.

(12) "Maintenance of effort" means nonfederal cash contributions used to supplement program services in an amount that equals the subgrantee agency's program allocation as defined in the department program manual.

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(13) “Program” means the Housing Stabilization Program administered by the department in accordance with this division.

(14) “Program requirements” means all funding agreement terms and conditions (including work plan objectives), department directives (including deficiency notices), and applicable state, local and federal laws and regulations (including these rules and the manual), executive orders, local ordinances and codes.

(15) “Program services” means temporary financial assistance or support services not exceeding a department-determined time limit provided pursuant to the Housing Stabilization Program and designed to address emergency non-recurrent needs that are preventing access by the household to and/or maintenance of safe, stable and affordable housing.

(16) “Service area” means the specific geographic area or region within which a subgrantee agency provides program services directly or by contract.

(17) “Subcontractor” means a nonprofit corporation established under ORS Chapter 65, a housing authority established under 456.055 to 456.235, or local government as defined in 197.015, contracting with a subgrantee agency to provide program services.

(18) “Subgrantee agency” means a private, nonprofit corporation organized under ORS Chapter 65, a housing authority established under 456.055 to 456.235, or a local government as defined in 197.015 with whom the department has contracted to administer program services at the local level.

(19) “Work plan” means the subgrantee agency’s plan for the use of program funds as approved by the department, which is part of its approved funding application and included in its funding agreement with the department.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02; OHCS 4-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 15-2014(Temp), f. 2-10-14 thru 7-25-14

813-051-0020 Administration

(1) The department may contract with subgrantee agencies to provide program services at the local level. In a service area where a community action agency exists, the community action agency has a conditional right of first refusal to serve as the subgrantee agency.

(2) The department will allocate program funds to service areas through a formula established by the department prior to the allocation process. However, the department reserves the right to modify such formula at any time in its sole discretion.

(3) A subgrantee agency may subcontract with other organizations that meet the requirements of ORS 458.505(4) to provide program housing stabilization services in the subgrantee agency’s service area.

(4) A subgrantee agency shall identify potential applicants, certify eligibility and provide housing stabilization services to eligible family households within its service area. Whenever appropriate, program participants will be assisted in accessing other services designed to meet other, longer-term needs.

(5) The department normally will fund only one subgrantee agency within any service area. However, the department may, in its sole discretion, allow two or more subgrantee agencies to operate within a common service area. In such cases the subgrantee agencies shall enter into a written agreement with the department, satisfactory to the department in its sole discretion, in order, inter alia, to insure full access to the program’s housing stabilization services for all eligible family households within the service area and to prevent duplication of services.

(6) The department may conduct reviews, audits, and other compliance monitoring — and take such remedial action — as it deems appropriate with respect to each subgrantee agency, inter alia, to assure compliance with program requirements.

(7)(a) The department may take such remedial action as it deems appropriate including, but not limited to terminating its funding agreement with a subgrantee agency and requiring repayment of all program funding, if it determines (in its sole discretion) that the performance of the subgrantee agency or any of its subcontractors is deficient in any manner, including with respect to program requirements.

(b) The department may, but is not required to issue deficiency notices and require the subgrantee agency to correct such deficiencies in a manner satisfactory to the department within a period of time designated by the department. If any such deficiency notices are issued, the subgrantee shall fully correct such deficiencies to the department’s satisfaction within the time specified.

(c) Issuance of a deficiency notice shall not constitute a waiver of other remedies available to the department or preclude the department from exercising such other remedies available to it under the funding agreement or other program requirements, at law or otherwise.

(8)(a) A subgrantee agency may expend up to an amount authorized by the department in writing for reimbursement of reasonable and appropriate administrative costs.

(b) If a subgrantee agency subcontracts with another organization to provide program services, that organization may expend up to an amount for administrative costs that does not exceed its proportionate share of the amount authorized by the department for reasonable and appropriate administrative costs of the funding award.

(9) A subgrantee agency and its subcontractors shall comply with the terms of the funding agreement and all other program requirements, including but not limited to department directives (including deficiency notices), applicable local, state and federal laws, rules (including the manual), regulations, executive orders, local ordinances and codes.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02; OHCS 4-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 15-2014(Temp), f. 2-10-14 thru 7-25-14

813-051-0030 Client Eligibility

(1) Program services shall be available to homeless individuals, families and households in accordance with department categorical definitions as defined in the department program manual and to the degree permitted by funding levels.

(2) A subgrantee agency may consider an eligible family household’s self-declaration or referral from local, state or federal human service agencies, if no other verifiable documentation is available, to determine applicant eligibility for housing stabilization services.

(3) Members of an eligible family household must be United States citizens or have qualified non-citizen status and be Oregon residents.

(4) An eligible family household may receive program services for a maximum length of time as determined by the department.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02; OHCS 4-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 15-2014(Temp), f. 2-10-14 thru 7-25-14

813-051-0040 Use of Funds

(1) The department may provide program assistance in the form of a grant or other funding award to a subgrantee agency to provide the following program services directly or through subcontracting with another organization(s):

(a) Housing-related costs including but not limited to moving, rent, utilities, home repairs and shelter;

(b) Auxiliary services including but not limited to employment-related expenses, transportation and education/training fees;

(c) Case management services; and

(d) Department-required data collection including data entry into a department approved HMIS and client follow-up to determine performance outcomes.

(2) Housing stabilization services provided to an eligible family household are subject to a maximum dollar amount limitation set by the department.

(3) Subgrantee agency shall supplement the program with maintenance of effort funding as required and approved by the department and in compliance with 45 CFR 263.2 through 263.6, 45 CFR 92.24 and 45 CFR 92.3. The department may allow third-party in-kind contributions towards the satisfaction of this requirement.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02; OHCS 4-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 15-2014(Temp), f. 2-10-14 thru 7-25-14

813-051-0050 Funding Application

(1) Prior to providing program services, a subgrantee agency shall submit, on a biennial basis, a funding application satisfactory to the department, including a work plan, which must be approved by the department before being operative. The subgrantee agency shall adhere to the department’s requirements and deadlines for obtaining approval of this applica-

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tion. A funding application is subject to approval, including as modified by the department, or disapproval by the department.

(2) A subgrantee agency's funding application shall include details satisfactory to the department on how the subgrantee agency provided a meaningful opportunity for participation in the development of the program work plan by local DHS branch offices(s), service providers, advocates, clients, businesses, churches, governments and other interested stakeholders.

(3) A subgrantee agency's funding application must meet all requirements established by the department for the form and content of the funding application. In cases where a community action agency has the conditional right of first refusal for antipoverty program administration, and the agency cannot meet the requirements for the form and content of the funding application as determined by the department in its sole discretion, the department may allow other eligible organizations to submit a funding application with respect to that service area.

(4) Funding applications will be evaluated by the department for sufficiency with respect to application and other program requirements.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02; OHCS 4-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 15-2014(Temp), f. 2-10-14 thru 7-25-14

813-051-0060

Recordkeeping and Reporting

(1) Subgrantee agencies shall maintain accurate financial records satisfactory to the department, which document, inter alia, the receipt and disbursement of all funds provided through the program by the department; and has an accounting system in place satisfactory to the department, which meets, inter alia, generally accepted accounting principles.

(2) Subgrantee agencies also shall maintain other program records satisfactory to the department, which document, inter alia, client eligibility, receipt of allowable program services, termination of services and bases for same, housing status of clients, administrative actions, contracts with subcontractors, review of subcontractor performance, action taken with respect to deficiency notices, and any administrative review proceedings. Such records shall be in substance and format satisfactory to the department.

(3) Subgrantee agencies shall provide the department with the following reports, in form and substance satisfactory to the department;

(a) Within 20 days following the end of each calendar quarter, a program report detailing the progress made toward meeting the program performance measures and service delivery objective(s), and a fiscal report detailing all administrative and program costs;

(b) Within 60 calendar days after the close of the subgrantee agency's fiscal year, annual program and fiscal reports;

(c) Within 60 days after the close of the program, final program and fiscal reports.

(4)(a) Subgrantee agencies and their contractors shall make all program records available to the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives for inspection and copying.

(b) Subgrantee agencies and their contractors shall cooperate fully in any inspections or other monitoring actions taken by the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives.

(c) Subgrantee agencies shall retain and keep accessible all such program records for a minimum of 5 years, or such longer period as may be required by applicable law, following final payment and termination of program involvement, or until the conclusion of any audit, controversy or litigation arising out of or related to the program, whichever date is later.

(5) Subgrantee agencies shall timely and accurately collect and report eligible family household data to the department through the use of a department approved HMIS. Such data collection and reporting shall be satisfactory to the department.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02; OHCS 4-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 15-2014(Temp), f. 2-10-14 thru 7-25-14

813-051-0070

Compliance Monitoring; Subcontractor Obligations

(1) The department may from time to time audit or otherwise review a subgrantee agency's program activities and records as the department determines to be appropriate, inter alia, to verify compliance with program requirements.

(2) In addition to the requirement of subsection (1) of this section, a subgrantee agency is also subject to any specific audit requirement applicable to the program.

(3) Subgrantee agencies shall require by contract that their subcontractors comply with all program requirements, including but not limited to retention of records and department compliance monitoring and enforcement.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02; OHCS 4-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 15-2014(Temp), f. 2-10-14 thru 7-25-14

813-051-0080

Challenge of Subgrantee Action

(1) Local interest groups, service providers or others aggrieved by a subgrantee agency with respect to its program obligations may submit a written request to the department for its review of such contested action, but only after first exhausting the applicable administrative review process furnished by the relevant subgrantee agency and within thirty (30) days of that administrative review determination.

(2) The department may accept or deny a request for its review in whole or in part, at its sole discretion. Any department review will be in the manner determined appropriate by the department and may include, but shall not necessarily be limited to review of provided information.

(3) If the department accepts the review request, the requester of the review, the subgrantee agency, and relevant contractors shall produce all information required by the department, including requested affidavits or testimony.

(4) The department may make a determination on a review request and require such remedial action as the department determines, in its sole discretion, to be appropriate.

(5) Department review shall not take the form of a contested case review under ORS Chapter 183 unless specifically so stated by the director in writing.

(6) Timely request for department review by an aggrieved person or entity and its completion to final order by the department are requirements for exhaustion of administrative remedies by such aggrieved person or entity.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02; OHCS 4-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 15-2014(Temp), f. 2-10-14 thru 7-25-14

813-051-0090

Review by Subgrantee

(1) Subgrantee agencies shall establish in writing a process satisfactory to the department that, in a timely manner, enables beneficiaries of and applicants for program services to contest a determination by the subgrantee agency or its subcontractors that:

(a) Denies or limits the eligibility of a beneficiary or applicant for the benefits or other assistance; or

(b) Terminates or modifies benefits or other assistance awarded by the subgrantee agency or subcontractor to a beneficiary.

(2) Persons aggrieved by the action of a subgrantee agency or its subcontractors described in subsection (1) may request administrative review of such action by the subgrantee agency within the time frame and pursuant to the process established by the subgrantee agency consistent with program requirements. At all times, the subgrantee agency must allow a minimum of thirty (30) days within which an aggrieved person may request review from the time of the contested action or the aggrieved person's reasonable discovery of such action, whichever is longer.

(3) The subgrantee agency must inform the department in writing of any request by an aggrieved party for administrative review within ten (10) days of such request.

(4) The subgrantee agency must inform the department and the aggrieved party in writing of any final administrative review determination made by the subgrantee agency, and the basis for same, within ten (10) days of such final determination.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02; OHCS 4-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 15-2014(Temp), f. 2-10-14 thru 7-25-14

ADMINISTRATIVE RULES

813-051-0100

Waiver

The Director may waive or modify any requirements of these rules in OAR 813, division 51, unless such waiver or modification would violate applicable federal or state statutes or regulations.

Stat. Auth.: ORS 458.505 - 458.545

Stats. Implemented: ORS 458.505 - 458.545

Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02; [Suspended by OHCS 4-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 15-2014(Temp), f. 2-10-14 thru 7-25-14]

Rule Caption: Suspends temporary rules adopted January 27, 2014 for the Low Income Rental Housing Program.

Adm. Order No.: OHCS 16-2014(Temp)

Filed with Sec. of State: 2-10-2014

Certified to be Effective: 2-10-14 thru 7-25-14

Notice Publication Date:

Rules Suspended: 813-049-0001(T), 813-049-0005(T), 813-049-0007(T), 813-049-0010(T), 813-049-0020(T), 813-049-0035(T), 813-049-0040(T), 813-049-0050(T), 813-049-0060(T)

Subject: This action retroactively suspends the temporary rules adopted on January 27, 2014 for the Low Income Rental Housing Program.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-049-0001

Purpose

The rules of OAR chapter 813, division 49 implement the Low Income Rental Housing Fund Program. This program is established for the purpose of applying funds that may be appropriated by the Legislative Assembly to the department for providing rental housing assistance to very low-income households, according to the legislative intent expressed in section 3(4), chapter 595, Oregon Laws 2011 (Enrolled House Bill 2710).

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.561, 456.625, 458.605 & 2011 OL Ch. 595, Sec. 3(4)

Hist.: HSG 13-1990(Temp), f. 10-26-90, cert. ef. 10-29-90; HSG 1-1991, f. & cert. ef. 4-26-91; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 1-1992, f. & cert. ef. 1-2-92; OHCS 2-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 16-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-049-0005

Definitions

(1) Unless otherwise defined in this rule, any term used in OAR chapter 813, division 49, is used as defined in sections 1 through 10, chapter 716, Oregon Laws 1991, or as provided in OAR 813-005-0005, or elsewhere in OAR chapter 813, respectively.

(2) As used in this division:

(a) "Administrative costs" means all costs that are not directly related to delivery of program services under this division.

(b) "Community action agency" or "CAA" means a private, nonprofit corporation organized under ORS Chapter 65, or an office, division or agency of a political subdivision designated as a community action agency pursuant to the Economic Opportunity Act of 1964 by the U.S. Department of Health and Human Services, which meets the requirements of ORS 458.505(4).

(c) "Department" means the Housing and Community Services Department for the state of Oregon;

(d) "Fund" means the Low Income Rental Housing Fund administered by the department with respect to this program;

(e) "Funding agreement" means that master grant agreement or other written agreement, together with all incorporated documents and references, to be executed by and between the department and community action agencies and other organizations in form and substance satisfactory to the department as a condition precedent for receipt of program funding from the department.

(f) "HMIS" means the Homeless Management Information System.

(g) "Household" means any person or persons who will reside together in a rental dwelling unit as one economic unit (e.g., married couples with or without children, unmarried persons who will share the same unit, a single person, unrelated individuals, etc.);

(h) "Income" means aggregate income from all sources for each member of the household not including income from employment of children under the age of 18;

(i) "Low Income Rental Housing Fund Program" or "program" means the program administered by the department pursuant to, inter alia, this division and financed, inter alia, from the fund.

(j) "Operations manual" means the department's manual to be used by subgrantees to administer the program in their communities. The manual describes program requirements and procedural instructions.

(k) "Organization" means a nonprofit corporation established under ORS Chapter 65, a housing authority established under 456.055 to 456.235, or local government as defined in 197.015 and described under 458.505.

(l) "Program requirements" means all funding agreement terms and conditions, department directives (including deficiency notices), and applicable state, local, and federal laws and regulations (including these rules, other applicable department rules), executive orders, local ordinances and codes.

(m) "Self-sufficiency" means meeting basic needs and achieving stability in areas including, but not limited to housing, household income, nutrition, health care and accessing needed services.

(n) "Very low-income household" means a household with income that does not exceed 50 percent of the area median income by household size as the Secretary of the United States Department of Housing and Urban Development describes for very low-income families pursuant to the United States Housing Act of 1937.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.561, 456.625, 458.605 & 2011 OL Ch. 595, Sec. 3(4)

Hist.: HSG 13-1990(Temp), f. 10-26-90, cert. ef. 10-29-90; HSG 1-1991, f. & cert. ef. 4-26-91; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 1-1992, f. & cert. ef. 1-2-92; HSG 9-1994, f. & cert. ef. 11-9-94; OHCS 2-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 16-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-049-0007

Funding Application

(1)(a) To receive program funding, community action agencies and other organizations shall submit a funding application satisfactory to the department, which must be approved by the department.

(b) The department also may initiate a program funding proposal to a community action agency or other organization.

(c) In a service area where a community action agency exists, the community action agency has a conditional right of first refusal to serve as the subgrantee agency for the service area. If the community action agency cannot meet the requirements for the form and content of the funding application as determined by the department in its sole discretion, or chooses not to administer the program, the department may allow other eligible organizations to submit a funding application with respect to that service area.

(2) The applicant shall adhere to the department's requirements and deadlines for filing and obtaining approval of its application for program funding.

(3) An applicant's funding application must meet all requirements established by the department for the form and content of the funding application.

(4) A funding application is subject to approval, including as modified by the department or disapproval by the department.

(5) Funding applications will be evaluated by the department for sufficiency with respect to application and other program requirements including, but not limited to criteria for program assistance as described hereinafter.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.561, 456.625, 458.605 & 2011 OL Ch. 595, Sec. 3(4)

Hist.: OHCS 2-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 16-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-049-0010

Criteria for Program Assistance

(1) In the manner established by the department, a community action agency described under ORS 458.505 or other organization and approved by the department, may apply to the department for program funding to finance eligible services that, inter alia, defray the cost of rent of qualified dwelling units for very low-income households. Whether or not a household meets the standard as a very low-income household will be determined in accordance with the standards for determining annual income in 24 CFR 5.609.

(2) An application for program funding is subject to the department's approval based on criteria that may include, but are not limited to:

(a) The availability of program funds and the department's authority to disburse same.

(b) Restricting the use of funds to those proposed services that truly and best defray the cost of rent, including refundable security deposits and utility deposits, of qualified dwelling units for very low income households.

(c) Ensuring that a housing authority, as defined in ORS 456.005(2) will not direct or steer its program clients to rental units owned or managed by the housing authority.

(d) Maximizing coordination of services at the local level.

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(e) Directing funds to very low-income households not eligible for other public assistance with housing.

(f) Meeting program priorities, federal standards for other housing assistance and state and local government policies.

(g) Ensuring that all households receiving program assistance have an opportunity to participate in services that will increase household self-sufficiency and that such participation by a household will occur by mutual agreement of the community action agency or other provider organization and the client household.

(h) Ensuring that the community action agency or other provider organization executes a written agreement with the department, satisfactory to the department that specifies, inter alia, appropriate performance with respect to program requirements.

(3) Any qualified household paying a subsidized rent is eligible for program funding only if the client's contribution to rent and utilities exceeds 30 percent of the client's adjusted household income.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.561, 456.625, 458.605 & 2011 OL Ch. 595, Sec. 3(4)

Hist.: HSG 13-1990(Temp), f. 10-26-90, cert. ef. 10-29-90; HSG 1-1991, f. & cert. ef. 4-26-91; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 1-1992, f. & cert. ef. 1-2-92; HSG 9-1994, f. & cert. ef. 11-9-94; OHCS 2-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 16-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-049-0020

Participation in the Low Income Rental Housing Fund Program

(1) A community action agency or other organization approved for program funding shall place and maintain program funding in an account satisfactory to the department for use consistent with the terms of the department's award of funding, the funding agreement, and other program requirements.

(2) The portion of the cost of rent for dwelling units that a community action agency or other provider organization may provide from program funding to any household may not exceed the maximum household assistance amount established from time to time by the department.

(3) A community action agency or other provider organization may only use program funds in a manner consistent with program requirements.

(4) A community action agency or other program provider organization may only expend an amount for administrative costs that does not exceed the portion of the program award established by the department for that purpose. To qualify for funding, administrative costs must be appropriate and reasonably related to actual administration of the program as determined by the department in its sole discretion.

(5)(a) The department may take such remedial action as it deems appropriate including, but not limited to terminating its funding agreement with a CAA or other program provider organization and requiring repayment of all program funding, if it determines (in its sole discretion) that the performance of the CAA or organization or any of its subcontractors is deficient in any manner, including with respect to program requirements.

(b) The department may, but is not required to issue deficiency notices and require the CAA or organization to correct such deficiencies in a manner satisfactory to the department within a period of time designated by the department. If any such deficiency notices are issued, the CAA or other organization shall fully correct such deficiencies to the department's satisfaction within the time specified.

(c) Issuance of a deficiency notice shall not constitute a waiver of other remedies available to the department or preclude the department from exercising such other remedies available to it under the funding agreement or other program requirements, at law or otherwise.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.561, 456.625, 458.605 & 2011 OL Ch. 595, Sec. 3(4)

Hist.: HSG 13-1990(Temp), f. 10-26-90, cert. ef. 10-29-90; HSG 1-1991, f. & cert. ef. 4-26-91; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 1-1992, f. & cert. ef. 1-2-92; OHCS 2-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 16-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-049-0035

Recordkeeping and Reporting; Subcontractor Obligations

(1) Community action agencies and other program provider organizations shall maintain accurate financial records satisfactory to the department, which document, inter alia, the receipt and disbursement of all funds provided through the program by the department, and have an accounting system in place satisfactory to the department, which meets, inter alia, generally accepted accounting principles.

(2) Community action agencies and other program provider organizations shall maintain all other records constituting or related to program administration. Such records shall be in substance and format satisfactory to the department.

(3) Community action agencies and other program provider organizations shall timely and accurately collect and report client household data to the department through the use of a department approved HMIS. Such data collection and reporting must be in a manner satisfactory to the department.

(4)(a) Community action agencies and other program provider organizations shall retain and keep accessible all such program records for a minimum of 5 years, or such longer period as may be required by applicable law, following final payment and termination of program involvement, or until the conclusion of any audit, controversy or litigation arising out of or related to the program, whichever date is later.

(b) Community action agencies and other program provider organizations shall make all program records available to the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives for inspection and copying.

(5) Community action agencies and other program provider organizations shall cause, and require by contract, that their subcontractors (if any) shall comply with all program requirements, including but not limited to these record keeping and reporting requirements.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: OHCS 2-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 16-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-049-0040

Compliance Monitoring; Cooperation

(1) The department may from time to time audit, inspect, or otherwise review the program activities and records of community action agencies and other program provider organizations as the department determines to be appropriate, inter alia, to verify compliance with program requirements. The Oregon Secretary of State, applicable federal agencies, and representatives of same and of the department also may audit, inspect or otherwise review program activities and records.

(2) Community action agencies and other program provider organizations also are subject to any specific audit requirement applicable to the program.

(3) Community action agencies and other program provider organizations shall cooperate fully with all compliance monitoring

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: OHCS 2-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 16-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-049-0050

Review by Community Action Agency or Other Program Provider Organization

(1) Community action agencies and other program provider organizations shall establish in writing a process satisfactory to the department that, in a timely manner, enables beneficiaries of and applicants for program benefits to contest a determination by the CAA or organization that:

(a) Denies or limits the eligibility of a beneficiary or applicant for the benefits or other assistance; or

(b) Terminates or modifies benefits or other assistance awarded by the CAA or organization to a beneficiary.

(2) Households or other persons aggrieved by the action (or inaction) of a CAA or other program provider organization as described in subsection (1) may request administrative review of such action or inaction within the time frame and pursuant to the process established by the CAA or other program provider organization consistent with program requirements. At all times, the CAA or other organization must allow a minimum of thirty (30) days within which an aggrieved person may request review from the time of the contested action or inaction or from the aggrieved person's reasonable discovery of such action or inaction, whichever is longer.

(3) The CAA or organization must inform the department in writing of any request by an aggrieved party for administrative review within ten (10) days of such request.

(4) The CAA or organization must inform the department and the aggrieved party in writing of any final administrative review determination made by it, and the basis for same, within ten (10) days of such final determination.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: OHCS 2-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 16-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-049-0060

Challenge of Provider Action

(1) Households or other persons aggrieved by an action taken or not taken by a community action agency or other program provider organiza-

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tion with respect to its program obligations may submit a written request to the department for its review of such contested action, but only after first exhausting the applicable administrative review process furnished by the relevant CAA or other provider organization and within thirty (30) days of that administrative review determination.

(2) The department may accept or deny a request for its review in whole or in part, at its sole discretion. Any department review will be in the manner determined appropriate by the department and may include, but shall not necessarily be limited to review of provided information.

(3) If the department accepts the review request, the requester of the review, the CAA or other program provider organization, and relevant sub-contractors shall produce all information required by the department, including requested affidavits or testimony.

(4) The department may make a determination on a review request and require such remedial action as the department determines, in its sole discretion, to be appropriate.

(5) Department review shall not constitute a contested case review under ORS Chapter 183 unless specifically so stated by the director in writing.

(6) Timely request for department review by an aggrieved household or other person and its completion to final order by the department are requirements for exhaustion of administrative remedies by such aggrieved household or person.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 2-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 16-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

Rule Caption: Suspends temporary rules adopted January 27, 2014 for the Emergency Solutions Grant Program.

Adm. Order No.: OHCS 17-2014(Temp)

Filed with Sec. of State: 2-10-2014

Certified to be Effective: 2-10-14 thru 7-25-14

Notice Publication Date:

Rules Suspended: 813-145-0000(T), 813-145-0010(T), 813-145-0020(T), 813-145-0025(T), 813-145-0030(T), 813-145-0040(T), 813-145-0050(T), 813-145-0060(T), 813-145-0070(T), 813-145-0080(T), 813-145-0090(T)

Subject: This action retroactively suspends the temporary rules adopted on January 27, 2014 for the Emergency Solutions Grant Program.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-145-0000

Purpose

OAR chapter 813, division 145, is promulgated to accomplish the general purposes of ORS 458.505 to 458.545, and particularly 458.505 to 458.515, which authorize the Housing and Community Services Department to establish programs to assist homeless persons and those persons who are at risk of homelessness by providing funds to supplement existing local programs or to establish new programs. The administrative rules in this division describe the Emergency Solutions Grant Program, which operates through a network of service agencies at the local level. The program's purpose is to assist individuals, families and households to quickly regain stability in permanent housing after experiencing a housing crisis or homelessness.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 5-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02; OHCS 3-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 17-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-145-0010

Definitions

All words and terms as used in OAR chapter 813, division 145 are defined in the act, in 813-005-0005 and below. As used in OAR chapter 813, division 145, unless the context indicates otherwise:

(1) "Administrative costs" mean all program costs that are not directly related to delivery of program services under OAR chapter 813, division 145.

(2) "Community action agency" or "CAA" means a private, nonprofit corporation organized under ORS Chapter 65, or an office, division or agency of a political subdivision designated as a community action agency pursuant to the Economic Opportunity Act of 1964 by the U.S. Department of Health and Human Services, which meets the requirements outlined in ORS 458.505(4).

(3) "Department" means the Housing and Community Services Department for the state of Oregon.

(4) "Emergency Solutions Grant Program operations manual" or "program manual" means the Emergency Solutions Grant Program manual as amended from time to time, incorporated herein by this reference.

(5) "Funding application" means the subgrantee agency's application to the department for a program grant.

(6) "HMIS" means the Homeless Management Information System.

(7) "Homeless" means an individual, family or household that lacks a fixed, regular and adequate nighttime residence in accordance department categorical definitions. Categorical definitions are contained in the program manual.

(8) "Household" means an individual living alone, family with or without children, or a group of individuals who are living together as one economic unit.

(9) "HUD" means the U.S. Department of Housing and Urban Development.

(10) "Program" means Emergency Solutions Grant Program administered by the department pursuant to this division and other applicable law.

(11) "Program requirements" means all funding agreement terms and conditions (including work plan objectives), department directives (including deficiency notices), and applicable state, local, and federal laws and regulations (including these rules, other applicable department rules and the manual), executive orders, local ordinances and codes.

(12) "Program services" means allowable services for street outreach, emergency shelter, rapid re-housing, homelessness prevention and data collection activities as defined in the department program manual and eligible for funding under the program.

(13) "Service area" refers to the specific geographic area or region within which a subgrantee agency provides program services directly or by contract.

(14) "Subgrantee agency" means a private, nonprofit corporation organized under ORS Chapter 65; a housing authority established under 456.055 to 456.235, or a local government as defined in 197.015 with whom the department has contracted to administer program services at the local level.

(15) "Subcontractor" means a nonprofit corporation established under ORS Chapter 65, a housing authority established under 456.055 to 456.235, or local government as defined in 197.015, contracting with a subgrantee agency to provide program services.

(16) "Work plan" or "plan" means the subgrantee agency's plan for the use of program funds as approved by the department, which is part of its approved funding application, and included in its funding agreement with the department.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 5-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02; OHCS 3-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 17-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-145-0020

Administration

(1) The department may contract with subgrantee agencies to provide program services at the local level. In a service area where a community action agency exists, the community action agency has a conditional right of first refusal to serve as the subgrantee agency for the service area.

(2) The department normally will allocate program funds to subgrantee agencies for the various service areas through a formula established by the department prior to the allocation process. However, the department reserves the right to modify that formula at any time in its sole discretion.

(3) A subgrantee agency may subcontract with other organizations that meet the requirements of ORS 458.505(4) to provide program services in the subgrantee agency's service area.

(4) A subgrantee agency shall identify potential applicants, certify eligibility for program services, and provide program services to eligible households within its service area. Whenever appropriate, program participants will be assisted in accessing other services designed to meet other, longer-term needs.

(5) The department normally will fund only one subgrantee agency within any service area. However, the department may, in its sole discretion, allow two or more subgrantee agencies to operate within a common service area. In such cases, the subgrantee agencies shall enter into a written agreement with the department, satisfactory to the department in its sole discretion, in order, inter alia, to insure full access to program services for all eligible persons within the service area to the extent of available funding and to prevent duplication of services.

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(6) The department may conduct reviews, audits, and other compliance monitoring — and take such remedial action — as it deems appropriate with respect to each subgrantee agency and its subcontractors, inter alia, to assure compliance with program requirements.

(7)(a) The department may take such remedial action as it deems appropriate including, but not limited to terminating its funding agreement with a subgrantee agency and requiring repayment of all program funding, if it determines (in its sole discretion) that the performance of the subgrantee agency or any of its subcontractors is deficient in any manner, including with respect to program requirements.

(b) The department may, but is not required to issue deficiency notices and require the subgrantee agency to correct such deficiencies in a manner satisfactory to the department within a period of time designated by the department. If any such deficiency notices are issued, the subgrantee shall fully correct such deficiencies to the department's satisfaction within the time specified.

(c) Issuance of a deficiency notice shall not constitute a waiver of other remedies available to the department or preclude the department from exercising such other remedies available to it under the funding agreement or other program requirements, at law or otherwise.

(8)(a) A subgrantee agency may expend up to an amount authorized by the department in writing for reimbursement of reasonable and appropriate administrative costs.

(b) If a subgrantee agency subcontracts with another organization to provide program services, that organization may expend up to an amount for administrative costs that does not exceed its proportionate share of the amount authorized by the department for reasonable and appropriate administrative costs of the funding award.

(9) A subgrantee agency and its subcontractors shall comply with the terms of the funding agreement and all other program requirements, including but not limited to department directives (including deficiency notices), applicable local, state and federal laws, rules (including the (program manual regulations, executive orders, local ordinances and codes.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: OHCS 5-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02; OHCS 3-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 17-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-145-0025

Client Eligibility

Program services shall be available to homeless individuals, families and households in accordance with department categorical definitions as defined in the department program manual and to the degree permitted by funding levels.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: OHCS 3-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 17-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-145-0030

Use of Funds

(1) Program funds may be used only for homeless services within the allowable program activities as further defined in HUD regulations and the department program manual.

(2) Program funds provided by the department shall not be used by a subgrantee agency to replace existing funds, but may be used to supplement existing funds or to support existing programs or establish new programs.

(3) Use of program funds must be in accordance within the allowable homeless services category percentages as determined by the department.

(4) A subgrantee agency must provide matching funds for the program through cash or in-kind contributions equal to the amount. Matching funds must be from sources approved by the department, which may include local, private or other federal and state funds.

Stat. Auth.: ORS 458.555

Stats. Implemented: ORS 458.505

Hist.: OHCS 5-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02; OHCS 3-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 17-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-145-0040

Funding Application

(1) Prior to providing program services, a subgrantee agency shall submit, on a biennial basis, a funding application satisfactory to the department, including a work plan, which must be approved in writing by the department before being operative. The subgrantee agency shall adhere to the department's requirements and deadlines for obtaining approval of this funding application. A funding application is subject to approval, including as modified by the department, or disapproval by the department.

(2) A subgrantee agency's funding application shall include details satisfactory to the department on how the subgrantee agency provided a meaningful opportunity for participation in the development of the work plan by the local continuum of care local service providers, advocates, clients, businesses, churches, governments, and other interested stakeholders.

(3) A subgrantee agency's funding application must meet all requirements established by the department for the form and content of the funding application. In cases where a community action agency has the conditional right of first refusal for antipoverty program administration, and the community action agency cannot meet the requirements for the form and content of the application, the department, in its sole discretion, may allow other eligible organizations to submit a funding application.

(4) Funding applications will be evaluated by the department for sufficiency with respect to application and other program requirements.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: OHCS 5-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02; OHCS 3-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 17-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-145-0050

Recordkeeping and Reporting

(1) Subgrantee agencies shall maintain accurate financial records satisfactory to the department, which document, inter alia, the receipt and disbursement of all funds provided through the program by the department, and have an accounting system in place satisfactory to the department, which meets, inter alia, generally accepted accounting principles.

(2) Subgrantee agencies also shall maintain other program records satisfactory to the department, which document, inter alia, client eligibility, receipt of allowable program services, termination of services and bases for same, housing status of clients, administrative actions, contracts with subcontractors, review of subcontractor performance, action taken with respect to deficiency notices, and any administrative review proceedings. Such records shall be in substance and format satisfactory to the department.

(3) Subgrantee agencies shall provide the department with the following reports, in form and substance satisfactory to the department:

(a) Within 20 days following the end of each calendar quarter, a program report detailing the progress made toward meeting the program performance measures and service delivery objective(s), and a fiscal report detailing all administrative and program costs;

(b) Within 60 calendar days after the close of the subgrantee agency's fiscal year, annual program and fiscal reports;

(c) Within 60 days after the close of the program, final program and fiscal reports.

(4)(a) Subgrantee agencies and their contractors shall make all program records available to the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives for inspection and copying.

(b) Subgrantee agencies and their contractors shall cooperate fully in any inspections or other monitoring actions taken by the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives.

(c) Subgrantee agencies shall retain and keep accessible all such program records for a minimum of 5 years, or such longer period as may be required by applicable law, following final payment and termination of program involvement, or until the conclusion of any audit, controversy or litigation arising out of or related to the program, whichever date is later.

(5) Subgrantee agencies shall timely and accurately collect and report eligible family household data to the department through the use of a department approved HMIS. Such data collection and reporting shall be satisfactory to the department.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: OHCS 5-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02; OHCS 3-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 17-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-145-0060

Compliance Monitoring; Subcontractor Obligations

(1) The department may from time to time audit or otherwise review a subgrantee agency's program activities and records as the department determines to be appropriate, inter alia, to verify compliance with program requirements.

(2) In addition to the requirement of subsection (1) of this section, a subgrantee agency is also subject to any specific audit requirement applicable to the program.

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(3) If a subgrantee agency receives federal funds in excess of \$300,000 in a fiscal year, the subgrantee agency shall conduct a single audit in compliance with Office of Management and Budget (OMB) Circular A-133, as revised June 24, 1997, June 6, 2003 and June 26, 2007 and most recent compliance supplements. If a subgrantee agency receives federal funds between \$100,000 and \$300,000 in a fiscal year, the subgrantee agency may elect to have a "program only" audit as provided in the same circular. A copy of the audit must be submitted to the department after its completion.

(4) Subgrantee agencies shall require by contract that their subcontractors comply with all program requirements, including but not limited to retention of records and department compliance monitoring and enforcement.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: OHCS 5-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02; OHCS 3-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 17-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-145-0070

Challenge of Subgrantee Action

(1) Local interest groups, service providers or others aggrieved by a subgrantee agency with respect to its program obligations may submit a written request to the department for its review of such contested action, but only after first exhausting the applicable administrative review process furnished by the relevant subgrantee agency and within thirty (30) days of that administrative review determination.

(2) The department may accept or deny a request for its review in whole or in part, at its sole discretion. Any department review will be in the manner determined appropriate by the department and may include, but shall not necessarily be limited to review of provided information.

(3) If the department accepts the review request, the requester of the review, the subgrantee agency, and relevant contractors shall produce all information required by the department, including requested affidavits or testimony.

(4) The department may make a determination on a review request and require such remedial action as the department determines, in its sole discretion, to be appropriate.

(5) Department review shall not take the form of a contested case review under ORS Chapter 183 unless specifically so stated by the director in writing.

(6) Timely request for department review by an aggrieved person or entity and its completion to final order by the department are requirements for exhaustion of administrative remedies by such aggrieved person or entity.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: OHCS 5-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02; OHCS 3-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 17-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-145-0080

Review by Subgrantee

(1) Subgrantee agencies shall establish in writing a process satisfactory to the department that in a timely manner, enables beneficiaries of and applicants for program services to contest a determination by the subgrantee agency or its subcontractors that:

(a) Denies or limits the eligibility of a beneficiary or applicant for the benefits or other assistance; or

(b) Terminates or modifies benefits or other assistance awarded by the subgrantee agency or subcontractor to a beneficiary.

(2) Persons aggrieved by the action of a subgrantee agency or its subcontractors described in subsection (1) may request administrative review of such action by the subgrantee agency within the time frame and pursuant to the process established by the subgrantee agency consistent with program requirements. At all times, the subgrantee agency must allow a minimum of thirty (30) days within which an aggrieved person may request review from the time of the contested action or the aggrieved person's reasonable discovery of such action, whichever is longer.

(3) The subgrantee agency must inform the department in writing of any request by an aggrieved party for administrative review within ten (10) days of such request.

(4) The subgrantee agency must inform the department and the aggrieved party in writing of any final administrative review determination made by the subgrantee agency, and the basis for same, within ten (10) days of such final determination.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: OHCS 5-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02; OHCS 3-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 17-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-145-0090

Waiver

The Director may waive or modify any requirements of the rules in OAR 813, division 145, unless such waiver or modification would violate applicable federal or state statutes or regulations.

Stat. Auth.: ORS 458.505 - 458.545

Stats. Implemented: ORS 458.505 - 458.545

Hist.: OHCS 5-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02; Suspended by OHCS 3-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 17-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

Rule Caption: Suspends temporary rules adopted January 27, 2014 for the Oregon Energy Assistance Program.

Adm. Order No.: OHCS 18-2014(Temp)

Filed with Sec. of State: 2-10-2014

Certified to be Effective: 2-10-14 thru 7-25-14

Notice Publication Date:

Rules Suspended: 813-202-0001(T), 813-202-0005(T), 813-202-0008(T), 813-202-0010(T), 813-202-0015(T), 813-202-0017(T), 813-202-0019(T), 813-202-0020(T), 813-202-0030(T), 813-202-0040(T), 813-202-0050(T), 813-202-0060(T), 813-202-0070(T)

Subject: This action retroactively suspends the temporary rules adopted on January 27, 2014 for the Oregon Energy Assistance Program.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-202-0001

Purpose

OAR chapter 813, division 202, is promulgated to carry out the Oregon Energy Assistance Program. The purpose of the program is to provide low-income households with electric bill payment assistance. Funding is generated from all categories of customers receiving electricity services through investor-based electricity providers in Oregon.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.587, 458.505, 757.612 & 757.617

Hist.: OHCS 9-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 18-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-202-0005

Definitions

All terms used in OAR chapter 813, division 202, are defined in the act, in 813-005-0005, and in this 813-202-0005. As used in OAR 813, division 202, unless the context indicates otherwise:

(1) "Administrative costs" means all program costs that are not directly related to delivery of program services.

(2) "Community action agency" or "CAA" means a private non-profit corporation organized under ORS Chapter 65, or an office, division or agency of a political subdivision designated by the U.S. Department of Health and Human Services as a community action agency pursuant to the Economic Opportunity Act of 1964, which meets the requirements outlined in ORS 458.505(4).

(3) "Department" means the Housing and Community Services Department for the state of Oregon.

(4) "DHS" means the Department of Human Services for the state of Oregon.

(5) "Energy assistance" means the services provided under the program and may include energy bill payment assistance and client education.

(6) "Energy assistance payments" means payments for the energy costs of eligible households made to energy suppliers or eligible households.

(7) "Energy costs" means costs related to the use of electricity within the dwelling unit of a household participating in the program.

(8) "Expenditure area" means the utility service territory of the originating utility. This expenditure area may include multiple counties.

(9) "Funding agreement" means that master grant agreement or other written agreement, together with all incorporated documents and references, to be executed by and between the department and subgrantee agencies in form and substance satisfactory to the department as a condition precedent for receipt of program funding from the department.

(10) "Funding application" means a subgrantee agency's application to the department for program funds.

(11) "Home energy supplier" means a utility company that provides electricity continuously via wires as the sources of residential energy.

ADMINISTRATIVE RULES

(12) "Household" means any individual living alone, a family with or without children, or group of individuals who are living together as one economic unit and who purchase residential energy in common.

(13) "Household Income" means the total annual household receipts before taxes from all sources. Income does not include assets or funds over which the applicant has no control.

(14) "OEAP" or "program" means the Oregon Energy Assistance Program administered by the department.

(15) "OEAP manual" or "manual" means the Oregon Energy Assistance program manual incorporated herein by reference.

(16) "OPUS" means the energy assistance database.

(17) "Oregon median income" means the median income in Oregon, based on the guideline for the non-farm population of the state of Oregon produced by the U.S. Department of Health and Human Resources.

(18) "Originating utility" means the utility company from which the funds being expended under the program were collected.

(19) "Program requirements" means all funding agreement terms and conditions, department directives (including deficiency notices), and applicable state, local, and federal laws and regulations (including these rules, other applicable department rules, and the manual), executive orders, local ordinances and codes.

(20) "Program services" means any or all program services, assistance, or other activities.

(21) "Service area" means the specific geographic area or region within which a local subgrantee agency provides program services.

(22) "Subgrantee agency" or "agency" means a private nonprofit corporation organized under ORS Chapter 65, a housing authority established under ORS 456.055 to 456.235, or a local government as defined in ORS 197.015 with whom the department has contracted to administer program services at the local level.

(23) "Utility service territory" means the geographic area in Oregon in which a utility provides electricity service.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.587, 458.505, 757.612 & 757.617

Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03; OHCS 9-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 18-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-202-0008

Subgrantee Agency Program Application; Contracting

(1) The department may contract with subgrantee agencies to provide program services at the local level. In a service area where a community action agency exists, the community action agency has a conditional right of first refusal to serve as the subgrantee agency.

(2) The department normally will fund only one subgrantee agency within any service area. However, the department may, in its sole discretion, allow two or more subgrantee agencies to operate within a common service area. In such cases the subgrantee agencies shall enter into a written agreement with the department, satisfactory to the department in its sole discretion, in order, inter alia, to insure full access to program services for all eligible households within the service area to the extent of available funding and to prevent duplication of services.

(3)(a) In order to be eligible to administer the program at the local level, subgrantee agencies normally must submit, on a biennial basis, a funding application (including a work plan,) which the department must approve before it is operative.

(b) Funding applications must meet all requirements established by the department, to the department's satisfaction, for the form and content of the application, including the work plan (which the department may modify or decline).

(c) Funding applications will be evaluated by the department for sufficiency with respect to application and other program requirements.

(d) In cases where a community action agency has the conditional right of first refusal for antipoverty program administration, and the community action agency cannot meet the sufficiency requirements for the form and content of the funding application as determined by the department in its sole discretion, the department may allow other eligible organizations to submit a funding application with respect to that service area.

(4) Subgrantee agencies must execute a funding agreement with the department, satisfactory to the department in its sole discretion, in order to receive program funding and administer the program within its service area.

(5) If a subgrantee agency subcontracts with other organizations for the delivery of program services within its service area, it must require and provide by contract that such other organizations shall adhere to and be subject to the terms and conditions of the subgrantee agency's funding agreement with the department and other program requirements, including but

not limited to records retention and reporting, department monitoring, and department remedial action.

(6) The department normally will allocate program funds to service areas through a formula established by the department prior to the allocation process. However, the department reserves the right to modify the formula at any time, at its sole discretion.

(7) The department may otherwise initiate a program funding award with a subgrantee agency.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.587, 458.505, 757.612 & 757.617

Hist.: ; OHCS 9-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 18-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-202-0010

Administration

(1)(a) Subgrantee agencies shall comply with the terms of the funding agreement and all other program requirements, including but not limited to department directives (including deficiency notices), applicable local, state and federal laws, rules (including the manual), regulations, executive orders, local ordinances and codes.

(b) Subgrantee agencies shall familiarize themselves with and adhere to procedures outlined in the manual. These procedures, inter alia, describe the methods for accurate completion of intake documentation and entry of the resultant data into OPUS or other department-approved data system, for authorizing program payments, for paying energy suppliers and clients, for making and reporting program funding request draws, and for end-of-year and other program reporting to the department.

(c) Subgrantee agencies shall attend and participate in program training made available or conducted by the department.

(2) Subgrantee agencies shall take applications for program services from households, verify household eligibility and contract with and monitor energy suppliers to determine that household clients are both eligible and receiving appropriate program services – all in a manner consistent with program requirements and satisfactory to the department.

(3) Subgrantee agencies shall make good faith attempts satisfactory to the department to recover any overpayment of program funds made to a household client, energy supplier, or otherwise.

(4)(a) Subgrantee agencies may expend up to an amount authorized by the department in writing for reimbursement of reasonable and appropriate administrative costs.

(b) If a subgrantee agency subcontracts with other organizations to provide program services, that organization may expend up to an amount for administrative costs that does not exceed its proportionate share of the amount authorized by the department for reasonable and appropriate administrative costs of the funding award.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.587, 458.505, 757.612 & 757.617

Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03; OHCS 9-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 18-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-202-0015

Responsibilities of Local Service Providers

(1) Local service providers shall provide Program services to or on behalf of those households and residents within its service area. Local service providers shall take applications, verify the income of applicants, complete payment authorizations and contract with and monitor energy suppliers to ensure that eligible households within their service areas receive proper benefits and services. Local service providers are responsible to ensure that disbursed funds are expended in the utility service territory of the Originating Utility.

(2) Local service providers are responsible to ensure funds are disbursed in a timely manner. Funds not expended by a local service provider in a timely manner are subject to being reallocated and redistributed to statewide service providers of the Originating Utilities for distribution within the utility service territory of these Originating Utilities.

(3) Local service providers shall attempt to recover overpayments made to energy suppliers on behalf of eligible households within their service areas. When recovery from a energy supplier is not possible, the name and social security number of the customer receiving unrecovered overpayments shall be turned over by OHCS to the Oregon Department of Revenue for recovery through the Set Off Individual Liability (SOIL) program.

Stat. Auth.: ORS 184, 456.555, 757.612 & 757.617

Stats. Implemented: ORS 456.555

Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03; Suspended by OHCS 9-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 18-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

ADMINISTRATIVE RULES

813-202-0017

Recordkeeping and Reporting

(1) Subgrantee agencies shall maintain accurate financial records satisfactory to the department, which document, inter alia, the receipt and disbursement of all funds provided through the program by the department, and have an accounting system in place satisfactory to the department, which meets, inter alia, generally accepted accounting principles.

(2) Subgrantee agencies also shall maintain other program records satisfactory to the department, which document, inter alia, client eligibility, receipt of allowable program services, termination of services and the bases for same, housing status of clients, administrative actions, contracts with subcontractors, review of subcontractor performance, action taken with respect to deficiency notices, and any review proceedings. Such records shall be in substance and format satisfactory to the department.

(3) Subgrantee agencies also shall provide the department with reports, data, and financial statements, in form and substance satisfactory to the department, as may be required under the manual or requested by the department.

(4)(a) Subgrantee agencies shall make all program records available to the department, the Oregon Secretary of State's Office, the federal government (if applicable), and their duly authorized representatives for inspection and copying.

(b) Subgrantee agencies and their contractors shall cooperate fully in any inspections or other monitoring actions taken by the department, the Oregon Secretary of State's Office, the federal government (if applicable), and their duly authorized representatives.

(c) Subgrantee agencies shall retain and keep accessible all such program records for a minimum of five (5) years, or such longer period as may be required by applicable law, following final payment and termination of program involvement, or until the conclusion of any audit, controversy or litigation arising out of or related to the program, whichever date is later.

(5) Subgrantee agencies shall timely and accurately collect and report eligible household data to the department through the use of OPUS. Such data collection and reporting shall be satisfactory to the department.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.587, 458.505, 757.612 & 757.617

Hist.: OHCS 9-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 18-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-202-0019

Compliance Monitoring; Remedies

(1) The department may conduct reviews, audits, and other compliance monitoring as it deems appropriate with respect to each subgrantee agency and its subcontractors, inter alia, to assure compliance with program requirements. Subgrantee agencies and their subcontractors shall cooperate fully with the department in its compliance monitoring.

(2)(a) The department may take such remedial action as it deems appropriate including, but not limited to terminating its funding agreement with a subgrantee agency and requiring repayment of all program funding, if it determines (in its sole discretion) that the performance of the subgrantee agency or any of its subcontractors is deficient in any manner, including with respect to program requirements.

(b) The department may, but is not required to issue deficiency notices and require the subgrantee agency to correct such deficiencies in a manner satisfactory to the department within a period of time designated by the department. If any such deficiency notices are issued, the subgrantee shall fully correct such deficiencies to the department's satisfaction within the time specified.

(c) Issuance of a deficiency notice shall not constitute a waiver of other remedies available to the department or preclude the department from exercising such other remedies available to it under the funding agreement or other program requirements, at law or otherwise.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.587, 458.505, 757.612 & 757.617

Hist.: OHCS 9-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 18-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-202-0020

Client Eligibility

(1) A household must satisfy program requirements, including as outlined in the manual in order to be eligible to receive program services. Program requirements include, but are not limited to:

(a) Meeting income guidelines for the program, as described in the manual; and

(b) Demonstrating an energy burden, as defined in the manual.

(2) The period of time relevant to the determination of a household's eligibility is not be more than the past 12 months and not less than the 30

days immediately preceding the date of application by the household for program services, unless the department gives its prior approval to a modification of such time period.

(3) A renter household or homeowner may apply for program services.

(4) An applicant is not eligible for program services if the applicant lives in an institutional facility as that term is described in the manual.

(5) A resident of subsidized housing may apply for program services consistent with program requirements and as provided in the manual.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.587, 458.505, 757.612 & 757.617

Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03; OHCS 3-2005(Temp), f. & cert. ef. 11-9-05 thru 5-8-06; Administrative correction 7-21-06; OHCS 9-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 18-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-202-0030

Program Services

(1) Subgrantee agencies shall provide program services to eligible households to the extent of available funding, subject to compliance with manual and other program requirements.

(2) Subgrantee agencies shall prioritize providing program services to eligible households that are in danger of having electricity service disconnected.

(3) Subgrantee agencies shall help applicants determine the program services that are most appropriate for the applicant.

(4) The following program services may be provided to eligible households to the extent of program funding:

(a) Regular energy assistance, including payments to energy suppliers for the energy costs of eligible households.

(b) Emergency energy assistance approved before disbursement by an authorized person other than an intake worker on behalf of the subgrantee agency. Households eligible for emergency energy assistance payments include households with annual energy costs exceeding 20 percent of household income, and households that suffer a serious, unexpected financial hardship.

(c) Client education designed to help household clients effectively reduce energy. Consumption may be provided to the extent of available program funding.

(5) Households in similar circumstances shall receive similar benefits to the extent of available program funding.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.587, 458.505, 757.612 & 757.617

Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03; OHCS 9-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 18-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-202-0040

Limitation on Energy Assistance Payments

Energy assistance payments are limited to the amount of funds made available under ORS 757.612(7)(b)(c) and (d) and as outlined in the OEAP manual.

Stat. Auth.: ORS 184 & 456.555

Stats. Implemented: ORS 456.587, 458.505, 757.612 & 757.617

Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03; OHCS 9-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 18-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-202-0050

Coordination with Home Energy Suppliers

(1) Subgrantee agencies must execute a contract with a home energy supplier in order for the home energy supplier to receive an energy assistance payment under the program.

(2) Subgrantee agencies must use a contract template provided or approved by the department in fulfillment of its obligations under subsection (1) hereof.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03; OHCS 9-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 18-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-202-0060

Administrative Hearings; Review of Subgrantee Action

(1) Subgrantee agencies shall provide a review process satisfactory to the department for persons aggrieved by agency action or inaction with respect to program obligations.

(2) The subgrantee agency must inform the department in writing of any request by an aggrieved party for review of subgrantee agency action within ten (10) days of such request.

ADMINISTRATIVE RULES

(3) The subgrantee agency must inform the department and the aggrieved party in writing of any final review determination made by the subgrantee agency, and the basis for same, within ten (10) days of such final determination.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 456.587, 458.505, 757.612 & 757.617
Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03; OHCS 9-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 18-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-202-0070

Department Review

(1) Persons aggrieved by an action of a subgrantee agency with respect to its program obligations may submit a written request to the department for its review of such contested action, but only after first exhausting the applicable review process furnished by the relevant subgrantee agency and within thirty (30) days of that agency review determination.

(2) The department may accept or deny a request for its review in whole or in part, at its sole discretion. Any department review will be in the manner determined appropriate by the department and may include, but shall not necessarily be limited to review of provided information.

(3) If the department accepts the review request, the requester of the review, the subgrantee agency, and relevant contractors shall produce all information required by the department, including requested affidavits or testimony.

(4) The department may make a determination on a review request and require such remedial action as the department determines, in its sole discretion, to be appropriate.

(5) Department review shall not take the form of a contested case review under ORS Chapter 183 unless specifically so stated by the director in writing.

(6) Timely request for department review by an aggrieved person or entity, and its completion to final order by the department, are requirements for exhaustion of administrative remedies by such aggrieved person or entity.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 456.587, 458.505, 757.612 & 757.617
Hist.: OHCS 9-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 18-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

Rule Caption: Suspends temporary rules adopted January 27, 2014, Low Income Home Energy Assistance Program.

Adm. Order No.: OHCS 19-2014(Temp)

Filed with Sec. of State: 2-10-2014

Certified to be Effective: 2-10-14 thru 7-25-14

Notice Publication Date:

Rules Suspended: 813-200-0001(T), 813-200-0005(T), 813-200-0007(T), 813-200-0010(T), 813-200-0017(T), 813-200-0019(T), 813-200-0020(T), 813-200-0030(T), 813-200-0040(T), 813-200-0050(T), 813-200-0055(T), 813-200-0060(T), 813-200-0070(T)

Subject: This action retroactively suspends the temporary rules adopted on January 27, 2014 for the Low Income Home Energy Assistance Program

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-200-0001

Purpose and Objectives

OAR chapter 813, division 200, is promulgated to accomplish the general purposes of ORS 458.505 to 458.545, and particularly 458.505 to 458.515, which designates the Housing and Community Services Department as the state agency responsible for administering state and federal antipoverty programs in Oregon. The department has been designated as the state agency responsible for implementing the Low-Income Home Energy Assistance Act in Oregon. OAR chapter 813, division 200, describes the Low-Income Home Energy Assistance Program (LIHEAP), which operates through a network of subgrantee agencies at the local level. The objective of the program is to assist low-income households with their energy needs through a variety of means, including assistance payments, client education and weatherization activities.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03; OHCS 5-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 19-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-200-0005

Definitions

All terms used in OAR chapter 813, division 200, are defined in the Act, in 813-005-0005 and below. As used in OAR 813, division 200, unless otherwise indicated by the context:

(1) "Administrative costs" means all program costs that are not directly related to the delivery of program services.

(2) "Crisis assistance" means the assistance provided to help low-income households to meet energy crisis situations such as supply short-ages, loss of household heat, minor fuel source repairs, furnace repairs and other situations approved by the department as described in the LIHEAP state plan and in the manual.

(3) "Department" means the Housing and Community Services Department for the state of Oregon.

(4) "Eligible services" or "program services" means the services described in OAR 813-200-0030 or allowed thereunder.

(5) "Energy assistance payment" means a payment made under this program to or on behalf of an eligible household.

(6) "Funding agreement" means that master grant agreement or other written agreement, together with all incorporated documents and references, to be executed by and between the department and subgrantee agencies in form and substance satisfactory to the department as a condition precedent for receipt of program funding from the department.

(7) "Funding application" means a subgrantee agency's application to the department for program funds.

(8) "OPUS" means the energy assistance database.

(9) "Home energy" means the type of energy or fuel, including but not limited to fuel oil, natural gas, electricity, wood or propane, supplying the major portion of the household's heat.

(10) "Home energy supplier" means a supplier who either delivers home energy in bulk to households, or provides home energy continuously via wire or pipe.

(11) "Household" means any individual living alone, a family with or without children, or group of individuals who are living together as one economic unit and purchase residential energy in common.

(12) "Household income" means the total household receipts before taxes from all sources. Income may be reduced by deductions allowed by the department. Income does not include assets or funds over which the members of the household have no control.

(13) "Incidental fees" means charges imposed by the home energy suppliers other than the actual cost of energy or fuel and includes reconnection charges and deposits.

(14) "Indirect heaters" means renters whose heating costs are included as an undifferentiated part of their rent payments.

(15) "Low-income household" means a household with a gross annual income as specified in the manual.

(16) "LIHEAP" or "program" means the Low-Income Home Energy Assistance Program administered by the department in accordance with, inter alia, this division.

(17) "LIHEAP manual," "program manual" or "manual" means the Low-Income Housing Energy Assistance Program Manual incorporated herein by this reference.

(18) "Poverty line" means the applicable poverty line standard as established by the U.S. Department of Health and Human Services.

(19) "Program requirements" means all funding agreement terms and conditions, department directives (including deficiency notices), and applicable state, local, and federal laws and regulations (including these rules, other applicable department rules, the LIHEAP state plan, and the manual), executive orders, local ordinances and codes.

(20) "Program services" means any or all program services, assistance, or other activities.

(21) "Service area" means the specific geographic area or region within which a subgrantee agency provides program services directly or by contract.

(22) "Subgrantee agency" or "agency" means a private, nonprofit corporation organized under ORS chapter 65, a housing authority established under ORS 456.055 to 456.235, or a local government as defined in 197.015 with whom the department has contracted to administer the program at the local level.

(23) "Work plan" or "plan" means the subgrantee agency's plan for the use of program funds as approved by the department, which is part of its funding application and is included in its funding agreement with the department.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505

ADMINISTRATIVE RULES

Hist.: HR 1-1982, f. & ef. 1-11-82; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0000; HSG 2-1993, f. & cert. ef. 4-2-93; Renumbered from 813-200-0000; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03; OHCS 5-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 19-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-200-0007

Subgrantee Agency Program Application; Contracting

(1) The department may contract with subgrantee agencies to provide program services at the local level.

(2) The department normally will fund only one subgrantee agency within any service area. However, the department may, in its sole discretion, allow two or more subgrantee agencies to operate within a common service area. In such cases the subgrantee agencies shall enter into a written agreement with the department, satisfactory to the department in its sole discretion, in order, inter alia, to insure full access to program services for all eligible households within the service area to the extent of available funding and to prevent duplication of services.

(3)(a) In order to be eligible to administer the program at the local level, subgrantee agencies normally must submit, on a biennial basis, a funding application (including a work plan,) which the department must approve before it is operative.

(b) Funding applications must meet all requirements established by the department, to the department's satisfaction, for the form and content of the application, including the work plan (which the department may modify or decline).

(c) Funding applications will be evaluated by the department for sufficiency with respect to application and other program requirements.

(d) In cases where a community action agency has the conditional right of first refusal for antipoverty program administration, and the community action agency cannot meet the sufficiency requirements for the form and content of the funding application as determined by the department in its sole discretion, the department may allow other eligible organizations to submit a funding application with respect to that service area.

(4) Subgrantee agencies must execute a funding agreement with the department, satisfactory to the department in its sole discretion, in order to receive program funding and administer the program within its service area.

(5) If a subgrantee agency subcontracts with other organizations for the delivery of program services within its service area, it must require and provide by contract that such other organizations shall adhere to and be subject to the terms and conditions of the subgrantee agency's funding agreement with the department and other program requirements, including but not limited to records retention and reporting, department monitoring, and department remedial action.

(6) The department may otherwise initiate a program funding award with a subgrantee agency.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 5-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 19-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-200-0010

Administration

(1)(a) Subgrantee agencies shall comply with the terms of the funding agreement and all other program requirements, including but not limited to department directives (including deficiency notices), applicable local, state and federal laws, rules (including the LIHEAP State Plan and manual), regulations, executive orders, local ordinances and codes.

(b) Subgrantee agencies shall familiarize themselves with and adhere to procedures outlined in the LIHEAP manual. These procedures, inter alia, describe the methods for accurate completion of intake documentation and entry of the resultant data into OPUS or other department-approved data system, for authorizing program payments, for paying home energy suppliers and clients, for making and reporting program funding request draws, and for end-of-year and other program reporting to the department.

(c) Subgrantee agencies shall attend and participate in program training made available or conducted by the department.

(2) Subgrantee agencies shall take applications for program services from households, verify household eligibility and contract with and monitor local home energy suppliers to determine that household clients are both eligible and receiving appropriate program services — all in a manner consistent with program requirements and satisfactory to the department.

(3) Subgrantee agencies shall make good faith attempts satisfactory to the department to recover any overpayment of program funds made to a household client, home energy supplier, or otherwise.

(4)(a) Subgrantee agencies may expend up to an amount authorized by the department in writing for reimbursement of reasonable and appropriate administrative costs.

(b) If a subgrantee agency subcontracts with other organizations to provide program services, that organization may expend up to an amount for administrative costs that does not exceed its proportionate share of the amount authorized by the department for reasonable and appropriate administrative costs of the funding award.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: HR 1-1982, f. & ef. 1-11-82; HR 4-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0005; HSG 2-1993, f. & cert. ef. 4-2-93; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03; OHCS 5-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 19-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-200-0017

Recordkeeping and Reporting

(1) Subgrantee agencies shall maintain accurate financial records satisfactory to the department, which document, inter alia, the receipt and disbursement of all funds provided through the program by the department, and have an accounting system in place satisfactory to the department, which meets, inter alia, generally accepted accounting principles.

(2) Subgrantee agencies also shall maintain other program records satisfactory to the department, which document, inter alia, client eligibility, receipt of allowable program services, termination of services and the bases for same, housing status of clients, administrative actions, contracts with subcontractors, review of subcontractor performance, action taken with respect to deficiency notices, and any review proceedings. Such records shall be in substance and format satisfactory to the department.

(3) Subgrantee agencies also shall provide the department with reports, data, and financial statements, in form and substance satisfactory to the department, as may be required under the manual or requested by the department.

(4)(a) Subgrantee agencies shall make all program records available to the department, the Oregon Secretary of State's Office, the federal government (if applicable), and their duly authorized representatives for inspection and copying.

(b) Subgrantee agencies and their contractors shall cooperate fully in any inspections or other monitoring actions taken by the department, the Oregon Secretary of State's Office, the federal government (if applicable), and their duly authorized representatives.

(c) Subgrantee agencies shall retain and keep accessible all such program records for a minimum of 5 years, or such longer period as may be required by applicable law, following final payment and termination of program involvement, or until the conclusion of any audit, controversy or litigation arising out of or related to the program, whichever date is later.

(5) Subgrantee agencies shall timely and accurately collect and report eligible household data to the department through the use of OPUS. Such data collection and reporting shall be satisfactory to the department.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 5-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 19-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-200-0019

Compliance Monitoring; Remedies

(1) The department may conduct reviews, audits, and other compliance monitoring as it deems appropriate with respect to each subgrantee agency and its subcontractors, inter alia, to assure compliance with program requirements. Subgrantee agencies and their subcontractors shall cooperate fully with the department in its compliance monitoring.

(2)(a) The department may take such remedial action as it deems appropriate including, but not limited to terminating its funding agreement with a subgrantee agency and requiring repayment of all program funding, if it determines (in its sole discretion) that the performance of the subgrantee agency or any of its subcontractors is deficient in any manner, including with respect to program requirements.

(b) The department may, but is not required to issue deficiency notices and require the subgrantee agency to correct such deficiencies in a manner satisfactory to the department within a period of time designated by the department. If any such deficiency notices are issued, the subgrantee shall fully correct such deficiencies to the department's satisfaction within the time specified.

(c) Issuance of a deficiency notice shall not constitute a waiver of other remedies available to the department or preclude the department from exercising such other remedies available to it under the funding agreement or other program requirements, at law or otherwise.

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(3) The department may take such remedial action and exercise such other remedies as may be available to it under program requires, law or otherwise with respect to program applicants and participants as it determines to be appropriate.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: OHCS 5-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 19-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-200-0020

Client Eligibility

To be eligible to receive program services, a household must satisfy applicable program requirements, including income and need standards as provided herein and more fully set forth in the manual.

(1) These requirements include, but are not limited to:

(a) Meeting income guidelines for the program, as described in the manual; and

(b) Having a demonstrated utility cost, as defined in the manual.

(2) The period of time relevant to the determination of a household's eligibility is not more than the past 12 months and not less than the 30 days immediately preceding the date of application by the household for program services, unless the department gives its prior approval to a modification of such time period.

(3) An eligible household may normally only apply for assistance from the subgrantee agency in the service area in which the household resides.

(4) Households in similar circumstances shall receive similar benefits to the extent of program funding.

(5) Both renters and homeowners may be eligible under the program.

(6) An applicant living in an institution is not eligible for program services. Institutions include hospitals, licensed domiciliary care facilities, intermediate care facilities, skilled nursing facilities or homes, alcohol and drug rehabilitation centers or treatment programs, dormitories, fraternities, sororities, temporary protective facilities such as domestic violence shelters and homeless shelters.

(7) Residents of governmental subsidized housing may:

(a) Be eligible for up to 50 percent of a regularly available energy assistance payment, depending on household size and household income, and

(b) Be eligible for a crisis payment under crisis assistance guidelines in the LIHEAP state plan or manual.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: HR 1-1982, f. & ef. 1-11-82; HR 4-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0010; HSG 2-1993, f. & cert. ef. 4-2-93; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03; OHCS 5-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 19-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-200-0030

Eligible Services

One or more of the following services may be provided to an eligible household, subject to compliance with manual and other program requirements:

(1) Heating assistance, including:

(a) A payment to a home energy supplier for the costs of home energy. A payment may also be made for supplier charges other than those that apply to the actual cost of energy or fuel, and may include reconnection charges and deposits as well as charges incurred by a household for eligible services delivered before or after the household is determined to be eligible for program services. Payments may not be used to cover on-bill loan financing without prior approval from the department; and

(b) The following direct payments to an eligible household:

(A) Payments to an indirect heater equal to energy assistance payments made to or on behalf of homeowners in similar circumstances;

(B) Payments to a household if the household's home energy supplier has not signed a contract with the subgrantee agency in the service area; and;

(C) Reimbursement of prepayment for home energy costs as in the case of bulk oil or wood deliveries, up to the amount for which the household is eligible. A household must provide applicable receipts prior to reimbursement.

(2) Weatherization assistance, including as outlined in the LIHEAP State Plan.

(3) Crisis Assistance. In order to qualify for crisis assistance under the program, a household shall:

(a) Have been evaluated for, and received, an energy assistance payment (regular or subsidized in the same program year) other than for crisis assistance; and;

(b) Meet the guidelines for crisis assistance outlined in the LIHEAP state plan and in the manual.

(4) Client Education. All eligible households shall be offered information designed to help reduce energy consumption.

(5) Leveraging Incentive Fund Assistance. Leveraging incentive funds must be used as outlined in the state plan.

(6) A subgrantee agency shall assist applicants in determining program services most appropriate for the household.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: HR 1-1982, f. & ef. 1-11-82; HR 4-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0015; HSG 2-1993, f. & cert. ef. 4-2-93; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03; OHCS 5-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 19-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-200-0040

Assistance Levels

Energy assistance payments made under this program shall not exceed the amount of funds made available to the department under the Omnibus Reconciliation Act of 1981, Public Law 97-35, sections 2601-11, as amended.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: HR 1-1982, f. & ef. 1-11-82; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0020; HSG 2-1993, f. & cert. ef. 4-2-93; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03; OHCS 5-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 19-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-200-0050

Coordination with Home Energy Suppliers

(1) Subgrantee agencies must execute a contract with a home energy supplier in order for the home energy supplier to receive an energy assistance payment under the program.

(2) Subgrantee agencies must use a contract template provided or approved by the department in fulfillment of its obligations under subsection (1) hereof.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: HR 1-1982, f. & ef. 1-11-82; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0025; HSG 2-1993, f. & cert. ef. 4-2-93; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03; OHCS 5-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 19-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-200-0055

Review of Subgrantee Action

(1) Subgrantee agencies shall provide a review process for aggrieved persons as outlined in the LIHEAP manual.

(2) The subgrantee agency must inform the department in writing of any request by an aggrieved party for review of subgrantee agency action within ten (10) days of such request.

(3) The subgrantee agency must inform the department and the aggrieved party in writing of any final review determination made by the subgrantee agency, and the basis for same, within ten (10) days of such final determination.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: OHCS 5-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 19-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-200-0060

Administrative Review

A Subgrantee Agency shall provide an administrative review process, which shall include an administrative hearing, to individuals whose claims for assistance under the Program are denied or deemed denied because of the failure of the Subgrantee Agency to process a request for assistance.

Stat. Auth.: ORS 458.505 - 458.545

Stats. Implemented: ORS 458.505 - 458.545

Hist.: HR 1-1982, f. & ef. 1-11-82; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0030; HSG 2-1993, f. & cert. ef. 4-2-93; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03; [Suspended by OHCS 5-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 19-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14]

813-200-0070

Department Review

(1) Persons aggrieved by an action of a subgrantee agency with respect to its program obligations may submit a written request to the

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department for its review of such contested action, but only after first exhausting the applicable review process furnished by the relevant subgrantee agency and within thirty (30) days of that agency review determination.

(2) The department may accept or deny a request for its review in whole or in part, at its sole discretion. Any department review will be in the manner determined appropriate by the department and may include, but shall not necessarily be limited to review of provided information.

(3) If the department accepts the review request, the requester of the review, the subgrantee agency, and relevant contractors shall produce all information required by the department, including requested affidavits or testimony.

(4) The department may make a determination on a review request and require such remedial action as the department determines, in its sole discretion, to be appropriate.

(5) Department review shall not take the form of a contested case review under ORS Chapter 183 unless specifically so stated by the director in writing.

(6) Timely request for department review by an aggrieved person or entity, and its completion to final order by the department, are requirements for exhaustion of administrative remedies by such aggrieved person or entity.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 5-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 19-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

Rule Caption: Suspends temporary rules adopted January 27, 2014 for the Emergency Food Assistance Program.

Adm. Order No.: OHCS 20-2014(Temp)

Filed with Sec. of State: 2-10-2014

Certified to be Effective: 2-10-14 thru 7-25-14

Notice Publication Date:

Rules Suspended: 813-220-0001(T), 813-220-0005(T), 813-220-0010(T), 813-220-0015(T), 813-220-0020(T), 813-220-0030(T), 813-220-0050(T), 813-220-0060(T), 813-220-0070(T), 813-220-0080(T)

Subject: This action retroactively suspends the temporary rules adopted on January 27, 2014 for the Emergency Food Assistance Program.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-220-0001

Purpose and Objectives

OAR chapter 813, division 220, is promulgated to accomplish the general purpose of ORS 458.505 to 458.545, and more specifically 458.525 to 458.530, which designates the Oregon Housing and Community Services Department as the lead agency in administration of the Emergency Food Assistance Program. The program is designed to coordinate state efforts in meeting the problem of hunger through a network of local service-provider agencies. The department has designated the Oregon Food Bank (OFB) as the entity responsible for coordinating the distribution of FNS commodities in Oregon in accordance program requirements. The program's purpose is to provide lower-income households in Oregon with food for their home use.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.525 - 458.545
Hist.: OHCS 3-2003, f. & cert. ef. 5-12-03; OHCS 3-2008, f. & cert. ef. 3-31-08; OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 20-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-220-0005

Definitions

All terms used in OAR chapter 813, division 220, are defined in the Act, and in OAR 813-005-0005. As used in OAR chapter 813, division 220, unless otherwise indicated by the context:

(1) "Eligible services" means services provided in accordance with the rules and regulations governing the program.

(2) "FNS" means Food and Nutrition Services (FNS), a division of USDA.

(3) "FNS commodities" means food and other related commodities provided to low-income households under the program.

(4) "Low income household" means a household with an income at or below 185 percent of the federal poverty line.

(5) "Program" or "Emergency Food Assistance program" means the Emergency Food Assistance Program authorized by Public Law 98-8 and as extended by Public Law 98-92.

(6) "Regional Food Bank" or "RFB" means any public agency or nonprofit private entity that has subcontracted with the Oregon Food Bank to relieve situations of hunger through distribution of FNS commodities to local designated food assistance programs such as congregate meal sites, temporary shelters and emergency food pantries.

(7) "Oregon Food Bank" or "OFB" means the nonprofit private organization designated by the department to coordinate the distribution of FNS commodities in Oregon.

(8) "Storage and distribution funds" means direct funds incurred by the department, OFB and/or RFB for the operation of the program, including but not limited to, intrastate storage and distribution of FNS commodities.

(9) "USDA" means the United States Department of Agriculture.
Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.525 - 458.545
Hist.: HR 2-1983(Temp), f. & ef. 7-28-83; HR 1-1984, f. & ef. 5-30-84; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0000; HSG 8-1993, f. & cert. ef. 10-1-93; OHCS 3-2003, f. & cert. ef. 5-12-03, Renumbered from 813-220-0000; OHCS 3-2008, f. & cert. ef. 3-31-08; OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 20-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-220-0010

Administration

(1) The department has, through the master grant agreement, designated the OFB, a nonprofit corporation organized under ORS chapter 65, as the program's responsible agency to distribute FNS commodities statewide.

(2) OFB may select and subcontract with RFBs to carry out program activities at the local level.

(3) The reimbursement of federal funds shall be paid by the department to the OFB. OFB in consultation with OHCS will calculate the proportionate share of the moneys received from the department as reimbursement for program storage and distribution funds.

(4) OFB and its RFBs shall comply with all applicable state and federal rules and regulations.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.525 - 458.545
Hist.: HR 2-1983(Temp), f. & ef. 7-28-83; HR 1-1984, f. & ef. 5-30-84; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0005; HSG 8-1993, f. & cert. ef. 10-1-93; OHCS 3-2003, f. & cert. ef. 5-12-03; OHCS 3-2008, f. & cert. ef. 3-31-08; OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 20-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-220-0015

Requirements Imposed on RFBs

OFB and its RFBs are the responsible agencies designated for the distribution of food commodities and allocation of funds. Prior to providing services, OFB and the RFBs will have entered into an agreement for such distribution and receipt of program commodities. Specific terms and conditions for doing so include:

(1) Each distribution site must collect and maintain records for each household receiving the Emergency Food Assistance Program (TEFAP) commodities for home consumption. TEFAP records should contain:

(a) The name of household members receiving commodities,

(b) The address of the household (to the extent practicable, homeless persons, or people who have just arrived in the area, may not be able to provide an address),

(c) The number of persons in the household, and

(d) The basis for determining that the household is eligible to receive commodities for home consumption.

(A) No distribution site will collect Social Security numbers for households applying for the TEFAP program.

(B) No supporting documentation is required for an income eligibility determination for the TEFAP Program.

(2) All records must be retained for a period of three (3) years from the close of the federal fiscal year to which they pertain, or longer if related to an audit or investigation in progress. Records must be reasonably accessible at all time for use during management evaluation reviews, audits or investigations. OFB and their RFBs shall maintain records as required by federal and state rules in accordance with Federal Regulations 7 CFR 251.00 through 251-30.

(3) OFB and RFB agencies shall be responsible for the loss of USDA commodities including:

(a) Loss of commodities from improper distribution or use of any commodities or failure to provide proper storage, care, or handling.

(b) RFBs will need to immediately submit a claim to OFB and the department if the loss of the commodities value exceeds \$500.

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(4) Under no circumstances shall program recipients be required to make any payments in money materials or services in connection with participation in this program.

Stat. Auth.: ORS 183 & 458.505 - 458.515
Stats Implemented: ORS 458.525 - 458.530
Hist.: OHCS 3-2003, f. & cert. ef. 5-12-03; OHCS 3-2008, f. & cert. ef. 3-31-08; OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 20-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-220-0020

Client Eligibility

(1) FNS commodities shall be made available to low income households. Participation in qualifying programs such as Supplemental Nutrition Assistance Program, Temporary Assistance to Low Income Families, Social Security Insurance, State General Assistance, Low-Income Energy Assistance and the Oregon Supplemental Income Program shall establish a household's eligibility under the program. A creditable indication of such participation is sufficient. No special letter or other special verifying document is required.

(2) Households may establish their eligibility to participate in the program through a credible self-declaration of income at or below 185 percent of the federal poverty line.

(3) Eligibility determinations are to be made in accordance with the federal income guidelines. Eligibility guidelines must, at a minimum, conform within the applicable federal guidelines at 7 CFR 251.5.

(a) Income for eligible households must meet the federal low-income guidelines set forth. Eligible households may receive commodities by signing a statement that declares that their income is at or below 185% of the federal income guidelines.

(b) Households must reside in the geographic location served by the distribution site at the time of applying for assistance, but length of residency shall not be used as an eligibility criterion. Households should not be denied service for the reason that they are in transit from one locality to another.

(4) Each distribution site must ensure that households demonstrate eligibility as described in subsection (3).

Stat. Auth.: ORS 183 & 458.505 - 458.515
Stats. Implemented: ORS 458.505 - 458.515
Hist.: HR 2-1983(Temp), f. & ef. 7-28-83; HR 1-1984, f. & ef. 5-30-84; HR 2-1985, f. & ef. 2-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0010; OHCS 3-2003, f. & cert. ef. 5-12-03; OHCS 3-2008, f. & cert. ef. 3-31-08; OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 20-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-220-0030

Allowable Services

(1) OFB and their RFBs will distribute FNS commodities to low income households through emergency food box programs, congregate meal sites, temporary shelters, and emergency food pantries.

(2) OFB and their RFBs may conduct outreach to under-served areas so that qualified households may obtain needed nutrition education and other support services.

(3) RFBs may publicize the availability of FNS commodities and distribute those commodities in their respective service areas in a manner such that a maximum number of qualified households are served.

Stat. Auth.: ORS 184 & 458.505 - 458.515
Stats. Implemented: ORS 458.505 - 458.515
Hist.: HR 1-1984, f. & ef. 5-30-84; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0015; HSG 8-1993, f. & cert. ef. 10-1-93; OHCS 3-2003, f. & cert. ef. 5-12-03; OHCS 3-2008, f. & cert. ef. 3-31-08; OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 20-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-220-0050

Fiscal Controls

(1) OFB and their RFBs will use funds made available under the federal guidelines at 7 CFR 251.8 for direct expenses associated with the distribution of USDA commodities and commodities secured from other sources to the extent that the commodities are ultimately distributed by eligible RFBs. OFB will furnish reports when and as required by OMB Circular A-133.

(2) Internal controls satisfactory to OHCS including, but not limited to, the use of vouchers and receipts to substantiate all expenditures will be maintained by the OFB and RFBs. OHCS may conduct monitoring of expenses and the accounting system as it determines appropriate. The OFB and RFBs shall cooperate fully with OHCS audits and investigations, including making all records available for inspection and copying.

(3) The OFB shall provide the department with an annual written audit of program and fiscal transactions satisfactory to the department within 9 months after the close of the fiscal audit period in accordance with OMB Circular A-133.

(4) Records of program activities and fiscal transactions shall be maintained by the OFB and their RFBs for a period of 3 years. These records shall be made available to federal, state and OFB monitoring staff upon request.

(5) The OFB and their RFBs shall insure that proper records are kept at all distribution sites.

(6) Fiscal reports and program reports, audit requirements, as well as storage and distribution funds for the month shall be maintained by the OFB.

(7) Each RFB shall provide monthly reports to the OFB in a format prescribed by the OFB and the department.

(8) Allowable administrative funds may be used to pay direct expenses associated with the distribution of commodities and appropriate commodities secured from other sources. Direct expenses include the following:

(a) Intrastate and interstate transport, storing, handling, repackaging, processing, and distribution of commodities.

(b) Funds associated with determination of eligibility, verification, and documentation.

(c) Funds of providing information to persons receiving USDA commodities concerning the appropriate storage and preparation of such commodities.

(d) Funds involved in publishing announcements of times and locations of distribution, and

(e) Funds of recordkeeping, auditing, and other administrative procedures required for program participation.

Stat. Auth.: ORS 184 & 458.505 - 458.515
Stats. Implemented: ORS 458.505 - 458.515
Hist.: HR 2-1983(Temp), f. & ef. 7-28-83; HR 1-1984, f. & ef. 5-30-84; HR 2-1985, f. & ef. 2-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0025; HSG 8-1993, f. & cert. ef. 10-1-93; OHCS 3-2003, f. & cert. ef. 5-12-03; OHCS 3-2008, f. & cert. ef. 3-31-08; OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 20-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-220-0060

Monitoring

(1) The department will conduct on-site evaluations of the OFB each federal fiscal year and selectively monitor OFB's RFBs as determined to be appropriate. The department may conduct other on-site and records evaluations as it deems appropriate.

(2) Evaluations and reviews, as applicable, may include eligibility determinations, food ordering procedures, storage and warehousing practices, inventory controls, approval of distribution sites, reporting and recordkeeping requirements, civil rights policies, and copies of monitoring records of the RFB sub-distribution sites.

(3) If the department determines that OFB or its RFBs are not in compliance with applicable state or federal regulations, the department shall, within 30 working days of the close of the on-site evaluation, send OFB a corrective action notice that shall include at a minimum:

- A description of the identified deficiency;
- The possible causes of the deficiency;
- The time frame within which that corrective action must be taken;

and

- Any requirements for documenting corrective action taken.

Stat. Auth.: ORS 184 & 458.505 - 458.515
Stats. Implemented: ORS 458.505 - 458.515
Hist.: HR 2-1985, f. & ef. 2-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0030; HSG 8-1993, f. & cert. ef. 10-1-93; OHCS 3-2003, f. & cert. ef. 5-12-03; OHCS 3-2008, f. & cert. ef. 3-31-08; OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 20-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-220-0070

Waiver

The Director may waive or modify any requirements of OAR 813, division 220, unless such waiver or modification would violate applicable federal or state statutes or regulations.

Stat. Auth.: ORS 183 & 458.505 - 458.515
Stats Implemented: ORS 458.525 - 458.530
Hist.: OHCS 3-2003, f. & cert. ef. 5-12-03; [Suspended by OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 20-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14]

813-220-0080

Compliance Monitoring; Remedies

If OHCS determines, in its sole discretion, that subgrantee has failed to comply timely with any material obligation under this agreement, including but not limited to any OHCS directive or term of a corrective (2013–2014 MGA Standard Terms & Conditions Page 7 of 14) action plan, OHCS may exercise any remedy available to it under this agreement, applicable law, or otherwise. Such remedies may include, but are not limited to:

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- (1) Terminating any part or all of this agreement;
- (2) Modifying any NOA under this agreement;
- (3) Withholding and/or reducing grant funds;
- (4) Disallowing costs;
- (5) Suspending and/or recouping payments;
- (6) Appointing a receiver for the receipt and administration of grant funds under this agreement;
- (7) Requiring corrective action as it may determine to be appropriate;
- (8) Bringing suit or action in an appropriate forum for the enforcement of this agreement and any remedy, as well as the recovery of damages, including by temporary restraining order, injunction, specific performance or otherwise;
- (9) Debarring or otherwise limiting subgrantee's eligibility for other funding from OHCS;
- (10) Instituting criminal action for misstatements or fraud; and
- (11) Requesting investigation, audit and/or sanction by other governmental bodies.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.525 - 458.545
Hist.: OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 20-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

Rule Caption: Suspends temporary rules adopted January 27, 2014 for the Community Services Block Grant Program.

Adm. Order No.: OHCS 21-2014(Temp)

Filed with Sec. of State: 2-10-2014

Certified to be Effective: 2-10-14 thru 7-25-14

Notice Publication Date:

Rules Suspended: 813-210-0001(T), 813-210-0009(T), 813-210-0015(T), 813-210-0022(T), 813-210-0025(T), 813-210-0040(T), 813-210-0050(T), 813-210-0052(T), 813-210-0055(T), 813-210-0056(T), 813-210-0060(T), 813-210-0065(T), 813-210-0075(T), 813-210-0085(T)

Subject: This action retroactively suspends the temporary rules adopted on January 27, 2014 for the Community Services Block Grant Program.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-210-0001

Purpose

OAR chapter 813, division 210, is promulgated to accomplish the general purposes of ORS 458.505 to 458.545, and particularly 458.505 to 458.515, which designate the Housing and Community Services Department as the state agency responsible for administering state and federal antipoverty programs in Oregon. OAR chapter 813, division 210, describes the Community Services Block Grant ("CSBG") Program, through which the department funds certain efforts to alleviate the causes and conditions of poverty in local communities.

Stat. Auth.: ORS 456.555 & 458.235
Stats. Implemented: ORS 458.210 - 458.240 & 458.505
Hist.: OHCS 2-2002, f. & cert. ef. 4-15-02; OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 21-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-210-0009

Definitions

All terms used in OAR chapter 813, division 210, are defined in the Act, in 813-005-0005 and in this 813-210-0010. As used in OAR chapter 813, division 210, unless otherwise indicated by the context:

(1) "Community action agency" or "CAA" means a private nonprofit corporation organized under ORS Chapter 65, or an office, division or agency of a political subdivision designated by the Department of Health and Human Services as a community action agency pursuant to the Economic Opportunity Act of 1964, which meets the requirements outlined in 458.505(4).

(2) "CSBG program" or "program" means Community Services Block Grant program administered by the department and described in this division.

(3) "Department" means the Housing and Community Services Department of the state of Oregon."

(4) "Eligible services" or "program services" means strategies and activities, including a range of direct and indirect services that have a measurable effect on alleviating the causes and conditions of poverty affecting low-income households and that are eligible for funding by the department under this program.

(5) "Funding agreement" means that written agreement, together with all incorporated documents and references, executed by and between the department and the subgrantee agency in form and substance satisfactory to the department, which is a condition precedent for receipt of program funding from the department.

(6) "Funding application" means a subgrantee agency's application to the department for program funding.

(7) "HMIS" means the Homeless Management Information System.

(8) "Household" means an individual living alone or a group of individuals (including a family with or without children) who are living together as one economic unit.

(9) "Household income" means the total annual household receipts before taxes from all sources. Income does not include assets or funds over which the program applicant has no control.

(10) "Low-income household" means a household with household income at or less than 125% of the poverty line.

(11) "Migrant and seasonal farmworker organization" means a private nonprofit organization organized under ORS chapter 65 that serves migrant and seasonal farmworkers and their families.

(12) "Political activity" means:

(a) Directly or indirectly to attempt to influence or actually to influence elections and/or nominations for political office;

(b) Directly or indirectly to solicit or coerce contributions for use in elections or in nominations for political office;

(c) Directly or indirectly to provide voters or prospective voters with transportation to polls, nomination caucuses or similar activities; or

(d) Directly or indirectly to provide assistance with an election, nomination, or voter registration activity.

(13) "Population" means inhabitants of a political subdivision as enumerated by the U.S. Census, or official state estimates prepared by the Center for Population Research and Census at Portland State University.

(14) "Poverty line" means the official standard for poverty in Oregon established by the Secretary of the U.S. Department of Health and Human Services.

(15) "Program requirements" means all funding agreement terms and conditions, department directives (including corrective notices), and applicable state, local, and federal laws and regulations (including these rules, other applicable department rules, and the manual), executive orders, local ordinances and codes.

(16) "Service area" means the specific geographic area or region within which a subgrantee agency provides program services directly or by contract to eligible households.

(17) "Subgrantee agency" means a private, nonprofit corporation organized under ORS Chapter 65 or a local government as defined in ORS 197.015 that is designated as a community action agency or other appropriate organization with which the department has contracted to administer the program at the local level.

Stat. Auth.: ORS 456.555 & 458.235
Stats. Implemented: ORS 458.210 - 458.240 & 458.505
Hist.: HR 5-1982, f. & ef. 2-5-82; HR 3-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-060-0000; HSG 7-1993, f. & cert. ef. 10-1-93; OHCS 2-2001(Temp), f. & cert. ef. 10-3-01 thru 4-1-02; Administrative correction 4-12-02; OHCS 2-2002, f. & cert. ef. 4-15-02, Renumbered from 813-210-0000; OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 21-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-210-0015

Subgrantee Agency Program Application; Contracting

(1) The department may contract with subgrantee agencies to provide program services at the local level. In a service area where a community action agency exists, the community action agency has a conditional right of first refusal to serve as the subgrantee agency.

(2) The department normally will fund only one subgrantee agency within any service area. However, the department may, in its sole discretion, allow two or more subgrantee agencies to operate within a common service area. In such cases the subgrantee agencies shall enter into a written agreement with the department, satisfactory to the department in its sole discretion, in order, inter alia, to insure full access to program services for all eligible households within the service area to the extent of available funding and to prevent duplication of services.

(3)(a) In order to be eligible to administer the program at the local level, subgrantee agencies normally must submit, on a biennial basis, a funding application (including a work plan), which the department must approve before it is operative.

(b) A subgrantee agency's funding application shall include details satisfactory to the department as to how the subgrantee agency provided a meaningful opportunity for participation in the development of the work

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plan by local service providers, advocates, clients, businesses, churches, citizens, governments, and other interested stakeholders.

(c) Funding applications must meet all requirements established by the department, to the department's satisfaction, for the form and content of the application, including the work plan (which the department may modify or decline).

(d) Funding applications will be evaluated by the department for sufficiency with respect to application and other program requirements.

(e) In cases where a community action agency has the conditional right of first refusal for antipoverty program administration, and the community action agency cannot meet the sufficiency requirements for the form and content of the funding application as determined by the department in its sole discretion, the department may allow other eligible organizations to submit a funding application with respect to that service area.

(4) Subgrantee agencies must execute a funding agreement with the department, satisfactory to the department in its sole discretion, in order to receive program funding and administer the program within its service area.

(5) If a subgrantee agency subcontracts with other organizations for the delivery of program services within its service area, it must require and provide by contract that such other organizations shall adhere to and be subject to the terms and conditions of the subgrantee agency's funding agreement with the department and other program requirements, including but not limited to records retention and reporting, department monitoring, and department remedial action.

(6) The department normally will allocate program funds to service areas through a formula established by the department prior to the allocation process. However, the department reserves the right to modify the formula at any time, at its sole discretion.

(7) The department may otherwise initiate a program funding award with a subgrantee agency.

Stat. Auth.: ORS 456.555 & 458.235
Stats. Implemented: ORS 458.210 - 458.240 & 458.505
Hist.: HR 5-1982, f. & ef. 2-5-82; HR 3-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-060-0015; HSG 7-1993, f. & cert. ef. 10-1-93; OHCS 2-2001(Temp), f. & cert. ef. 10-3-01 thru 4-1-02; Administrative correction 4-12-02; OHCS 2-2002, f. & cert. ef. 4-15-02; Renumbered from 813-210-0030 by OHCS 6-2014, f. & cert. ef. 1-27-14; OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 21-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-210-0022

Administration

(1)(a) Subgrantee agencies shall comply with the terms of the funding agreement and all other program requirements, including but not limited to department directives (including deficiency notices), applicable local, state and federal laws, rules (including the manual), regulations, executive orders, local ordinances and codes.

(b) Subgrantee agencies shall familiarize themselves with and adhere to procedures outlined in the manual. These procedures, inter alia, describe the methods for accurate completion of intake documentation and entry of the resultant data into HMIS or other department-approved data system, for authorizing program payments, for making and reporting program funding request draws, and for end-of-year and other program reporting to the department.

(c) Subgrantee agencies shall attend and participate in program training made available or conducted by the department.

(2) Subgrantee agencies shall take applications for program services from households, verify household eligibility, deliver, contract for (as applicable), and monitor the use of appropriate program services — all in a manner consistent with program requirements and satisfactory to the department.

(3) Subgrantee agencies shall make good faith attempts satisfactory to the department to recover any overpayment of program funds.

(4)(a) Subgrantee agencies may expend up to an amount authorized by the department in writing for reimbursement of reasonable and appropriate administrative costs.

(b) If a subgrantee agency subcontracts with other organizations to provide program services, that organization may expend up to an amount for administrative costs that does not exceed its proportionate share of the amount authorized by the department for reasonable and appropriate administrative costs of the funding award.

Stat. Auth.: ORS 456.555 & 458.235
Stats. Implemented: ORS 458.210 - 458.240 & 458.505
Hist.: OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 21-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-210-0025

Program Activities

(1) Subgrantee agencies shall provide program services to eligible households to the extent of available funding, subject to compliance with manual and other program requirements. Subject to its funding agreement, a subgrantee agency may use different strategic approaches to reduce or eliminate the causes or conditions of poverty in its service area. These strategies and activities, which may include a range of services, both direct and indirect, must have a measurable and potentially major impact on the causes of poverty in communities in the service area where poverty is a particularly acute problem.

(2) Program funds may be used for services that assist low-income households, including the elderly poor. These services must conform to program requirements, but normally may include, (and are not necessarily limited to), services that help members of eligible households:

- (a) Secure and retain meaningful employment;
- (b) Attain an adequate education;
- (c) Make better use of available income;
- (d) Obtain and maintain adequate housing and a suitable living environment;

(e) Obtain emergency assistance through loans or grants to meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing and employment-related assistance;

(f) Remove obstacles and solve problems blocking the achievement of self-sufficiency;

- (g) Achieve greater participation in the affairs of the community; or
- (h) Make effective use of other programs that complement the purposes of this program.

(3) Subgrantee agencies also may use program funds for program services to reduce or eliminate poverty conditions in communities in the service area, including but not limited to:

(a) Enabling on an emergency basis for the provision of nutritious food, household supplies, and related services as may be necessary to counteract conditions of starvation and malnutrition among the poor;

(b) Coordinating and establishing linkages between government and other social service programs to assure the effective delivery of anti-poverty services to eligible low income households; and

(c) Encouraging private sector participation in meaningful efforts to ameliorate poverty in the community.

Stat. Auth.: ORS 456.555 & 458.235
Stats. Implemented: ORS 458.210 - 458.240 & 458.505
Hist.: HR 5-1982, f. & ef. 2-5-82; HR 3-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-060-0005; HSG 7-1993, f. & cert. ef. 10-1-93; OHCS 2-2001(Temp), f. & cert. ef. 10-3-01 thru 4-1-02; Administrative correction 4-12-02; OHCS 2-2002, f. & cert. ef. 4-15-02; Renumbered from 813-210-0010 by OHCS 6-2014, f. & cert. ef. 1-27-14; OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 21-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-210-0040

Review of a Funding Application

(1) A Subgrantee Agency shall submit to the Department a report covering the matters described in OAR 813-210-0030(2)(h) within 15 working days following the end of each calendar quarter.

(2) Each calendar quarter the Department may evaluate a Subgrantee Agency's services and activities in accordance with the evaluation plan described in OAR 813-210-00030(1)(d) and/or receive an evaluation report from the Subgrantee Agency that complies with the requirements of the evaluation plan described in 813-210-00030(2)(g) based upon the goals and objectives stated in the Subgrantee Agency's approved Funding Application.

Stat. Auth.: ORS 184 & 458.505 - 458.515
Stats. Implemented: ORS 458.505 - 458.545
Hist.: HR 5-1982, f. & ef. 2-5-82; HR 3-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-060-0020; HSG 7-1993, f. & cert. ef. 10-1-93; OHCS 2-2001(Temp), f. & cert. ef. 10-3-01 thru 4-1-02; Administrative correction 4-12-02; OHCS 2-2002, f. & cert. ef. 4-15-02; [Suspended by OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 21-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14]

813-210-0050

Recordkeeping and Reporting

(1) Subgrantee agencies shall maintain accurate financial records satisfactory to the department, which document, inter alia, the receipt and disbursement of all funds provided through the program by the department, and have an accounting system in place satisfactory to the department, which meets, inter alia, generally accepted accounting principles.

(2) Subgrantee agencies also shall maintain other program records satisfactory to the department, which document, inter alia, client eligibility,

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receipt of allowable program services, termination of services and the bases for same, housing status of clients and services received, administrative actions, contracts with subcontractors, review of subcontractor performance, action taken with respect to deficiency notices, and any review proceedings. Such records shall be in substance and format satisfactory to the department.

(3) Subgrantee agencies also shall provide the department with reports, data, and financial statements, in form and substance satisfactory to the department, as may be required under the manual or requested from time to time by the department, including but not limited to quarterly reports covering items set forth in OAR 813-210-0025(2) and (3), which shall be in a format prescribed by the department. Such quarterly reports shall be coded in such a way as to allow the linking and analysis of expenditures for each separate service funded by the program in the annual funding application.

(4)(a) Subgrantee agencies shall make all program records available to the department, the Oregon Secretary of State's Office, the federal government (if applicable), and their duly authorized representatives for inspection and copying.

(b) Subgrantee agencies and their contractors shall cooperate fully in any inspections or other monitoring actions taken by the department, the Oregon Secretary of State's Office, the federal government (if applicable), and their duly authorized representatives.

(c) Subgrantee agencies shall retain and keep accessible all such program records for a minimum of 5 years, or such longer period as may be required by applicable law, following final payment and termination of program involvement, or until the conclusion of any audit, controversy or litigation arising out of or related to the program, whichever date is later.

(5) Subgrantee agencies shall timely and accurately collect and report household program data to the department through the use of a department approved HMIS or other data reporting system. Such data collection and reporting shall be satisfactory to the department.

Stat. Auth.: ORS 456.555 & 458.235
Stats. Implemented: ORS 458.210 - 458.240 & 458.505
Hist.: HR 5-1982, f. & ef. 2-5-82; HR 3-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-060-0025; HSG 7-1993, f. & cert. ef. 10-1-93; OHCS 2-2001(Temp), f. & cert. ef. 10-3-01 thru 4-1-02; Administrative correction 4-12-02; OHCS 2-2002, f. & cert. ef. 4-15-02; OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 21-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-210-0052

Audits

(1) Subgrantee agencies shall provide quarterly financial statements to the department with respect to their program participation, which reports do not need to be formal audits. Such quarterly financial statement shall be satisfactory to the department in its sole discretion.

(2) Subgrantee agencies also shall conduct and provide to the department an annual audit of the program operations of the subgrantee agency, including delegated funds, as part of the subgrantee agency's normal annual audit cycle. This annual audit shall be satisfactory to the department in its sole discretion.

(3) The audit report of the subgrantee agency's program year just ended shall be submitted by the subgrantee agency to the department within six months after the close of that program year.

(4) The audit shall be conducted by a qualified and independent certified public accountant and shall meet the standards established by the Comptroller General of the United States and published in "Standards for Audit of Governmental Organizations, Programs, Activities and Functions" (USGOP Stock No. 2000-00110), "Guidelines for Financial and Compliance Audits of Federally Assisted Program" (USGOP Stock No. 020-000-0081-0) published by the United States General Accounting Office and the audit standards supplements series of publications, each as amended from time to time. These publications are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402;

(5) The annual audit must include a management letter.

(6) The department may, in its sole and absolute discretion, comment on the auditor's statements contained in the annual audit report, along with any other problems reflected in the report, such as any differences between the annual audited financial statements and the quarterly unaudited financial statements submitted by the subgrantee agency to the department. A subgrantee agency must correct all audit deficiencies promptly but in any event within 90 days of date the department receives the subgrantee agency's audit report, unless the department, in its sole and absolute discretion, grants a 90 day extension.

(7) System Certification:

(a) A subgrantee agency's financial management system shall be certified as adequate to safeguard and account for program funds by a qualified independent certified public accountant.

(b) A subgrantee agency's financial management system shall be maintained at an acceptable level and recertified annually by its outside auditors in the subgrantee agency's annual audit report.

(c) Subgrantee agencies having financial management systems in place that are certified by "pre-audit surveys" and recertified by acceptable annual audits will not be required to obtain the certifications described in this subsection.

(d) First time subgrantee agencies must obtain certification as required in this subsection before program funds can be expended or obligated by it.

(e) If, in the department's opinion, an annual audit report submitted by a subgrantee agency indicates significant financial management system or system maintenance weakness, the department may, in its sole and absolute discretion, withhold further disbursement of program funds until it receives from the subgrantee agency satisfactory recertification of its financial management system from a qualified and independent certified public accountant.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 456.555 & 458.235
Stats. Implemented: ORS 458.210 - 458.240 & 458.505
Hist.: OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 21-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-210-0055

Funding

(1) Reimbursement by the Department for a Subgrantee Agency's Program expenditures will be based upon the timely receipt by the Department of the Subgrantee Agency's quarterly and annual audit reports and upon the Subgrantee Agency's conformance to its budget estimates.

(2) The Department may, in its sole and absolute discretion, advance to a Subgrantee Agency funds required by that Subgrantee Agency for operations funded by the Program.

Stat. Auth.: ORS 458.505 - 458.515
Stats. Implemented: ORS 458.505 - 458.545
Hist.: OHCS 2-2002, f. & cert. ef. 4-15-02; [Suspended by OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 21-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14]

813-210-0056

Compliance Monitoring; Remedies

(1) The department may conduct reviews, audits, and other compliance monitoring as it deems appropriate with respect to each subgrantee agency and its subcontractors, inter alia, to assure compliance with program requirements. Subgrantee agencies and their subcontractors shall cooperate fully with the department in its compliance monitoring.

(2)(a) The department may take such remedial action as it deems appropriate including, but not limited to terminating its funding agreement with a subgrantee agency and requiring repayment of all program funding, if it determines (in its sole discretion) that the performance of the subgrantee agency or any of its subcontractors is deficient in any manner, including with respect to program requirements.

(b) The department may, but is not required to issue deficiency notices and require the subgrantee agency to correct such deficiencies in a manner satisfactory to the department within a period of time designated by the department. If any such deficiency notices are issued, the subgrantee shall fully correct such deficiencies to the department's satisfaction within the time specified.

(c) Issuance of a deficiency notice shall not constitute a waiver of other remedies available to the department or preclude the department from exercising such other remedies available to it under the funding agreement or other program requirements, at law or otherwise.

Stat. Auth.: ORS 456.555 & 458.235
Stats. Implemented: ORS 458.210 - 458.240 & 458.505
Hist.: OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 21-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-210-0060

Reduction or Termination of CSBG Funding

(1) No migrant and seasonal farmworker organization that received program funding in the previous federal fiscal year shall have its program funding terminated or reduced below the proportional share of funding it received in the previous federal fiscal year unless, after notice and opportunity for hearing on the record, the department determines that cause existed for such termination or reduction, subject to the procedures and review by the director and Secretary for the United States Department of Health and Human Resources.

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(2) For purposes of making a determination with respect to program funding reductions or terminations with respect to a recipient migrant and seasonal farmworker organization, the term “cause” includes but is not limited to:

(a) A statewide redistribution of CSBG funds to respond to:

(A) The results of the most recently available census or other appropriate data; or

(B) The establishment of a new migrant and seasonal farmworker organization; and

(b) The failure of a migrant and seasonal farmworker organization to comply with the terms of its funding agreement with the department or the Community Services Block Grant Act as amended by Public Law 101-501.

Stat. Auth.: ORS 456.555 & 458.235

Stats. Implemented: ORS 458.210 - 458.240 & 458.505

Hist.: HSG 7-1993, f. & cert. ef. 10-1-93; OHCS 2-2001(Temp), f. & cert. ef. 10-3-01 thru 4-1-02; Administrative correction 4-12-02; OHCS 2-2002, f. & cert. ef. 8-15-02; OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 21-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-210-0065

Waiver

The Director may waive or modify any requirements of the rules in OAR 813, division 210, unless such waiver or modification would violate applicable federal or state statutes or regulations.

Stat. Auth.: ORS 458.505 - 458.515

Stats. Implemented: ORS 458.505 - 458.545

Hist.: OHCS 2-2002, f. & cert. ef. 8-15-02; [Suspended by OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 21-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14]

813-210-0075

Review of Subgrantee Action

(1) Subgrantee agencies shall provide a review process satisfactory to the department for persons aggrieved by agency action or inaction with respect to program obligations.

(2) The subgrantee agency must inform the department in writing of any request by an aggrieved party for review of subgrantee agency action within ten (10) days of such request.

(3) The subgrantee agency must inform the department and the aggrieved party in writing of any final review determination made by the subgrantee agency, and the basis for same, within ten (10) days of such final determination.

Stat. Auth.: ORS 456.555 & 458.235

Stats. Implemented: ORS 458.210 - 458.240 & 458.505

Hist.: OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 21-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-210-0085

Department Review

(1) Persons aggrieved by an action of a subgrantee agency with respect to its program obligations may submit a written request to the department for its review of such contested action, but only after first exhausting the applicable review process furnished by the relevant subgrantee agency and within thirty (30) days of that agency review determination.

(2) The department may accept or deny a request for its review in whole or in part, at its sole discretion. Any department review will be in the manner determined appropriate by the department and may include, but shall not necessarily be limited to review of provided information.

(3) If the department accepts the review request, the requester of the review, the subgrantee agency, and relevant contractors shall produce all information required by the department, including requested affidavits or testimony.

(4) The department may make a determination on a review request and require such remedial action as the department determines, in its sole discretion, to be appropriate.

(5) Department review shall not take the form of a contested case review under ORS Chapter 183 unless specifically so stated by the director in writing.

(6) Timely request for department review by an aggrieved person or entity, and its completion to final order by the department, are requirements for exhaustion of administrative remedies by such aggrieved person or entity.

Stat. Auth.: ORS 456.555 & 458.235

Stats. Implemented: ORS 458.210 - 458.240 & 458.505

Hist.: OHCS 7-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 21-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

Rule Caption: Suspends temporary rules adopted January 27, 2014 for the Oregon Hunger Response Program.

Adm. Order No.: OHCS 22-2014(Temp)

Filed with Sec. of State: 2-10-2014

Certified to be Effective: 2-10-14 thru 7-25-14

Notice Publication Date:

Rules Suspended: 813-250-0000(T), 813-250-0005(T), 813-250-0015(T), 813-250-0020(T), 813-250-0030(T), 813-250-0040(T), 813-250-0055(T), 813-250-0060(T), 813-250-0070(T)

Subject: This action retroactively suspends the temporary rules adopted on January 27, 2014 for the Oregon Hunger Response Fund Program.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-250-0000

Purpose and Objectives

(1) OAR chapter 813, division 250 establishes and implements the Oregon Hunger Response Fund Program which is funded by general fund moneys and designed to carry out the department’s responsibility as the lead public body in administering the state policy on hunger under ORS 458.525 to 458.545. The Oregon Hunger Response Fund Program is the means by which the department allocates funds for the statewide network of food banks and emergency food programs to acquire food and new food sources, build network capacities and link emergency food clients to other services.

(2) The Oregon Food Bank, a nonprofit corporation organized under ORS Chapter 65, is the organization currently designated by the department to coordinate delivery of food to eligible program recipients.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.625 & 458.525 - 458.545

Hist.: HSG 1-1994, f. & cert. ef. 3-2-94; OHCS 4-2003, f. & cert. ef. 5-12-03; OHCS 4-2008, f. & cert. ef. 4-11-08; OHCS 6-2012(Temp), f. & cert. ef. 12-6-12 thru 6-4-13; OHCS 4-2013, f. & cert. ef. 6-4-13; OHCS 8-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 22-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-250-0005

Definitions

All terms used in OAR chapter 813, division 250, are defined in the Act, in 813-005-0005, and in this 813-250-0005. As used in OAR 813, division 250, unless the context indicates otherwise:

(1) “Administrative costs” means all program costs that are not directly related to delivery of program services.

(2) “Department” means the Housing and Community Services Department for the state of Oregon.

(3) “Federal poverty guideline” means the federal poverty guideline for the state of Oregon established from time to time by the U.S. Department of Health and Human Services.

(4) “Funding agreement” means that written agreement, together with all incorporated documents and references, executed by and between the department and the Oregon Food Bank, in form and substance satisfactory to the department, as a condition precedent for receipt of program funding from the department.

(5) “Household” means any individual living alone, family with or without children, or group of individuals who are living together as one economic unit.

(6) “Household income” means the total annual household receipts before taxes from all sources. Income does not include assets or funds over which the program applicant has no control.

(7) “Local service provider” or “recipient agency” means an organization that directly provides program services within a local service area to eligible households pursuant to a written agreement with the department or a program provider.

(8) “Oregon Food Bank” means the nonprofit corporation organized under ORS chapter 65, which is the program provider designated by the department to coordinate delivery of food to eligible program recipients through local service providers.

(9) “OHRF” or “fund” means the Oregon Hunger Response Fund Account from which moneys are continuously appropriated for carrying out the purposes of the program.

(10) “OHRFP” or “program” means the Oregon Hunger Response Fund Program administered by the department pursuant to ORS 458.530 to 458.545.

(11) “Program provider” means the organization or organizations so designated by the department and with which it has executed a funding agreement to administer the program, or aspects thereof, consistent with program requirements as further provided in the funding agreement.

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(12) "Program requirements" means all funding agreement terms and conditions, department directives (including corrective notices), and applicable state, local, and federal laws and regulations (including these rules and other applicable department rules, executive orders, local ordinances and codes).

(13) "Program services" means any or all program services, assistance, or other activities made available to eligible households under the program, including but not limited to relieving situations of emergency and distress by enabling the provision of food to eligible households.

(14) "Service area" means the local geographic area or region within which a local service provider provides program services to eligible households.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 456.625 & 458.525 - 458.545
OHCS 8-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 22-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-250-0015

Provider Selection

(1) The department may administer the program directly or, in whole or in part, by written agreement with one or more program providers or local service providers.

(2) The department may select program providers and local service providers on a competitive basis or otherwise as it determines best serves the purposes of the program.

(3) Any program provider must execute a funding agreement with the department, satisfactory to the department in its sole discretion, in order to act in that capacity and receive program funding.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 456.625 & 458.525 - 458.545
OHCS 8-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 22-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-250-0020

Administration

(1) Program providers may select and subcontract with local service providers to provide program services within a service area. Such subcontracts must be in writing and, at a minimum, include provisions specifying:

- (a) The funding amount;
- (b) The provision of program services, including determination of household eligibility and appropriate program services;
- (c) The effective date and duration of the agreement;
- (d) Fiscal and other program reporting requirements;
- (e) Audit and compliance requirements; and
- (f) Obligations to the department as a third-party beneficiary, including specifying department compliance monitoring and remedy rights consistent with program requirements.

(2) Subcontract agreements are subject to review and approval by the department, at its choosing and in its sole discretion.

(3) The department may require terms and conditions in addition to or different from those specified in subsection (1) of this section in its sole discretion.

(4) The department may terminate a subcontract agreement upon written notice to the program provider and local service provider in its sole discretion. Local service providers shall not be entitled to payment for program services provided after receipt of a termination notice from the department.

(5) Exercise of a termination remedy by the department is not exclusive of any other remedy or right available to the department and does not constitute a waiver, or create a bar to the exercise, (at any time) of such other rights and remedies.

(6) A recipient agency must execute a written agreement with a program provider or the department in order to receive program funding and provide program services.

(7) A recipient agency may recommend guidelines to its program provider or the department for the uses and disbursement of program funds.

(8) Program providers may use program funds to supplement but not supplant other existing resources available for supporting their activities and the activities of local service providers. Program funds may only be used for appropriate program services or as otherwise expressly allowed by program requirements.

(9) Neither service provider nor a recipient agency may require a program recipient to make any payments in money, materials or services for, or in connection with, the receipt of program services.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 456.625 & 458.525 - 458.545
Hist.: HSG 1-1994, f. & cert. ef. 3-2-94; OHCS 4-2003, f. & cert. ef. 5-12-03; OHCS 4-2008, f. & cert. ef. 4-11-08; OHCS 6-2012(Temp), f. & cert. ef. 12-6-12 thru 6-4-13; OHCS 4-2013,

f. & cert. ef. 6-4-13; OHCS 8-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 22-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-250-0030

Eligible Program Services

(1) The department and program providers, including through local service providers, may use program funds for:

(a) Capacity building activities and equipment purchases to strengthen or expand the infrastructure of recipient agencies to facilitate expansion of the food supply, including the transportation of commodities;

(b) Acquisition and distribution of food in bulk form that is repackaged for household use; and

(c) Linkage grants to appropriate recipient agencies for outreach to under-served areas so that emergency food recipients can obtain needed nutrition education and other support services.

(2) Program providers and recipient agencies may use program funds to pay for their reasonable program administrative costs up to limits established by the department.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 456.625 & 458.525 - 458.545
Hist.: HSG 1-1994, f. & cert. ef. 3-2-94; OHCS 4-2003, f. & cert. ef. 5-12-03; OHCS 4-2008, f. & cert. ef. 4-11-08; OHCS 6-2012(Temp), f. & cert. ef. 12-6-12 thru 6-4-13; OHCS 4-2013, f. & cert. ef. 6-4-13; OHCS 8-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 22-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-250-0040

Fiscal Control and Reporting Requirements

(1) Program providers and recipient agencies:

(a) Shall create and maintain records satisfactory to the department that documents the use of program funds, including for linkage activities and the receipt and distribution of purchased commodities;

(b) Shall create and maintain records satisfactory to the department that relate to program services; and

(c) Maintain such records for a period of five years or until the completion of audits, claims or litigation to which they are relevant, whichever is longer.

(2) Program providers and recipient agencies shall make such records available to the department for inspection and copying upon its request. Recipient agencies also shall make such records available to their program provider for inspection and copying upon its request.

(3) Each recipient agency shall report annually to its program provider regarding the type and amount of food purchased with program funds in a manner satisfactory to the program provider and department.

(4) Program providers shall provide the department:

(a) An annual audit of program activities and fiscal transactions within nine months following the end of the fiscal audit period;

(b) A year-end report of linkage projects carried out by each recipient agency and acquisitions of goods by the program provider; and

(c) Such other information as the department may require.

Stat. Auth.: ORS 456.555
Stats. Implemented: OL 1993 Ch. 725, ORS 456.625 & 458.525 - 458.545
Hist.: HSG 1-1994, f. & cert. ef. 3-2-94; OHCS 4-2003, f. & cert. ef. 5-12-03; OHCS 4-2008, f. & cert. ef. 4-11-08; OHCS 6-2012(Temp), f. & cert. ef. 12-6-12 thru 6-4-13; OHCS 4-2013, f. & cert. ef. 6-4-13; OHCS 8-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 22-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-250-0055

Compliance Monitoring; Remedies

(1) The department may conduct reviews, audits, and other compliance monitoring as it deems appropriate with respect to each program provider and local service provider, inter alia, to assure compliance with program requirements. Program providers and local service providers shall cooperate fully with the department in its compliance monitoring.

(2)(a) The department may take such remedial action as it deems appropriate including, but not limited to terminating its funding agreement with program providers or terminating subcontract agreements with local service providers and requiring repayment of all program funding, if it determines (in its sole discretion) that the performance of the program provider or local service provider is deficient in any manner, including with respect to program requirements.

(b) The department may, but is not required to issue deficiency notices and require a program provider or local service provider to correct such deficiencies in a manner satisfactory to the department within a period of time designated by the department. If any such deficiency notices are issued, the program provider or local service provider shall fully correct such deficiencies to the department's satisfaction within the time specified.

(c) Issuance of a deficiency notice shall not constitute a waiver of other remedies available to the department or preclude the department from exercising such other remedies available to it under the funding agreement,

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a relevant subcontract agreement, or other program requirements, at law or otherwise.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 456.625 & 458.525 - 458.545
Hist.: OHCS 8-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 22-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-250-0060

Review of Program Provider and Local Service Provider Action

(1) Program providers shall provide a review process satisfactory to the department for persons aggrieved by program provider or local service provider action or inaction with respect to program obligations.

(2) The program provider must inform the department in writing of any qualifying request by an aggrieved party for review of relevant action or inaction within ten (10) days of such request.

(3) The program provider must inform the department and the aggrieved party in writing of any final review determination made by the subgrantee agency, and the basis for same, within ten (10) days of such final determination.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 456.625 & 458.525 - 458.545
Hist.: OHCS 8-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 22-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-250-0070

Department Review

(1) Persons aggrieved by an action of a program provider or local service provider with respect to its program obligations may submit a written request to the department for its review of such contested action, but only after first exhausting the applicable review process furnished by the relevant program provider and within thirty (30) days of that program provider's review determination.

(2) The department may accept or deny a request for its review in whole or in part, at its sole discretion. Any department review will be in the manner determined appropriate by the department and may include, but shall not necessarily be limited to review of provided information.

(3) If the department accepts the review request, the requester of the review, the program provider, and the local service provider shall produce all information required by the department, including requested affidavits or testimony.

(4) The department may make a determination on a review request and require such remedial action as the department determines, in its sole discretion, to be appropriate.

(5) Department review shall not take the form of a contested case review under ORS Chapter 183 unless specifically so stated by the director in writing.

(6) Timely request for department review by an aggrieved person or entity, and its completion to final order by the department, are requirements for exhaustion of administrative remedies by such aggrieved person or entity.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 456.625 & 458.525 - 458.545
Hist.: OHCS 8-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 22-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

Rule Caption: Suspends temporary rules adopted January 27, 2014 for the State Homeless Assistance Program.

Adm. Order No.: OHCS 23-2014(Temp)

Filed with Sec. of State: 2-10-2014

Certified to be Effective: 2-10-14 thru 7-25-14

Notice Publication Date:

Rules Suspended: 813-240-0001(T), 813-240-0005(T), 813-240-0010(T), 813-240-0015(T), 813-240-0020(T), 813-240-0041(T), 813-240-0050(T), 813-240-0060(T), 813-240-0070(T), 813-240-0080(T), 813-240-0090(T)

Subject: This action retroactively suspends the temporary rules adopted on January 27, 2014 for the State Homeless Assistance Program.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-240-0001

Purpose

OAR chapter 813, division 240, is promulgated to accomplish the general purposes of ORS 458.505 to 458.545, and particularly 458.505, which designates the Housing and Community Services Department as the state agency responsible for administering state and federal antipoverty programs in Oregon. The State Homeless Assistance Program addressed in

this division is one such program subject to department administration and has as its purpose the funding of emergency shelters and the supportive services directly related to them in order to meet the emergency needs of the homeless.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505
Hist.: OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02; OHCS 13-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 23-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-240-0005

Definitions

All words and terms are used in OAR chapter 813, division 240, defined in the Act, in 813-005-0005 and in this 813-240-0005. As used in OAR chapter 813, division 240, unless the context indicates otherwise:

(1) "Administrative costs" means all program costs that are not directly related to delivery of eligible services under OAR chapter 813, division 240.

(2) "Community action agency" or "CAA" means a private, nonprofit corporation organized under ORS Chapter 65, or office, division or agency of a political subdivision designated as a community action agency pursuant to the Economic Opportunity Act of 1964, by the U.S. Department of Health and Human Services, which meets the requirements outlined in 458.505(4).

(3) "Department" means the Housing and Community Services Department for the state of Oregon.

(4) "Emergency shelter" means any appropriate facility that has the primary purpose of providing temporary or transitional shelter for the homeless in general or for specific populations of the homeless and the use of which does not require occupants to sign leases or occupancy agreements.

(5) "Funding application" means a subgrantee agency's application to the department for a program grant.

(6) "HMIS" means the Homeless Management Information System.

(7) "Homeless" means an individual, family or household that lacks a fixed, regular and adequate nighttime residence in accordance with Department categorical definitions. Categorical definitions are contained in the program operations manual.

(8) "Household" means an individual living alone, a family with or without children, or a group of individuals who are living together as one economic unit.

(9) "Program" means the State Homeless Assistance Program administered by the department.

(10) "Program costs" means those costs directly associated with eligible program services.

(11) "Program requirements" means all funding agreement terms and conditions (including work plan objectives), department directives (including deficiency notices), and applicable state, local, and federal laws and regulations (including these rules, other applicable department rules, and the manual), executive orders, local ordinances and codes.

(12) "Program services" means activities related to emergency shelter funding and operation including, but not limited to, operational costs, shelter conversion or rehabilitation, case management, other support services for clients and data collection.

(13) "Service area" refers to the specific geographic area or region within which a subgrantee agency provides program services directly or by contract.

(14) "State Homeless Assistance Program operations manual," "program manual" means the State Homeless Assistance Program Manual as amended from time to time, incorporated herein by this reference.

(15) "Subcontractor" means a nonprofit corporation established under ORS Chapter 65, a housing authority established under 456.055 to 456.235 or local government as defined in 197.015, contracting with a subgrantee agency to provide program services.

(16) "Subgrantee agency" means a private, nonprofit corporation organized under ORS Chapter 65; a housing authority established under 456.055 to 456.235, or a local government as defined in 197.015 with which the department has contracted to administer program services at the local level.

(17) "Work plan" or "plan" means the subgrantee agency's plan for the use of program funds as approved by the department, which is part of its approved funding application, and included in its funding agreement with the department.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.505 - 458.515
Hist.: AFS 65-1985, f. & cert. ef. 11-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 461-100-0000; HSG 10-1993, f. & cert. ef. 10-1-93; OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; Renumbered from 813-240-0000; OHCS 6-2002, f. & cert. ef. 5-15-02;

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OHCS 13-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 23-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-240-0010 Administration

(1) The department may contract with a subgrantee agency to provide program services at the local level. In a service area where a community action agency exists, the community action agency has a conditional right of first refusal to serve as the subgrantee agency for the service area.

(2) The department normally will allocate program funds to subgrantee agencies for the various service areas through a formula established by the department prior to the allocation process. However, the department reserves the right to modify such formula at any time at its sole discretion.

(3) A subgrantee agency may subcontract with other organizations that meet the requirements of ORS 458.505(4) to provide program eligible services in the subgrantee agency's service area.

(4) Subgrantee shall identify those in need of shelter, certify their homeless status and provide eligible services including linkage with other services designed to meet longer-term needs.

(5) The department normally will fund only one subgrantee agency within any service area; however, the department may, in its sole discretion, allow two or more subgrantee agencies to operate within a common service area. In such cases, the subgrantee agencies shall enter into a written agreement with the department, satisfactory to the department in its sole discretion, in order, inter alia, to insure full access to program services for all eligible households within the service area to the extent of available funding and to prevent duplication of services.

(6) The department may conduct reviews, audits, and other compliance monitoring – and take such remedial action – as it deems appropriate with respect to each subgrantee agency and its subcontractors, inter alia, to assure compliance with program requirements.

(7)(a) The department may take such remedial action as it deems appropriate including, but not limited to terminating its funding agreement with a subgrantee agency and requiring repayment of all program funding, if it determines (in its sole discretion) that the performance of the subgrantee agency or any of its subcontractors is deficient in any manner, including with respect to program requirements.

(b) The department may, but is not required to issue deficiency notices and require the subgrantee agency to correct such deficiencies in a manner satisfactory to the department within a period of time designated by the department. If any such deficiency notices are issued, the subgrantee shall fully correct such deficiencies to the department's satisfaction within the time specified.

(c) Issuance of a deficiency notice shall not constitute a waiver of other remedies available to the department or preclude the department from exercising such other remedies available to it under the funding agreement or other program requirements, at law or otherwise.

(8)(a) A subgrantee agency may expend up to an amount authorized by the department in writing for reimbursement of reasonable and appropriate administrative costs.

(b) If a subgrantee agency subcontracts with another organization to provide program services, that organization may expend up to an amount for administrative costs that does not exceed its proportionate share of the amount authorized by the department for reasonable and appropriate administrative costs of the funding award.

(9) A subgrantee agency and its subcontractors shall comply with the terms of the funding agreement and all other program requirements, including but not limited to department directives (including deficiency notices), applicable local, state and federal laws, rules (including the manual), regulations, executive orders, local ordinances and codes.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505 - 458.515

Hist.: AFS 65-1985, f. & ef. 11-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 461-100-0005; HSG 10-1993, f. & cert. ef. 10-1-93; OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02; OHCS 13-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 23-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-240-0015 Use of Funds

(1) The department may provide program assistance in the form of a grant or other funding award to a subgrantee agency to provide the following program services directly or through contracts with other organization(s):

(a) Emergency shelter operations including, but not limited to major rehabilitation, conversion or renovation of a building to serve as a homeless shelter. Property acquisition and new construction are not eligible uses of funds;

(b) Shelter resident support services designed to address participant barriers to housing or lead the participant out of the shelter. Such services may include, but are not limited to, case management, nutritional assistance, personal hygiene and referral; and

(c) Department required data collection including data entry into department approved HMIS and client follow-up to determine performance outcomes.

(2) Eligible services obtained through the program shall not be utilized for purposes of rent or house payment to prevent eviction or foreclosure.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505 - 458.515

Hist.: AFS 65-1985, f. & ef. 11-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 461-100-0015; HSG 10-1993, f. & cert. ef. 10-1-93; OHCS 6-2002, f. & cert. ef. 5-15-02; OHCS 13-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 23-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-240-0020

Client Eligibility

(1) Program services shall be available to households that are certified by the subgrantee agency as homeless to the degree permitted by funding levels.

(2) A subgrantee agency may consider a household's self-declaration or referral of a household from local, state or federal human service agencies, if no other verifiable documentation is available, to determine eligibility of that household for program services.

(3) Residency within a subgrantee agency's service area shall not be an eligibility requirement.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: AFS 65-1985, f. & ef. 11-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 461-100-0010; OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02; OHCS 13-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 23-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-240-0041

Funding Application

(1) Prior to providing program services, a subgrantee agency shall submit on a biennial basis, a funding application satisfactory to the department, including a work plan, which must be approved by the department before being operative. The subgrantee agency shall adhere to the department's requirements and deadlines for obtaining approval of this funding application. The funding application is subject to approval, including as modified by the department, or disapproval by the department.

(2) A subgrantee agency's funding application shall include details satisfactory to the department on how the subgrantee agency provided a meaningful opportunity for participation in the development of the work plan by the local continuum of care, local service providers, advocates, clients, businesses, churches, governments and other interested stakeholders.

(3) Funding applications must meet all requirements established by the department for the form and content of the funding application. In cases where a community action agency has the conditional right of first refusal for antipoverty program administration, and the community action agency cannot meet the requirements for the form and content of the funding application as determined by the department in its sole discretion, the department may allow other eligible organizations to submit a funding application with respect to that service area.

(4) Funding applications will be evaluated by the department for sufficiency with respect to application and other program requirements.

Stat. Auth.: ORS 456.555

Stats Implemented: ORS 458.505

Hist.: OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02; OHCS 13-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 23-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-240-0050

Recordkeeping and Reporting

(1) Subgrantee agencies shall maintain accurate financial records satisfactory to the department, which document, inter alia, the receipt and disbursement of all funds provided through the program by the department, and have an accounting system in place satisfactory to the department, which meets, inter alia, generally accepted accounting principles.

(2) Subgrantee agencies also shall maintain other program records satisfactory to the department, which document, inter alia, client eligibility, receipt of allowable program services, termination of services and bases for same, housing status of clients, administrative actions, contracts with subcontractors, review of subcontractor performance, action taken with respect to deficiency notices, and any administrative review proceedings. Such records shall be in substance and format satisfactory to the department.

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(3) Subgrantee agencies shall provide the department with the following reports, in form and substance satisfactory to the department:

(a) Within 20 days following the end of each calendar quarter, a program report detailing the progress made toward meeting the program performance measures and service delivery objective(s), and a fiscal report detailing all administrative and program costs;

(b) Within 60 calendar days after the close of the subgrantee agency's fiscal year, annual program and fiscal reports;

(c) Within 60 days after the close of the program, final program and fiscal reports.

(4)(a) Subgrantee agencies and their contractors shall make all program records available to the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives for inspection and copying.

(b) Subgrantee agencies and their contractors shall cooperate fully in any inspections or other monitoring actions taken by the department, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives.

(c) Subgrantee agencies shall retain and keep accessible all such program records for a minimum of 5 years, or such longer period as may be required by applicable law, following final payment and termination of program involvement, or until the conclusion of any audit, controversy or litigation arising out of or related to the program, whichever date is later.

(5) Subgrantee agencies shall timely and accurately collect and report eligible family household data to the department through the use of a department approved HMIS. Such data collection and reporting shall be satisfactory to the department.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: AFS 65-1985, f. & ef. 11-5-85; AFS 37-1988, f. 5-12-88, cert. ef. 5-12-88 (and corrected 5-18-88); HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 461-100-0025; HSG 10-1993, f. & cert. ef. 10-1-93; OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02; OHCS 13-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 23-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-240-0060

Compliance Monitoring; Subcontractor Obligations

(1) The department may from time to time audit or otherwise review a subgrantee agency's program activities and records as the department determines to be appropriate, inter alia, to verify compliance with program requirements

(2) In addition to the requirement of subsection (1) of this section, a subgrantee agency is also subject to any specific audit requirement applicable to the program.

(3) Subgrantee agencies shall require by contract that their subcontractors comply with all program requirements, including but not limited to retention of records and department compliance monitoring and enforcement.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.505

Hist.: AFS 65-1985, f. & ef. 11-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 461-100-0030; HSG 10-1993, f. & cert. ef. 10-1-93; OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02; OHCS 13-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 23-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-240-0070

Challenge of Subgrantee Action

(1) Local interest groups, service providers or others aggrieved by a subgrantee agency with respect to its program obligations may submit a written request to the department for its review of such contested action, but only after first exhausting the applicable administrative review process furnished by the relevant subgrantee agency and within thirty (30) days of that administrative review determination.

(2) The department may accept or deny a request for its review in whole or in part, at its sole discretion. Any department review will be in the manner determined appropriate by the department and may include, but shall not necessarily be limited to review of provided information.

(3) If the department accepts the review request, the requester of the review, the subgrantee agency, and relevant contractors shall produce all information required by the department, including requested affidavits or testimony.

(4) The department may make a determination on a review request and require such remedial action as the department determines, in its sole discretion, to be appropriate.

(5) Department review shall not take the form of a contested case review under ORS Chapter 183 unless specifically so stated by the director in writing.

(6) Timely request for department review by an aggrieved person or entity and its completion to final order by the department are requirements for exhaustion of administrative remedies by such aggrieved person or entity.

Stat. Auth.: ORS 456.555

Stats Implemented: ORS 458.505

Hist.: OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02; OHCS 13-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 23-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-240-0080

Review by Subgrantee

(1) Subgrantee agencies shall establish in writing a process satisfactory to the department that, in a timely manner, enables beneficiaries of and applicants for program services to contest a determination by the subgrantee agency or its subcontractors that:

(a) Denies or limits the eligibility of a beneficiary or applicant for the benefits or other assistance; or

(b) Terminates or modifies benefits or other assistance awarded by the subgrantee agency or subcontractor to a beneficiary.

(2) Persons aggrieved by the action of a subgrantee agency or its subcontractors described in subsection (1) may request administrative review of such action by the subgrantee agency within the time frame and pursuant to the process established by the subgrantee agency consistent with program requirements. At all times, the subgrantee agency must allow a minimum of thirty (30) days within which an aggrieved person may request review from the time of the contested action or the aggrieved person's reasonable discovery of such action, whichever is longer.

(3) The subgrantee agency must inform the department in writing of any request by an aggrieved party for administrative review within ten (10) days of such request.

(4) The subgrantee agency must inform the department and the aggrieved party in writing of any final administrative review determination made by the subgrantee agency, and the basis for same, within ten (10) days of such final determination.

Stat. Auth.: ORS 456.555

Stats Implemented: ORS 458.505

Hist.: OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02; OHCS 13-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 23-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14

813-240-0090

Waiver

The Director may waive or modify any requirements of OAR 813, division 240, unless such waiver or modification would violate applicable federal or state statutes or regulations.

Stat. Auth.: ORS 411 & 458.505 - 458.515

Stats Implemented: ORS 458.505

Hist.: OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02; [Suspended by OHCS 13-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 23-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14]

Oregon Liquor Control Commission Chapter 845

Rule Caption: Implements Senate Bill 795 (granting growler privileges to holders of Temporary Sales Licenses).

Adm. Order No.: OLCC 1-2014

Filed with Sec. of State: 2-11-2014

Certified to be Effective: 3-1-14

Notice Publication Date: 11-1-2013

Rules Amended: 845-005-0440

Subject: Temporary Sales License privileges are set forth in ORS 471.190. OAR 845-005-0440 implements this statute.

Effective June 26, 2013, Senate Bill 795 amended ORS 471.190 to allow the holder of a Temporary Sales License to sell wine, malt beverages and cider in both factory-sealed containers and securely covered containers provided by the consumer (i.e., growlers) provided that these containers do not hold more than two gallons of liquid each. Prior to this date, the holder of a Temporary Sales License could sell wine, malt beverages, and cider for consumption on the licensed premises and for consumption off the licensed premises. However, alcohol sold for consumption off the licensed premises could only be sold in factory-sealed containers.

In September 2013, the Commission amended OAR 845-005-0440 on a temporary basis to reflect the expanded privilege. The

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adopted amendments permanently amend this rule to reflect the current statutory language.

Rules Coordinator: Annabelle Henry—(503) 872-5004

845-005-0440

Temporary Sales Licenses

(1) A person must obtain from the Commission a license or authority to sell alcoholic beverages. ORS 471.405 establishes a prohibition on sale of alcoholic beverages without a license or authority. ORS 471.406 defines sale of alcoholic beverages. This rule sets the requirements for obtaining a Temporary Sales License.

(2) Definitions. For this rule:

(a) “Bar” means a counter at which the preparation, pouring, serving, sale, or consumption of alcoholic beverages is the primary activity.

(b) “Food counter” means a counter in an area in which minors are allowed and at which the primary activity at all times is the preparation, serving, sale, or consumption of food.

(c) “License day” means from 7:00 am until 2:30 am on the succeeding calendar day. The license fee is \$50 per license day or for any part of a license day.

(d) “Nonprofit trade association” means an organization comprised of individual or business members where the organization represents the interests of the members and is registered with the state of Oregon as a nonprofit association.

(e) “Serious violation history” means:

(A) Two or more category III or IIIa administrative violations of any type, or category IV violations involving minors. However, if the circumstances of a violation include aggravation, one violation may be sufficient; or

(B) One category I, II or IIa administrative violation; or

(C) Two or more crimes or offenses involving liquor laws.

(f) “Social game” means a game other than a lottery, if authorized by a local county or city ordinance pursuant to ORS 167.121, between players in a private business, private club, or place of public accommodation where no house player, house bank, or house odds exist and there is no house income from the operation of the social game.

(g) “Video lottery game” means a video lottery game terminal authorized by the Oregon State Lottery. Examples include but are not limited to video poker and video slots. Keno monitors are not considered a video lottery game.

(3) ORS 471.190 authorizes the Commission to issue a Temporary Sales License. Temporary Sales Licenses are issued in increments of one license day. The Commission will not approve more than seven license days on a single application. The Commission may limit approval of any application to a single license day or to any number of license days fewer than seven days. The Commission may issue a Temporary Sales License only to applicants that qualify under the Commission’s licensing standards and that are:

(a) A nonprofit or charitable organization that is registered with the state, including nonprofit trade associations where at least 51% of the total membership is comprised of persons that hold winery licenses issued under ORS 471.223 or grower sales privilege licenses issued under 471.227; or

(b) A political committee that has a current statement of organization filed under ORS 260.039 or 260.042; or

(c) An agency of the State; or

(d) A local government or an agency or department of a local government; or

(e) Any applicant not described in (3)(a)–(3)(d) of this subsection, including licensees of the Commission.

(4) A Temporary Sales License may authorize the licensee to sell wine, malt beverages and cider at retail for consumption on the licensed premises and for consumption off the licensed premises. All wine, malt beverages and cider sold for consumption off the licensed premises must be in either:

(a) Manufacturer-sealed containers that do not hold more than two and one-quarter gallons each; or

(b) Securely covered containers provided by the consumer that do not hold more than two gallons each.

(5) A Temporary Sales License may authorize the licensee to sell distilled liquor by the drink at retail for consumption on the licensed premises.

(6) Applicants must apply in writing for a Temporary Sales License, using the application form provided by the Commission. The Commission may require additional forms, documents, or information as part of the application. The Commission may refuse to process any application not

complete, not accompanied by the documents or disclosures required by the form or the Commission, or that does not allow the Commission sufficient time to investigate it. Sufficient time is typically one to three weeks prior to the event date. The Commission may give applicants the opportunity to be heard if the Commission refuses to process an application. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS 183.310 to 183.550.

(7) The application for a Temporary Sales License under this rule shall include:

(a) A written, dated, and signed plan. An application is not complete if this plan is not approved by the Commission. To approve a plan, the Commission must determine that the plan adequately manages:

(A) The event to prevent problems and violations;

(B) Patronage by minors as set out in subsection (8) of this rule; and

(C) Alcohol consumption by adults.

(b) Identification of the individuals to be employed by the licensee to manage events on the licensed premises;

(c) Identification of the premises proposed to be licensed;

(d) Menu and proposal showing compliance with the food service standards of OAR 845-006-0465;

(e) Statement of the type of event to be licensed, type and extent of entertainment to be offered, expected patronage overall and by minors, type of food service to be offered, proposed hours of food service, and proposed hours of operation;

(f) The recommendation in writing of the local governing body where the licensed premises will be located;

(g) License fees as established by ORS 471.311.

(8) A plan for managing patronage by minors under subsection (7)(a) of this rule must meet the following requirements:

(a) If the Temporary Sales License will be on any part of a premises, room, or area with a permanent license issued by the Commission, the Commission must be convinced that the plan will follow the minor posting and control plan, including any temporary relaxation of the minor posting, assigned to that premises, room, or area under the permanent license. The Commission must also be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises prohibited to minors.

(b) If the Temporary Sales License will not be on any part of a premises, room, or area with a permanent license issued by the Commission, the Commission must be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises the Commission prohibits to minors.

(9) Minors are prohibited from the licensed premises or portions of the licensed premises as follows:

(a) Minors may not sit or stand at a bar; however, minors may sit or stand at a food counter;

(b) Minors may not be in an area where there is video lottery games, social games, or nude entertainment or where such activities are visible.

(c) Minors may not be in an area where the licensee’s approved written plan designates that minors will be excluded.

(10) Minimum Age of Servers. Alcohol servers at temporary sales licensed locations must be at least 21 years of age to sell or serve alcoholic beverages, with the following exceptions:

(a) In areas of the licensed premises not prohibited to minors, persons who are 18, 19, and 20 years of age may:

(A) Take orders for, serve and sell alcoholic beverages for on-premises consumption if the activity is incidental to the selling or serving of food in that area of the licensed premises, and may sell alcoholic beverages in manufacturer-sealed containers for off-premises consumption; or

(B) Sell tokens/script, including verifying age, to be redeemed for alcoholic beverages or food at the event.

(b) In areas of the licensed premises prohibited to minors, persons who are 18, 19, and 20 years of age may deliver food, restock non-alcohol supplies and perform other non-alcohol related duties, however the person shall not remain in the prohibited area longer than is necessary to perform these duties.

(11) Alcohol servers at locations licensed under subsections (3)(b)–(e) of this rule must hold valid service permits unless specifically exempted under authority of subsection (12) of this rule.

(12) The Commission may waive the service permit requirement for the holder of a Temporary Sales License issued under subsections (3)(b)–(e) of this rule, and the licensee’s alcohol servers, if:

(a) The license is used only for package sales; or if

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(b) The Commission concludes alcohol service by individuals who do not hold a service permit does not pose a significant risk for public safety problems or non-compliance with liquor laws; and

(c) Each alcoholic beverage point-of-sale at the licensed location is staffed, at all times alcoholic beverages are being sold or served, by an individual who has completed a Server Education course successfully within 5 years prior to the date of the event.

(13) At events licensed under subsection (3)(a) of this rule, before allowing alcohol servers to sell or serve alcoholic beverages, the licensee must ensure that all alcohol servers have met one of the following standards:

(a) The alcohol server has a valid service permit or has successfully completed a Server Education course within 5 years prior to the date of the event, or

(b) The alcohol server has attended training provided by the licensee, and has read, signed and dated the Commission-provided brochure, What Every Volunteer Alcohol Server Needs to Know. The licensee-provided training must address the topics included in the brochure, including but not limited to: minors and proper checking of identification, and how to recognize and respond appropriately to visibly intoxicated persons. At any time while on duty, the alcohol server shall make the signed brochure available for immediate inspection by any inspector or investigator employed by the Commission or by any other peace officer.

(14) If there are compliance problems with an operator or an event, the Commission may add other requirements for the education of servers at events licensed under this rule.

(15) The Commission may deny, cancel or restrict a Temporary Sales License for any reason for which the Commission may deny, cancel or restrict a regular license.

(16) The Commission may deny or restrict a Temporary Sales License if the applicant has a serious violation history at events previously licensed with a Temporary Sales License within the past 36 months.

(17) The Commission shall limit the issuance of Temporary Sales Licenses to the same applicant at the same location to no more than 31 license days from January 1 to December 31 of each year, unless the Commission determines that the applicant would be eligible for an annual license based on the applicant's personal qualifications and the total number of license days at the same location does not exceed 60 in that calendar year.

(18) The Commission may refund the Temporary Sales License fee if the application is withdrawn by the applicant or denied by the Commission, if the event does not take place because of circumstances beyond the applicant's control, or if the Commission determines the applicant does not need a license for the event proposed in the application.

(19) When the Commission approves a written plan under subsection (7)(a) of this rule, the licensee must follow that written plan. Failure to follow that written plan is a category III violation.

(20) If the licensee fails to prevent minors from gaining access to alcoholic beverages or fails to prevent minors from gaining access to any portion of the licensed premises prohibited to minors, the Commission may immediately prohibit minors from the licensed premises or portion(s) of the premises.

Stat. Auth.: ORS 471, ORS 471.030, 471.040, 471.190 & 471.730(1) & (5)
Stats. Implemented: ORS 471.190, 471.360 & 471.482
Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 4-2001(Temp), f. & cert. ef. 8-15-01 thru 2-11-02; OLCC 13-2001, f. 12-18-01, cert. ef. 2-12-02; OLCC 14-2002, f. 10-25-02, cert. ef. 11-1-02; OLCC 24-2007, f. 12-17-07, cert. ef. 1-1-08; OLCC 17-2010, f. 12-22-10, cert. ef. 1-1-11; OLCC 9-2012, f. 10-30-12, cert. ef. 11-1-12; OLCC 8-2013(Temp), f. 9-17-13, cert. ef. 10-1-13 thru 3-30-14; OLCC 1-2014, f. 2-11-14, cert. ef. 3-1-14

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Rule Caption: Amends two rules to implement House Bill 3435 (expanding Distillery license tasting privileges).

Adm. Order No.: OLCC 2-2014

Filed with Sec. of State: 2-11-2014

Certified to be Effective: 3-1-14

Notice Publication Date: 11-1-2013

Rules Amended: 845-005-0431, 845-006-0452

Subject: Distillery license privileges are set forth in ORS 471.230. The administrative rules in this package implement the authorizing statute and establish the qualifications and requirements for tastings of distilled liquor manufactured in Oregon and provided by the distillery licensee.

Effective January 1, 2014, House Bill 3435 amended the tastings provisions of ORS 471.230 to allow a distillery licensee to conduct tastings at its annually licensed premises and at up to five other prem-

ises that it owns or leases. Prior to this date, a distillery licensee could conduct tastings at its annually licensed premises and at only one other premises that it owned or leased.

The adopted amendments permanently amend the rules in this package to reflect the current statutory language.

Rules Coordinator: Annabelle Henry—(503) 872-5004

845-005-0431

Qualifications for Distilled Liquor Tastings Provided by Oregon Distillery Licensee

ORS 471.230 allows an Oregon distillery licensee to provide tastings of distilled liquor manufactured by the distillery licensee for consumption on the distillery licensee's premises and on no more than five other premises owned or leased by the distillery licensee. This rule sets the qualifications to obtain approval to provide these tastings.

(1) Definitions.

(a) "Identified tasting area" means a specific defined area where tastings of alcohol occur. The area must be of a size and design such that the person(s) serving the taste(s) can observe and control persons in the area to ensure no minors or visibly intoxicated persons possess or consume alcohol and that other liquor laws are followed.

(b) "Manufactured by the distillery licensee" means the licensee distills, rectifies, blends, or otherwise produces the distilled liquor product in Oregon on the distillery's licensed premises.

(c) "Other premises owned or leased by the distillery licensee" means any other licensed location that is owned or leased by the distillery licensee and separate from its annually licensed location. To qualify under this definition, the distillery licensee must provide proof of ownership or a written contract entitling it to exclusive use and possession of the other location.

(d) "Per day" means from 7:00 am until 2:30 am on the succeeding calendar day.

(e) "Trade visitor" means a person whose job includes the purchase or recommended purchase of distilled spirits by a licensee of the Commission or distributors and others in the commercial distribution chain; or a person representing an agency of mass communication, such as television, radio, newspaper, magazine, and internet.

(2) A distillery licensee providing tastings of distilled liquor on its annually licensed premises and on no more than five other premises owned or leased by the distillery licensee must follow this rule and may only offer tastings of distilled liquor in accordance with the requirements of OAR 845-006-0452.

(3) A distillery licensee providing tastings of distilled liquor for retailers at an educational seminar that is not open to the public is subject to OAR 845-013-0060 and is not subject to this rule.

(4) A distillery licensee providing tastings of distilled liquor at a retail liquor store is subject to OAR 845-015-0155 and is not subject to this rule.

(5) A distillery licensee providing tastings of distilled liquor on a full on-premises licensed premises that is other than the distillery licensee's full on-premises licensed premises is subject to OAR 845-005-0428 and is not subject to this rule.

(6) If a distillery licensee also holds a full on-premises sales license as per ORS 471.175 on the distillery licensed premises or on any other premises owned or leased by the distillery licensee, then all sale or service of alcohol for on-premises consumption at the full on-premises licensed location, including tastings, is provided under the full on-premises license and is not subject to this rule.

(7) A distillery licensee holding a full on-premises sales license as per ORS 471.175 that provides alcohol service at a catered event that is on a premises approved as per OAR 845-005-0405 or 845-005-0410 is providing the alcohol service under the privilege of the full on-premises sales license and is not subject to this rule.

(8) Application for tastings on the distillery licensee's annually licensed premises. A distillery licensee who intends to provide the service of distilled liquor tastings on the distillery's licensed premises must make application to the Commission upon forms to be furnished by the Commission and receive prior approval from the Commission before beginning the distilled liquor tasting service. After the Commission has given its approval for the tastings, the distillery licensee must re-apply if it changes its identified tasting area. The application shall include:

(a) A floor plan showing the identified tasting area on a form provided by the Commission;

(b) A description of how the licensee will distinguish trade visitors from members of the general public, such as by providing tastings for trade visitors in separate areas or at separate times from tastings for the general

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public, by using distinctive glassware for trade visitors, or by the use of badges or name tags; and

(c) A statement that the licensee understands and will comply with the requirements of OAR 845-006-0452.

(9) Application for tastings on no more than five other premises owned or leased by the distillery licensee. A distillery licensee who intends to provide the service of distilled liquor tastings on no more than five other premises owned or leased by the distillery licensee must make application to the Commission upon forms to be furnished by the Commission and receive prior approval from the Commission before beginning the distilled liquor tasting service. After the Commission has given its approval for the tastings, the distillery licensee must re-apply if it changes its identified tasting area. The application shall include:

(a) All of the items required in subsections (8)(a)–(c) of this rule; and

(b) Proof of ownership or a written contract that entitles the distillery licensee to exclusive use and possession of the other premises

(10) Liquor liability insurance requirement. A distillery licensee providing only tastings under this rule and OAR 845-006-0452 is not required to obtain or maintain liquor liability insurance.

(11) The Commission may refuse to process any application required under this rule if the application is not complete and accompanied by the documents or disclosures required by the form. The Commission shall give applicants the opportunity to be heard if the Commission refuses to process an application. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS Chapter 183.

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

Stats. Implemented: ORS 471.230

Hist.: OLCC 11-2009, f. 8-26-09 cert. ef. 11-1-09; OLCC 2-2014, f. 2-11-14, cert. ef. 3-1-14

845-006-0452

Requirements for Distilled Liquor Tastings Provided by Oregon Distillery Licensee

OAR 845-005-0431 sets the qualifications for an Oregon distillery licensee to obtain approval to provide tastings of distilled liquor manufactured by the distillery licensee for consumption on the distillery licensee's premises and on no more than five other premises owned or leased by the distillery licensee. This rule sets the requirements to provide these tastings.

(1) Definitions.

(a) "Identified tasting area" means a specific defined area where tastings of alcohol occur. The area must be of a size and design such that the person(s) serving the taste(s) can observe and control persons in the area to ensure no minors or visibly intoxicated persons possess or consume alcohol and that other liquor laws are followed.

(b) "Manufactured by the distillery licensee" means the licensee distills, rectifies, blends, or otherwise produces the distilled liquor product in Oregon on the distillery's licensed premises.

(c) "Other premises owned or leased by the distillery licensee" means any other licensed location that is owned or leased by the distillery licensee and separate from its annually licensed location. To qualify under this definition, the distillery licensee must provide proof of ownership or a written contract entitling it to exclusive use and possession of the other location.

(d) "Per day" means from 7:00 am until 2:30 am on the succeeding calendar day.

(e) "Trade visitor" means a person whose job includes the purchase or recommended purchase of distilled spirits by a licensee of the Commission or distributors and others in the commercial distribution chain; or a person representing an agency of mass communication, such as television, radio, newspaper, magazine, and internet.

(2) Tastings of distilled liquor are allowed only within the identified tasting area or areas approved by the Commission. The identified tasting area or areas may be on the distillery licensee's annually licensed premises and on no more than five other premises owned or leased by the distillery licensee. Customers may not remove the tastings from the identified tasting area or areas.

(3) A distillery licensee may provide only tastings and only of distilled liquor manufactured by the distillery licensee and approved by the Commission for sale in Oregon.

(4) Tastings provided to the general public.

(a) A tasting provided to the general public shall be no more than one-half fluid ounce of distilled liquor in a single container. The container may also contain nonalcoholic beverages; however, the total amount of liquid in the container may be no more than two ounces. A licensee may charge a member of the general public a fee for tastings.

(b) A distillery licensee shall not provide more than two and one-half fluid ounces of distilled liquor per person per day.

(5) Tastings provided to a trade visitor.

(a) A tasting provided to a trade visitor shall be no more than one fluid ounce of distilled liquor in a single container. The container may also contain nonalcoholic beverages; however, the total amount of liquid in the container may be no more than three ounces. A licensee may not charge a trade visitor a fee for tastings.

(b) There is no daily limit on distilled liquor tastings provided to a trade visitor.

(c) Trade visitors must be distinguished from members of the general public (see OAR 845-005-0431(8)(b)).

(6) Minors are permitted in the identified tasting area only if allowed by the Commission's rule on minor postings (see OAR 845-006-0340).

(7) Alcohol servers who pour tastings must have valid service permits and be at least 21 years of age.

(8) Failing to obtain Commission approval as required by OAR 845-005-0431 prior to providing the service of distilled liquor tastings is a Category I violation. A violation of sections (1)–(7) of this rule is a Category III violation.

(9) A violation of a liquor law at any premises owned or leased by the distillery licensee is the responsibility of the distillery licensee.

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

Stats. Implemented: ORS 471.230

Hist.: OLCC 11-2009 f. 8-26-09 cert. ef. 11-1-09; OLCC 2-2014, f. 2-11-14, cert. ef. 3-1-14

Oregon Public Employees Retirement System Chapter 459

Rule Caption: Clarify final average salary determinations.

Adm. Order No.: PERS 1-2014

Filed with Sec. of State: 1-31-2014

Certified to be Effective: 1-31-14

Notice Publication Date: 11-1-2013

Rules Amended: 459-070-0100

Subject: A recent Internal Audit Report identified certain issues relating to the agency's implementation of statutory provisions relating to determining final average salary for Tier 2 and OPSRP members. In both programs, retirement benefits are calculated using the greater of the last 36 months of salary or the high three years; OPSRP includes an additional requirement that the high three years be consecutive.

ORS 238.435(3)(c) and 238A.130(2)(c) require the exclusion of "any salary for any pay period before the first full pay period that is included in the last 36 calendar months of membership under subsection (2)(b)." For employers whose payroll is after the first of the month, strict application of these statutory provisions could lead to less than 36 months of salary used in the member's final average salary. The rule modifications clarify and address the anomaly of salary paid to a member whose pay period may cross over months.

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-070-0100

Employer Reporting

(1) Definition. "Pay period" means the span of time covered by an employer's report to PERS.

(2) Unless otherwise agreed upon by the PERS Executive Director and the employer, an employer must transmit to PERS an itemized report of all information required by PERS.

(a) A report must include wage, service, and demographic data for all employees for a pay period.

(b) Except as provided in subsection (c) of this section, an employer may not submit or modify a report for a pay period within a calendar year on or after the first date in March of the subsequent calendar year on which PERS issues the employer a statement of contributions due. This subsection applies to pay periods beginning on or after January 1, 2011.

(c) PERS will permit an employer to submit or modify a report subject to the limitation of subsection (b) of this section if PERS determines the report is necessary for accurate benefit administration.

(3) The report required under section (2) of this rule must be acceptable to PERS and transmitted on forms furnished by the agency or in an equivalent format. The report must be transmitted electronically, faxed, or postmarked, as applicable, no later than three business days after the end of the pay period assigned to the employer under section (4) of this rule.

(4) PERS will assign an employer a pay period which most closely matches the employer's pay cycle:

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- (a) Monthly: the pay period ends on the last day of the month;
 - (b) Semi-monthly: the pay period ends on the fifteenth of the month and the last day of the month;
 - (c) Weekly: the pay period ends the Friday of every week; or
 - (d) Biweekly: the pay period ends every other Friday.
- (5) For the purpose of determining a “pay period” under ORS 238.435(3) and 238A.130(2), when salary is paid on a day other than the first of the month or the first business day of the month, that salary shall be considered earned in the calendar month in which it is paid, unless the employer provides PERS records that establish that the salary was not earned in that calendar month.

(6) If a report required under section (2) of this rule is accepted by PERS, PERS will notify the employer of any exceptions and the employer must reconcile its report. The corrected report must be transmitted to PERS before the employer is subject to the limitation of subsection (2)(b) of this rule for that report.

(7)(a) An employer that fails to transmit a report as required under sections (2) and (3) of this rule must pay a penalty equal to one percent of the total amount of the prior year’s annual contributions or \$2,000, whichever is less, for each month the employer is delinquent.

(b) Penalties under subsection (a) of this section continue to accrue until the earlier of the date the report is submitted or the date the limitation of subsection (2)(b) is effective.

(c) Notwithstanding subsection (b) of this section, an employer that submits or modifies a report pursuant to subsection (2)(c) of this rule must pay the penalty described in subsection (a) of this section.

(8) The PERS Executive Director or a person designated by the Director may waive the penalty described in section (7) of this rule for reports due on or after January 1, 2011 and before January 1, 2012. For reports due on or after January 1, 2012, penalties may be waived by the Director or the Director’s designee only upon written petition from the employer.

Stat. Auth.: ORS 238A.450, 238.650
Stats. Implemented: ORS 238A.050, 238A.130, 238.435 & 238.705
Hist.: PERS 25-2003, f. 12-30-03 cert. ef. 1-1-04; PERS 29-2004, f. & cert. ef. 11-23-04; PERS 13-2005, f. & cert. ef. 7-5-05; PERS 1-2011, f. & cert. ef. 2-2-11; PERS 1-2014, f. & cert. ef. 1-31-14

Rule Caption: Clarify that OAR 459-001-0030 does not apply to disputes under ORS 238.285.

Adm. Order No.: PERS 2-2014

Filed with Sec. of State: 1-31-2014

Certified to be Effective: 1-31-14

Notice Publication Date: 11-1-2013

Rules Amended: 459-001-0030

Subject: In 2010, Senate Bill 897 (2009) (codified as ORS 238.285) was passed relating to verification of certain retirement data upon a member’s request. ORS 238.285(2) provides the procedure for disputing the accuracy of the data provided in a verification. Members have 60 days from the date of the verification to file a notice of dispute. Upon receipt of the dispute, the board determines the accuracy of the data and provides a written determination to the member that includes an explanation of any applicable statutes and rules. A member may seek judicial review of the decision as provided in ORS 183.484 and rules of the board. This procedure falls outside the standard review process provided in OAR 459-001-0030. The modification to OAR 459-001-0030 clarifies that the administrative review process in OAR 459-001-0030 does not apply to data verification disputes.

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-001-0030

Review of Staff Actions and Determinations Regarding Persons

(1) For purposes of this rule, “Director” means the executive director of PERS, or an administrator appointed by the executive director.

(2) Request for review. Any person may file with the Director a request for review of a staff action or determination, except as provided for in ORS 238.285, 238.450 or in Board rules on disability retirement. The request must be filed within 60 days following the date the staff action or determination is sent to the person requesting review.

(3) Informal conferences. Informal conferences are available as an alternative means that may achieve resolution of any matter under review. A request for an informal conference does not change the time limit to file a request for review.

(4) Criteria for request. A request for review of a staff action or determination must be in writing and set forth:

(a) A description of the staff action or determination for which review is requested;

(b) A short statement of the manner in which the action is alleged to be in error;

(c) A statement of facts that are the basis of the request;

(d) Reference to applicable statutes, rules or court decisions relied upon;

(e) A statement of the relief requested; and

(f) A request for review.

(5) Denial of request. The Director may deny any request for review within 45 days of receipt of the request:

(a) If the request does not contain the information required under section (4) of this rule; or

(b) When, in the Director’s view, there is no bona fide dispute of material fact, the pertinent statutes and rules are clear in their application to the facts, and there is no material administrative error.

(6) If a request is denied by the Director because it does not contain the information required under section (4) of this rule, a requester will have one opportunity to correct that deficiency and resubmit a request for review within 45 days of the date of denial.

(7) Approval of request. If the request for review is granted, the Director must issue a written determination within 45 days of receipt of the request after:

(a) Considering the request;

(b) Directing staff to reconsider; or

(c) Directing staff to schedule an informal conference.

(8) Extension of deadline. Any 45-day deadline within this rule may be extended upon request in writing for an additional 45 days.

(9) Resolution process.

(a) In lieu of issuing a written determination, the Director may direct staff to schedule a formal contested case hearing. The hearing must be conducted in accordance with the Attorney General’s Model Rules of Procedure.

(b) If a request is denied or the Director’s determination is not the relief sought by the person, and the Director did not cause a contested case hearing to be scheduled, a person may file with the Board a request for a contested case hearing pursuant to the Attorney General’s Model Rules of Procedure.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 183.413 - 183.470

Hist.: PERS 4-1990, f. & cert. ef. 3-26-90; PERS 5-1990, f. & cert. ef. 12-3-90; PERS 10-2001, f. 12-14-01, cert. ef. 1-1-02; PERS 2-2008, f. & cert. ef. 4-2-08; PERS 2-2014, f. & cert. ef. 1-31-14

Rule Caption: Rule updates reflect the 2014 Internal Revenue Code (IRC) and Social Security annual compensation limitations.

Adm. Order No.: PERS 3-2014

Filed with Sec. of State: 1-31-2014

Certified to be Effective: 1-31-14

Notice Publication Date: 1-1-2014

Rules Amended: 459-005-0525, 459-005-0545, 459-017-0060, 459-080-0500

Subject: Annually, the Internal Revenue Service revises various dollar limits based on cost of living adjustments. These revisions are used throughout the PERS plan’s statutes and rules, but revisions to the limits must be adopted by the legislature or PERS Board to be effective.

The IRS’ revisions that are to be effective for calendar year 2014 have been announced. The rule modifications incorporate these adjustments and make non-substantive edits to update citations and effective dates. These updates are necessary to ensure PERS compliance with the IRC’s limits on the amount of annual compensation allowed for determining contributions and benefits, annual benefits, and annual additions to PERS.

Secondly, under ORS 238.082, a Tier One or Tier Two retired member who returns to PERS-covered employment may continue to receive their retirement benefits so long as they work less than the number of hours the member can work and not exceed the Social Security annual compensation limits. The modifications to OAR 459-017-0060 adopt the 2014 Social Security earnings limitations. For

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these increases to be effective, the PERS Board has to adopt these rule modifications.

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-005-0525

Ceiling on Compensation for Purposes of Contributions and Benefits

(1) The purpose of this rule is to assure compliance of the Public Employees Retirement System (PERS) with Internal Revenue Code (IRC) Section 401(a)(17) relating to the limitation on annual compensation allowable for determining contribution and benefits under ORS Chapters 238 and 238A.

(2) Definitions:

(a) “Annual compensation” means “salary,” as defined in ORS 238.005 and 238.205 with respect to Chapter 238 and in 238A.005 with respect to Chapter 238A paid to the member during a calendar year or other 12-month period, as specified in this rule.

(b) “Eligible participant” means a person who first becomes a member of PERS before January 1, 1996.

(c) “Employer” means a “public employer” as defined in ORS 238.005, for the purposes of this rule as it applies to Chapter 238. For the purposes of this rule as it applies to Chapter 238A, an “employer” means a “participating public employer” as defined in 238A.005.

(d) “Noneligible participant” means a person who first becomes a member of PERS after December 31, 1995.

(e) “Participant” means an active or inactive member of PERS.

(3) For eligible participants, the limit set forth in IRC Section 401(a)(17) shall not apply for purposes of determining the amount of employee or employer contributions that may be paid into PERS, and for purposes of determining benefits due under ORS Chapters 238 and 238A. The limit on annual compensation for eligible participants shall be no less than the amount which was allowed to be taken into account for purposes of determining contributions or benefits under former ORS 237.001 to 237.315 as in effect on July 1, 1993.

(4) For noneligible participants, the annual compensation taken into account for purposes of determining contributions or benefits under ORS Chapters 238 and 238A shall be measured on a calendar year basis, and shall not exceed \$260,000 per calendar year beginning in 2014.

(a) The limitation on annual compensation will be indexed by cost-of-living adjustments in subsequent years as provided in IRC Section 401(a)(17)(B).

(b) A noneligible participant employed by two or more agencies or instrumentalities of a PERS participating employer in a calendar year, whether concurrently or consecutively, shall have all compensation paid by the employer combined for determining the allowable annual compensation under this rule.

(c) PERS participating employers shall monitor annual compensation and contributions to assure that reports and remitting are within the limits established by this rule and IRC Section 401(a)(17).

(5) For a noneligible participant, Final Average Salary under ORS 238.005 with respect to Chapter 238 and under 238A.130 with respect to Chapter 238A shall be calculated based on the amount of compensation that is allowed to be taken into account under this rule.

(6) Notwithstanding sections (4) and (5) of this rule, if the Final Average Salary as defined in ORS 238.005 with respect to Chapter 238 and as defined in 238A.130 with respect to Chapter 238A is used in computing a noneligible participant’s retirement benefits, the annual compensation shall be based on compensation paid in a 12-month period beginning with the earliest calendar month used in determining the 36 months of salary paid. For each 12-month period, annual compensation shall not exceed the amount of compensation that is allowable under this rule for the calendar year in which the 12-month period begins.

(7) With respect to ORS Chapter 238, creditable service, as defined in 238.005, shall be given for each month that an active member is paid salary or wages and allowable contributions have been remitted to PERS, or would be remitted but for the annual compensation limit in IRC Section 401(a)(17). With respect to Chapter 238A, retirement credit as determined in 238A.140, shall be given for each month that an active member is paid salary or wages and allowable contributions have been remitted to PERS, or would be remitted but for the annual compensation limit in IRC Section 401(a)(17).

(8) The provisions of this rule are effective on January 1, 2004.

Stat. Auth.: ORS 238.630, 238.650, 238A.370 & 238A.450

Stats. Implemented: ORS 238 & 238A

Hist.: PERS 4-1995, f. 11-14-95, cert. ef. 12-1-95; PERS 5-1999, f. & cert. ef. 11-15-99; PERS 11-2002, f. & cert. ef. 7-17-02; PERS 31-2004(Temp), f. & cert. ef. 12-15-04 thru 6-1-05; PERS 8-2005, f. & cert. ef. 2-22-05; PERS 19-2005, f. 11-1-05, cert. ef. 1-1-06; PERS

14-2008, f. & cert. ef. 11-26-08; PERS 1-2012, f. & cert. ef. 2-1-12; PERS 3-2013, f. & cert. ef. 3-29-13; PERS 3-2014, f. & cert. ef. 1-31-14

459-005-0545

Annual Addition Limitation

(1) Applicable Law. This administrative rule shall be construed consistently with the requirements of the Internal Revenue Code (IRC) Section 415(c) and the Treasury regulations and Internal Revenue Service rulings and other interpretations issued thereunder.

(2) Annual Addition Limitation. Except as otherwise provided in this rule, a member’s annual additions to PERS for any calendar year after 2013 may not exceed \$52,000 (as adjusted under IRC Section 415(d)).

(3) Annual Additions. For purposes of this rule, the term “annual additions” has the same meaning as under IRC Section 415(c)(2).

(4) Permissive Service Credit. The following special rules shall apply with respect to purchases of permissive service credit, as defined in OAR 459-005-0540, Permissive Service Credit:

(a) If a member’s after-tax contributions to purchase permissive service credit are included in the member’s annual additions under section (3) of this rule, the member shall not be treated as exceeding the limitation under section (2) of this rule solely because of the inclusion of such contributions.

(b) With respect to any eligible participant, the annual addition limitation in section (2) of this rule shall not be applied to reduce the amount of permissive service credit to an amount less than the amount that could be purchased under the terms of the plan as in effect on August 5, 1997. As used in this subsection, the term “eligible participant” includes any individual who became an active member before January 1, 2000.

(5) Purchase of Service in the Armed Forces Under ORS 238.156 or 238A.150. If a member makes a payment to PERS to purchase retirement credit for service in the Armed Forces pursuant to 238.156(3)(c) or 238A.150 and the service is covered under Internal Revenue Code Section 414(u), the following special rules shall apply for purposes of applying the annual addition limitation in section (2) of this rule:

(a) The payment shall be treated as an annual addition for the calendar year to which it relates;

(b) The payment shall not be treated as an annual addition for the calendar year in which it is made; and

(c) The member shall be treated as having received the following amount of compensation for the period of service in the Armed Forces to which the payment relates:

(A) The amount of compensation the member would have received from a participating employer had the member not been in the Armed Forces; or

(B) If the amount in paragraph (A) of this subsection is not reasonably certain, the member’s average compensation from the participating employer during the 12-month period immediately preceding the period of service in the Armed Forces (or, if shorter, the period of employment immediately preceding the period of service in the Armed Forces).

(6) The provisions of this rule are effective on January 1, 2004.

Stat. Auth.: ORS 238.630, 238.650, 238A.370 & 238A.450

Stats. Implemented: ORS 238.005 - 238.715, 238A.370

Hist.: PERS 5-1999, f. & cert. ef. 11-15-99; PERS 11-2002, f. & cert. ef. 7-17-02; PERS 31-2004(Temp), f. & cert. ef. 12-15-04 thru 6-1-05; PERS 8-2005, f. & cert. ef. 2-22-05; PERS 14-2008, f. & cert. ef. 11-26-08; PERS 1-2012, f. & cert. ef. 2-1-12; PERS 3-2013, f. & cert. ef. 3-29-13; PERS 3-2014, f. & cert. ef. 1-31-14

459-017-0060

Reemployment of Retired Members

(1) For purposes of this rule, “retired member” means a member of the PERS Chapter 238 Program who is retired for service.

(2) Reemployment under ORS 238.082. A retired member may be employed under 238.082 by a participating employer without loss of retirement benefits provided:

(a) The period or periods of employment with one or more participating employers total less than 1,040 hours in a calendar year; or

(b) If the retired member is receiving retirement, survivors, or disability benefits under the federal Social Security Act, the period or periods of employment total less than 1,040 hours in a calendar year or no more than the total number of hours in a calendar year that, at the retired member’s specified hourly rate of pay, limits the annual compensation of the retired member to an amount that does not exceed the following Social Security annual compensation limits:

(A) For retired members who have not reached full retirement age under the Social Security Act, the annual compensation limit is \$15,480; or

(B) For the calendar year in which the retired member reaches full retirement age under the Social Security Act and only for compensation for

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the months before reaching full retirement age, the annual compensation limit is \$41,400.

(3) The limitations on employment in section (2) of this rule do not apply if the retired member has reached full retirement age under the Social Security Act.

(4) The limitations on employment in section (2) of this rule do not apply if:

(a) The retired member meets the requirements of ORS 238.082(4), (5), (6), (7) or (8), and did not retire at a reduced benefit under the provisions of 238.280(1), (2) or (3);

(b) The retired member retired at a reduced benefit under ORS 238.280(1), (2) or (3), is employed in a position that meets the requirements of 238.082(4), the date of employment is more than six months after the member's effective retirement date, and the member's retirement otherwise meets the standard of a bona fide retirement;

(c) The retired member is employed by a school district or education service district as a speech-language pathologist or speech-language pathologist assistant and:

(A) The retired member did not retire at a reduced benefit under the provisions of ORS 238.280(1), (2) or (3); or

(B) If the retired member retired at a reduced benefit under the provisions of ORS 238.280(1), (2) or (3), the retired member is not so employed until more than six months after the member's effective retirement date and the member's retirement otherwise meets the standard of a bona fide retirement;

(d) The retired member meets the requirements of section 2, chapter 499, Oregon Laws 2007;

(e) The retired member is employed for service during a legislative session under ORS 238.092(2); or

(f) The retired member is on active state duty in the organized militia and meets the requirements under ORS 399.075(8).

(g) For purposes of population determinations referenced by statutes listed in this section, the latest federal decennial census shall first be operative on the first day of the second calendar year following the census year.

(h) For purposes of ORS 238.082(6), a retired member replaces an employee if the retired member:

(A) Is assigned to the position of the employee; and

(B) Performs the duties of the employee or duties that might be assigned to an employee in that position.

(5) If a retired member is reemployed subject to the limitations of ORS 238.082 and section (2) of this rule, the period or periods of employment subsequently exceed those limitations, and employment continues into the month following the date the limitations are exceeded:

(a) If the member has been retired for six or more calendar months:

(A) PERS will cancel the member's retirement.

(i) If the member is receiving a monthly service retirement allowance, the last payment to which the member is entitled is for the month in which the limitations were exceeded.

(ii) If the member is receiving installment payments under ORS 238.305(4), the last installment payment to which the member is entitled is the last payment due on or before the last day of the month in which the limitations were exceeded.

(iii) If the member received a single lump sum payment under ORS 238.305(4) or 238.315, the member is entitled to the payment provided the payment was dated on or before the last day of the month in which the limitations were exceeded.

(iv) A member who receives benefits to which he or she is not entitled must repay those benefits to PERS.

(B) The member will reestablish active membership the first of the calendar month following the month in which the limitations were exceeded.

(C) The member's account must be rebuilt in accordance with the provisions of section (7) of this rule.

(b) If the member has been retired for less than six calendar months:

(A) PERS will cancel the member's retirement effective the date the member was reemployed.

(B) All retirement benefits received by the member must be repaid to PERS in a single payment.

(C) The member will reestablish active membership effective the date the member was reemployed.

(D) The member account will be rebuilt as of the date that PERS receives the single payment. The amount in the member account must be the same as the amount in the member account at the time of the member's retirement.

(6) For purposes of determining period(s) of employment in section (2) of this rule:

(a) Hours of employment are hours on and after the retired member's effective retirement date for which the member receives wages, salary, paid leave, or other compensation.

(b) Hours of employment that are performed under the provisions of section (4) of this rule on or after the later of January 1, 2004 or the operative date of the applicable statutory provision are not counted.

(7) Reemployment under ORS 238.078(1). If a member has been retired for service for more than six calendar months and is reemployed in a qualifying position by a participating employer under the provisions of 238.078(1):

(a) PERS will cancel the member's retirement effective the date the member is reemployed.

(b) The member will reestablish active membership on the date the member is reemployed.

(c) If the member elected a benefit payment option other than a lump sum option under ORS 238.305(2) or (3), the last monthly service retirement allowance payment to which the member is entitled is for the month before the calendar month in which the member is reemployed. Upon subsequent retirement, the member may choose a different benefit payment option.

(A) The member's account will be rebuilt as required by ORS 238.078 effective the date active membership is reestablished.

(B) Amounts from the Benefits-In-Force Reserve (BIF) credited to the member's account under the provisions of paragraph (A) of this subsection will be credited with earnings at the BIF rate or the assumed rate, whichever is less, from the date of retirement to the date of active membership.

(d) If the member elected a partial lump sum option under ORS 238.305(2), the last monthly service retirement allowance payment to which the member is entitled is for the month before the calendar month in which the member is reemployed. The last lump sum or installment payment to which the member is entitled is the last payment due before the date the member is reemployed. Upon subsequent retirement, the member may not choose a different benefit payment option unless the member has repaid to PERS in a single payment an amount equal to the lump sum and installment benefits received and the earnings that would have accumulated on that amount.

(A) The member's account will be rebuilt as required by ORS 238.078 effective the date active membership is reestablished.

(B) Amounts from the BIF credited to the member's account under the provisions of paragraph (A) of this subsection, excluding any amounts attributable to repayment by the member, will be credited with earnings at the BIF rate or the assumed rate, whichever is less, from the date of retirement to the date of active membership.

(e) If the member elected the total lump sum option under ORS 238.305(3), the last lump sum or installment payment to which the member is entitled is the last payment due before the date the member is reemployed. Upon subsequent retirement, the member may not choose a different benefit payment option unless the member has repaid to PERS in a single payment an amount equal to the benefits received and the earnings that would have accumulated on that amount.

(A) If the member repays PERS as described in this subsection the member's account will be rebuilt as required by ORS 238.078 effective the date that PERS receives the single payment.

(B) If any amounts from the BIF are credited to the member's account under the provisions of paragraph (A) of this subsection, the amounts may not be credited with earnings for the period from the date of retirement to the date of active membership.

(f) If the member received a lump sum payment under ORS 238.315:

(A) If the payment was dated before the date the member is reemployed, the member is not required or permitted to repay the benefit amount. Upon subsequent retirement:

(i) The member may choose a different benefit payment option.

(ii) The member's retirement benefit will be calculated based on the member's periods of active membership after the member's initial effective retirement date.

(B) If the payment was dated on or after the date the member is reemployed, the member must repay the benefit amount. Upon subsequent retirement:

(i) The member may choose a different benefit payment option.

(ii) The member's retirement benefit will be calculated based on the member's periods of active membership before and after the member's initial effective retirement date.

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Oregon University System, Oregon State University Chapter 576

(iii) The member's account will be rebuilt as described in ORS 238.078(2)

(g) A member who receives benefits to which he or she is not entitled must repay those benefits to PERS.

(8) Reemployment under ORS 238.078(2). If a member has been retired for less than six calendar months and is reemployed in a qualifying position by a participating employer under the provisions of 238.078(2):

(a) PERS will cancel the member's retirement effective the date the member is reemployed.

(b) All retirement benefits received by the member must be repaid to PERS in a single payment.

(c) The member will reestablish active membership effective the date the member is reemployed.

(d) The member account will be rebuilt as of the date that PERS receives the single payment. The amount in the member account must be the same as the amount in the member account at the time of the member's retirement.

(e) Upon subsequent retirement, the member may choose a different benefit payment option.

(9) Upon the subsequent retirement of any member who reestablished active membership under ORS 238.078 and this rule, the retirement benefit of the member must be calculated using the actuarial equivalency factors in effect on the effective date of the subsequent retirement.

(10) The provisions of paragraphs (7)(c)(B), (7)(d)(B), and (7)(e)(B) of this rule are applicable to retired members who reestablish active membership under ORS 238.078 and this rule and whose initial effective retirement date is on or after March 1, 2006.

(11) Reporting requirement. A participating employer that employs a retired member must notify PERS in a format acceptable to PERS under which statute the retired member is employed.

(a) Upon request by PERS, a participating employer must certify to PERS that a retired member has not exceeded the number of hours allowed under ORS 238.082 and section (2) of this rule.

(b) Upon request by PERS a participating employer must provide PERS with business and employment records to substantiate the actual number of hours a retired member was employed.

(c) Participating employers must provide information requested under this section within 30 days of the date of the request.

(12) Sick leave. Accumulated unused sick leave reported by an employer to PERS upon a member's retirement, as provided in ORS 238.350, may not be made available to a retired member returning to employment under sections (2) or (7) of this rule.

(13) Subsections (4)(c) and (4)(d) of this rule are repealed effective January 2, 2016.

(14) This rule is effective January 1, 2014.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.078, 238.082, 238.092, 399.075, & 2007 OL Ch. 499 & 774
Hist.: PERS 1-1994, f. 3-29-94, cert. ef. 4-1-94; PERS 1-1996, f. & cert. ef. 3-26-96; Renumbered from 459-010-0182; PERS 13-1998, f. & cert. ef. 12-17-98; PERS 7-2001, f. & cert. ef. 12-7-01; PERS 18-2003(Temp), f. & cert. ef. 12-15-03 thru 5-31-04; PERS 19-2004, f. & cert. ef. 6-15-04; PERS 3-2006, f. & cert. ef. 3-1-06; PERS 18-2007, f. & cert. ef. 11-23-07; PERS 3-2009, f. & cert. ef. 4-6-09; PERS 11-2009, f. & cert. ef. 12-1-09; PERS 7-2012, f. & cert. ef. 3-28-12; PERS 5-2013, f. & cert. ef. 3-29-13; PERS 3-2014, f. & cert. ef. 1-31-14

459-080-0500

Limitation on Contributions

(1) Definitions. For purposes of this rule:

(a) "Annual addition" has the same meaning given the term in 26 U.S.C. 415(c)(2).

(b) "Compensation" has the same meaning given the term in 26 U.S.C. 415(c)(3)(A).

(2) Annual addition limitation. Except as otherwise provided in this rule, the annual addition to a member account for any calendar year may not exceed \$52,000 effective January 1, 2014.

(3) Payment for military service. If a payment of employee contributions for a period of military service is made under OAR 459-080-0100:

(a) The payment shall be treated as an annual addition for the calendar year(s) of military service to which it relates;

(b) The payment shall not be treated as an annual addition for the calendar year in which it is made; and

(c) For the purpose of allocating payments under this section, the member's compensation shall be the amount described in OAR 459-080-0100(3)(d).

Stat. Auth.: ORS 238A.450

Stats. Implemented: ORS 238A.370

Hist.: PERS 21-2003, f. 12-15-03 cert. ef. 1-1-04; PERS 8-2012, f. & cert. ef. 3-28-12; PERS 3-2013, f. & cert. ef. 3-29-13; PERS 3-2014, f. & cert. ef. 1-31-14

Rule Caption: Expanded rights to use tables for campus free speech activities by public and university community

Adm. Order No.: OSU 1-2014(Temp)

Filed with Sec. of State: 2-10-2014

Certified to be Effective: 2-11-14 thru 6-30-14

Notice Publication Date:

Rules Amended: 576-005-0005, 576-005-0010, 576-005-0020, 576-005-0025, 576-005-0032, 576-005-0041

Subject: OSU provides time, place and manner rules that balance the free speech rights of non-OSU groups/individuals with the significant interests OSU has in preserving its limited space and employee resources for OSU needs. It is the further intent to support the primary educational purpose of the University and ensure that the University's limited space and employee resources are primarily preserved to be dedicated to the needs of the University, while promoting debate and the sharing of information.

Rules Coordinator: Beth Giddens—(541) 737-2449

576-005-0005

Purpose and Scope

(1) The University recognizes and supports the rights of free expression and speech. It is the purpose of these regulations to balance the free speech rights of non-OSU groups/individuals with the significant interests OSU has in preserving its limited space and employee resources for OSU needs. It is the further intent to support the primary educational purpose of the University and ensure that the University's limited space and employee resources are primarily preserved to be dedicated to the needs of the University, while promoting debate and the sharing of information.

(2) These regulations do not limit otherwise authorized University community use of University facilities.

(3) These regulations do not affect any rights which an employee organization, certified as the exclusive representative pursuant to ORS 243.650 and following, may have been granted pursuant to its collective bargaining agreement or Oregon Revised Statutes.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: OSU 5-1988, f. & cert. ef. 10-13-88; OSU 1-2014(Temp), f. 2-10-14, cert. ef. 2-11-14 thru 6-30-14

576-005-0010

Definitions

(1) "Person" means any member of the public or the University community.

(2) "Public" means any individual or group not included in the definition of "University community."

(3) "Speech Activities" means leaf-letting, picketing, speech-making, demonstration, petition circulation, and similar speech-related activities.

(4) "University" means Oregon State University.

(5) "University Community" means all students, faculty and staff of the University including student, faculty and staff sponsored organizations.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: OSU 5-1988, f. & cert. ef. 10-13-88; OSU 1-2014(Temp), f. 2-10-14, cert. ef. 2-11-14 thru 6-30-14

576-005-0020

Access, Traffic, and University Business Not to Be Impeded

(1) No speech activities shall impede pedestrian and vehicular traffic nor unreasonably disrupt regular or authorized activities in classrooms, offices, laboratories and other University facilities or grounds. The Vice President of Finance and Administration may require any speech activity to be conducted 15 feet or more from any exit, entrance, staircase, parking lot, or roadway if necessary to allow access.

(2) No speech activities shall be conducted at a volume which unreasonably disrupts the normal use of classrooms, offices and laboratories.

(3) The Vice President of Finance and Administration may designate the portion of a street and the time of day during which a street is not available for speech activities in order to meet traffic, emergency access, and public transit needs.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: OSU 5-1988, f. & cert. ef. 10-13-88; OSU 7-1996, f. & cert. ef. 8-23-96; OSU 1-2014(Temp), f. 2-10-14, cert. ef. 2-11-14 thru 6-30-14

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576-005-0025

Notification

(1) In order to allow scheduling and to assure public safety, persons desiring to picket or demonstrate are encouraged to notify the appropriate University official at least 24 hours in advance.

(2) The officials to be notified are:

(a) The LaSells Stewart Center and adjoining plaza: the Director of Conference Facilities and Services;

(b) The Memorial Union and the Quadrangle to the north of the Memorial Union: the Director of the Memorial Union;

(c) All other areas: the Vice President for Finance and Administration.

Stat. Auth.: ORS 164.205(5) & 351.070

Stats. Implemented: ORS 351.070

Hist.: OSU 3-1990, f. & cert. ef. 8-22-90; OSU 7-1996, f. & cert. ef. 8-23-96; OSU 1-2014(Temp), f. 2-10-14, cert. ef. 2-11-14 thru 6-30-14

576-005-0032

Use of Tables, Carts, Booths, and Similar Structures

(1) Tables, carts, booths or similar structures may be set out and used on campus only as provided in this rule.

(2) Except as provided in section (4) of this rule, use of a table, cart, booth or similar structure that does not exceed three feet by six feet (3'x6') is permitted by any member of the Public or University Community engaged in speech activity in any Public Area, so long as the use does not disrupt University access, traffic or business. The University may require users of a table, cart, booth or similar structure who do not have a reservation pursuant to section (3) of this rule to move to a different on-campus Public Area as necessary to avoid such disruption.

(3) Except as provided in section (4) of this rule, use of a table, cart, booth or similar structure larger than three feet by six feet (3'x6') on campus for informational, nonprofit, commercial, or any other purposes, must be sponsored by a recognized student organization or University department, or a faculty or staff organization.

(a) Recognized student organizations must report the activity under sections (2) and (3) of this rule to the University through an online process managed by the Student Events & Activities Center;

(b) University department or faculty/staff organization sponsored uses in the Memorial Union or the Quadrangle north of the Memorial Union must be scheduled with the Memorial Union Reservation Office. Faculty or staff members (or students) of the sponsoring department or organization must conduct all activity. The Memorial Union Reservation Office shall establish the time period during which the use may take place;

(c) Users who are members of student organizations may provide their own tables, carts, or booths, or reserve tables available through the Memorial Union Reservation Office. Use of Memorial Union tables, carts, or booths is restricted to members of a recognized student organization and the activity is restricted to the Quadrangle north of the Memorial Union. Alternatively, on a first-come, first-served basis, counter space within these rules (without use of tables, carts, or booths) may be reserved in the Memorial Union by student organizations;

(d) Users sponsored by the OSU Athletic Department may request placement of tables, carts or booths in Gill Coliseum or other facilities controlled by the Athletic Department through the Athletic Department Business Office.

(4) Nothing in this rule is intended to authorize:

(a) Sale of products or food on campus in conflict with existing exclusive contracts for similar merchandise or services;

(b) Uses in conflict with any applicable OSU food service or catering policy.

(5) It is the responsibility of the user to acquire any necessary state, county, or municipal licenses.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: OSU 1-1992, f. & cert. ef. 6-5-92; OSU 7-1996, f. & cert. ef. 8-23-96; OSU 3-2013, f. 6-7-13, cert. ef. 7-1-13; OSU 1-2014(Temp), f. 2-10-14, cert. ef. 2-11-14 thru 6-30-14

576-005-0041

Enforcement

(1) Any person violating these rules is subject to:

(a) Institutional disciplinary proceedings, if a student or employee;

(b) An order to leave the immediate premises or property owned or controlled by the University by a person in charge of University property.

(2) Persons failing to comply with an order by a person in charge to leave or to remain off the immediate premises or property owned or controlled by the University are subject to arrest for criminal trespass.

(3) The Vice President of Finance and Administration, Vice Provost for Student Affairs, the Dean of Students, Security Services Manager,

Director of University Housing and Dining Services, Director of Conference Facilities and Services, the Director of the Memorial Union and Educational Activities, and their designees, have the authority of "persons in charge" of University property for purposes of ORS 164.205(5) and these rules.

Stat. Auth.: ORS 164.205(5) & 351.070

Stats. Implemented: ORS 351.070

Hist.: OSU 3-1990, f. & cert. ef. 8-22-90; OSU 7-1996, f. & cert. ef. 8-23-96; OSU 1-2014(Temp), f. 2-10-14, cert. ef. 2-11-14 thru 6-30-14

Oregon University System, Western Oregon University Chapter 574

Rule Caption: Revisions to special course fees and general services fees.

Adm. Order No.: WOU 1-2014

Filed with Sec. of State: 1-28-2014

Certified to be Effective: 1-28-14

Notice Publication Date: 1-1-2014

Rules Amended: 574-050-0005

Subject: Amendments will allow for increases, additions, and revisions of special course fees and general services fees.

Rules Coordinator: Dawn Brown—(503) 838-8472

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; WOU 2-2013, f. & cert. ef. 7-24-13; WOU 1-2014, f. & cert. ef. 1-28-14

Public Utility Commission Chapter 860

Rule Caption: In the Matter of Telecommunications Service Standards Revisions - Repair Clearing Time

Adm. Order No.: PUC 2-2014

Filed with Sec. of State: 1-22-2014

Certified to be Effective: 1-22-14

Notice Publication Date: 11-1-2013

Rules Amended: 860-023-0055, 860-032-0012, 860-034-0390

Subject: The adopted changes to section (6) of each rule alleviate compliance problems with weekend repair reporting requirements related to repair intervals by providing an alternate process. The changes also reduce the standard of weekend trouble reports cleared within 48 hours from 95 percent to 90 percent. This revised standard aligns more closely to the standards in Washington and Idaho.

Rules Coordinator: Diane Davis—(503) 378-4372

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860-023-0055

Retail Telecommunications Service Standards for Large Telecommunications Utilities

Every large telecommunications utility must adhere to the following standards:

(1) Definitions.

(a) "Access Line" — A facility engineered with dialing capability to provide retail telecommunications service that connects a customer's service location to the Public Switched Telephone Network;

(b) "Average Busy Season Busy Hour" — The hour that has the highest average traffic for the three highest months, not necessarily consecutive, in a 12-month period. The busy hour traffic averaged across the busy season is termed the average busy season busy hour traffic;

(c) "Average Speed of Answer" — The average time that elapses between the time the call is directed to a representative and the time it is answered;

(d) "Blocked Call" — A properly dialed call that fails to complete to its intended destination except for a normal busy (60 interruptions per minute);

(e) "Customer" — Any person, firm, partnership, corporation, municipality, cooperative, organization, governmental agency, or other legal entity that has applied for, been accepted, and is currently receiving local exchange telecommunications service;

(f) "Exchange" — Geographic area defined by maps filed with and approved by the Commission for the provision of local exchange telecommunications service;

(g) "Final Trunk Group" — A last-choice trunk group that receives overflow traffic and that may receive first-route traffic for which there is no alternative route;

(h) "Force Majeure" — Circumstances beyond the reasonable control of a large telecommunications utility, including but not limited to, delays caused by:

(A) A vendor in the delivery of equipment, where the large telecommunications utility has made a timely order of equipment;

(B) Local, state, federal, or tribal government authorities in approving easements or access to rights of way, where the large telecommunications utility has made a timely application for such approval;

(C) The customer, including but not limited to, the customer's construction project or lack of facilities, or failure to provide access to the customer's premises;

(D) Uncontrollable events, such as explosion, fire, floods, frozen ground, tornadoes, severe weather, epidemics, injunctions, wars, acts of terrorism, strikes or work stoppages, and negligent or willful misconduct by customers or third parties, including but not limited to, outages originating from introduction of a virus onto the provider's network;

(i) "Held Order for Lack of Facilities" — Request for access line service delayed beyond the initial commitment date due to lack of facilities. An access line service order includes an order for new service, transferred service, additional lines, or change of service;

(j) "Initial Commitment Date" — The initial date pledged by the large telecommunications utility to provide a service, facility, or repair action. This date is within the minimum time set forth in these rules or a date determined by good faith negotiations between the customer and the large telecommunications utility;

(k) "Network Interface" — The point of interconnection between the large telecommunications utility's communications facilities and customer terminal equipment, protective apparatus, or wiring at a customer's premises. The network interface must be located on the customer's side of the large telecommunications utility's protector;

(l) "Retail Telecommunications Service" — A telecommunications service provided for a fee to customers. Retail telecommunications service does not include a service provided by a large telecommunications utility to another telecommunications utility or competitive telecommunications provider, unless the telecommunications utility or competitive telecommunications provider receiving the service is the end user of the service;

(m) "Tariff" — A schedule showing rates, tolls, and charges that the large telecommunications utility has established for a retail service;

(n) "Trouble Report" — A report of a malfunction that affects the functionality and reliability of retail telecommunications service on existing access lines, switching equipment, circuits, or features made up to and including the network interface, to a large telecommunications utility by or on behalf of that large telecommunications utility's customer;

(o) "Wire Center" — A facility where local telephone subscribers' access lines converge and are connected to switching equipment that provides access to the Public Switched Telephone Network, including remote

switching units and host switching units. A wire center does not include collocation arrangements in a connecting large telecommunications utility's wire center or broadband hubs that have no switching equipment.

(2) Measurement and Reporting Requirements. A large telecommunications utility must take the measurements required by this rule and report them to the Commission as specified. Reported measurements must be reported to the first significant digit (i.e., one number should be reported to the right of the decimal point). The service quality objective service levels set forth in sections 4 through 8 of this rule apply only to normal operating conditions and do not establish a level of performance to be achieved during force majeure events.

(3) Additional Reporting Requirements. The Commission may require a large telecommunications utility to submit additional reports on any item covered by this rule.

(4) Provisioning and Held Orders for Lack of Facilities. The representative of the large telecommunications utility must give a retail customer an initial commitment date of not more than six business days after a request for access line service, unless a later date is determined through good faith negotiations between the customer and the large telecommunications utility. The large telecommunications utility may change the initial commitment date only if requested by the customer. When establishing the initial commitment date, the large telecommunications utility may take into account the actual time required for the customer to meet prerequisites; e.g., line extension charges or trench and conduit requirements. If a request for service becomes a held order for lack of facilities, the serving large telecommunications utility must, within five business days, send or otherwise provide the customer a written commitment to fill the order.

(a) Measurement:

(A) Commitments Met — A large telecommunications utility must calculate the monthly percentage of commitments met for service, based on the initial commitment date, across its Oregon service territory. Commitments missed for reasons solely attributed to customers, another telecommunications utility or a competitive telecommunications provider may be excluded from the calculation of the "commitments met" results;

(B) Held Orders for Lack of Facilities — A large telecommunications utility must determine the total monthly number of held orders, due to lack of facilities, not completed by the initial commitment date during the reporting month and the number of primary (initial access line) held orders, due to lack of facilities, over 30 days past the initial commitment date.

(b) Objective Service Level:

(A) Commitments Met — Each large telecommunications utility must meet at least 90 percent of its commitments for service;

(B) Held Orders:

(i) The number of held orders for the lack of facilities for each large telecommunications utility must not exceed the larger of two per wire center per month averaged over the large telecommunications utility's Oregon service territory, or five held orders for lack of facilities per 1,000 inward orders;

(ii) The total number of primary held orders for lack of facilities in excess of 30 days past the initial commitment date must not exceed 10 percent of the total monthly held orders for lack of facilities within the large telecommunications utility's Oregon service territory.

(c) Reporting Requirement: Each large telecommunications utility must report monthly to the Commission the percentage of commitments met for service, total number of held orders for lack of facilities, and the total number of primary held orders for lack of facilities over 30 days past the initial commitment date.

(d) Retention Requirement: Each large telecommunications utility must maintain records about held orders for lack of facilities for one year. The record must explain why each order is held and the initial commitment date.

(5) Trouble Reports. Each large telecommunications utility must maintain an accurate record of all reports of malfunction made by its customers.

(a) Measurement: A large telecommunications utility must determine the number of customer trouble reports that were received during the month. The large telecommunications utility must relate the count to the total working access lines within a reporting wire center. A large telecommunications utility need not report those trouble reports that were caused by circumstances beyond its control. The approved trouble report exclusions are:

(A) Cable Cuts: A large telecommunications utility may take an exclusion if the "buried cable location" (locate) was either not requested or was requested and was accurate. If a large telecommunications utility or the

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utility's contractor caused the cut, the exclusion can only be used if the locate was accurate and all general industry practices were followed;

(B) Internet Service Provider (ISP) Blockage: If an ISP does not have enough access trunks to handle peak traffic;

(C) Modem Speed Complaints: An exclusion may be taken if the copper cable loop is tested at the subscriber location and the objective service levels in section 10 of this rule were met;

(D) No Trouble Found: Where no trouble is found, one exemption may be taken. If a repeat report of the same trouble is received within a 30-day period, the repeat report and subsequent reports must be counted;

(E) New Feature or Service: Trouble reports related to a customer's unfamiliarity with the use or operation of a new (within 30 days) feature or service;

(F) No Access: An exclusion may be taken if a repair appointment was kept and the copper based access line at the nearest accessible terminal met the objective service levels in section 10 of this rule. If a repeat trouble report is received within the following 30-day period, the repeat report and subsequent reports must be counted;

(G) Subsequent Tickets/Same Trouble/Same Access Line: Only one trouble report for a specific complaint for the same access line should be counted within a 48-hour period. All repeat trouble reports after the 48-hour period must be counted;

(H) Non-Regulated or Deregulated Equipment: Trouble associated with such equipment should not be counted;

(I) Trouble with Other Telecommunications Utilities or Competitive Telecommunications Providers: A trouble report caused solely by another telecommunications utility or competitive telecommunications provider;

(J) Lightning Strikes: Trouble reports received for damage caused by lightning strikes can be excluded if all accepted grounding, bonding, and shielding practices were followed by the large telecommunications utility at the damaged location; and

(K) Other exclusions: As approved by the Commission.

(b) Objective Service Level: A large telecommunications utility must maintain service so that the monthly trouble report rate, after approved trouble report exclusions, does not exceed:

(A) For wire centers with more than 1,000 access lines: two per 100 working access lines per wire center more than three times during a sliding 12-month period.

(B) For wire centers with 1,000 or less access lines: three per 100 working access lines per wire center more than three times during a sliding 12-month period.

(c) Reporting Requirement: Each large telecommunications utility must report monthly to the Commission:

(A) The trouble report rate by wire center;

(B) The reason(s) a wire center meeting the standard (did not exceed the trouble report rate threshold for more than three of the last 12 months) exceeded a trouble report rate of 3.0 per 100 working access lines during the reporting month;

(C) The reason(s) a wire center not meeting the standard, after the exclusion adjustment, exceeded the trouble report rate threshold per 100 access lines during the reporting month; and

(D) The access line count for each wire center.

(d) Retention Requirement: Each large telecommunications utility must maintain a record of reported trouble in such a manner that it can be forwarded to the Commission upon the Commission's request. The large telecommunications utility must keep all records for a period of one year. The record of reported trouble must contain as a minimum the:

(A) Telephone number;

(B) Date and time received;

(C) Time cleared;

(D) Type of trouble reported;

(E) Location of trouble; and

(F) Whether or not the present trouble was within 30 days of a previous trouble report.

(6) Repair Clearing Time. This standard establishes the clearing time for all trouble reports from the time the customer reports the trouble to the large telecommunications utility until the trouble is resolved. The large telecommunications utility must provide each customer making a network trouble report with a commitment time when the large telecommunications utility will repair or resolve the problem.

(a) Measurement: A large telecommunications utility must calculate the percentage of trouble reports cleared within 48 hours of receiving a report for each repair center. Alternatively, the large telecommunication utility may use the following weekend exception to calculate the percent-

age for trouble reports cleared for those reports that are received between 12 pm on Friday until 5 pm on Sunday.

(A) The trouble reports cleared must be calculated for reports received between 12 pm Friday and 5 pm Saturday and cleared by 5 pm the following Monday for each repair center.

(B) The trouble reports cleared must be calculated for reports received between 5 pm Saturday and 5 pm Sunday and cleared by 5 pm the following Tuesday for each repair center.

Alternate weekend repair calculations must be aggregated into the calculation for the percentage of trouble reports cleared within 48 hours.

(b) Objective Service Level: A large telecommunications utility must clear at least 90 percent of all trouble reports within 48 hours of receiving a report for each repair center. Alternatively, for those reports that are received between 12 pm on Friday and 5 pm on Sunday, the large telecommunication utility may use the following weekend exception to calculate the percentage for trouble reports cleared:

(A) The large telecommunications utility must clear 90 percent of all trouble reports received between 12 pm Friday and 5 pm Saturday by 5 pm the following Monday for each repair center.

(B) The large telecommunications utility must clear 90 percent of all trouble reports received between 5 pm Saturday and 5 pm Sunday by 5 pm the following Tuesday for each repair center.

(c) Reporting Requirement: Each large telecommunications utility must report monthly to the Commission the percentage of all trouble reports cleared within 48 hours of receiving the report by each repair center, with optional adjustments allowed for weekend repair exceptions described in (b). A large telecommunications utility must use its best efforts to complete out-of-service restorations for business customers. In addition, a large telecommunications utility must use its best efforts to complete out-of-service restorations for residential customers who have identified either a medical necessity or no access to an alternative means of voice or E-911 communications.

(d) A large telecommunications utility must indicate in its report if it opts to use the alternative weekend exception period reporting.

(e) Retention Requirement: None.

(7) Blocked Calls. A large telecommunications utility must engineer and maintain all intraoffice, interoffice, and access trunking and associated switching components to allow completion of calls made during the average busy season busy hour without encountering blockage or equipment irregularities in excess of levels listed in subsection (7)(b) of this rule.

(a) Measurement:

(A) A large telecommunications utility must collect traffic data; i.e., peg counts and usage data generated by individual components of equipment or by the wire center as a whole, and calculate blockage levels of the interoffice final trunk groups;

(B) System blockage is determined by special testing at the wire center. Commission Staff or a telecommunications utility technician will place test calls to a predetermined test number, and the total number of attempted calls and the number of completed calls will be counted. The percentage of calls completed must be calculated.

(b) Objective Service Level:

(A) A large telecommunications utility must maintain interoffice final trunk groups to allow 99 percent completion of calls during the average busy season busy hour without blockage (P.01 grade of service);

(B) A large telecommunications utility must maintain its switch operation so that 99 percent of the calls do not experience blockage during the normal busy hour.

(C) When a large telecommunications utility fails to maintain the interoffice final trunk group P.01 grade of service for four or more consecutive months, it will be considered out-of-standard until the condition is resolved. A single repeat blockage within two months of restoring the P.01 grade of service will be considered a continuation of the original blockage.

(c) Reporting Requirement: Each large telecommunications utility must report monthly to the Commission:

(A) Local and extended area service (EAS) final trunk groups that do not meet the objective service level for trunk group blockage, measured from each of its switches, regardless of the ownership of the terminating switch;

(B) Its tandem switch final trunk group blockages associated with EAS traffic;

(C) Any known cause for the blockage and actions to bring the trunks into standard; and

(D) Identity of the telecommunications utility or competitive telecommunications provider, if other than the reporting large telecommunications utility, responsible for maintaining those final trunk groups not meeting the

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standard.

(d) Retention Requirement: Each large telecommunications utility must maintain records for one year.

(8) Access to Large Telecommunications Utility Representatives. This rule sets the allowed time for large telecommunications utility business office or repair service center representatives to answer customer calls.

(a) Measurement:

(A) Direct Representative Answering: A large telecommunications utility must measure the answer time from the first ring at the large telecommunications utility business office or repair service center;

(B) Driven, Automated, or Interactive Answering System: The option of transferring to the large telecommunications utility representative must be included in the initial local service-screening message. The large telecommunications utility must measure the answering time from the point a call is directed to its representatives; e.g., when the call leaves the Voice Response Unit;

(C) Each large telecommunications utility must calculate:

(i) The monthly percentage of the total calls placed to the business office and repair service center and the number of calls answered by representatives within 20 seconds; or

(ii) The average speed of answer time for the total calls received by the business office and repair service center.

(b) Objective Service Level:

(A) No more than 1 percent of calls to the large telecommunications utility business office or repair service center may encounter a busy signal; and

(B) The large telecommunications utility representatives must answer at least 80 percent of calls within 20 seconds or have an average speed of answer time of 50 seconds or less.

(c) Reporting Requirement:

(A) Each large telecommunications utility must report monthly to the Commission an exception report if busy signals were encountered in excess of 1 percent for either the business office or repair service center; and

(B) Each large telecommunications utility must report monthly to the Commission the percentage of calls answered within 20 seconds or the average speed of answer time for both the business office and repair service center. Once a method of measurement is reported by the provider, that method can only be changed with permission of the Commission.

(d) Retention Requirement: None.

(9) Interruption of Service Notification. A large telecommunications utility must report significant outages that affect customer service. These interruptions could be caused by switch outage, electronic outage, cable cut, or construction.

(a) Measurement: A large telecommunications utility must notify the Commission when an interruption occurs that exceeds the following thresholds:

(A) Cable cuts, excluding service wires and wires placed in lieu of cable, or electronic outages lasting longer than 30 minutes and affecting 50 percent or more of in-service lines.

(B) Toll or Extended Area Service isolation lasting longer than 30 minutes and affecting 50 percent or more of in-service lines.

(C) Isolation of a central office (host or remote) from the E 9-1-1 emergency dialing code or isolation of a Public Safety Answering Position (PSAP).

(D) Isolation of a wire center for more than 15 minutes.

(E) Outage of the business office or repair center access system lasting longer than 15 minutes in those instances where the traffic cannot be rerouted to a different center.

(b) Objective Service Level: Not applicable.

(c) Reporting Requirement: A large telecommunications utility must report service interruptions to the Commission engineering staff by telephone, by facsimile, by electronic mail, or personally within two hours during normal work hours of the business day after the company becomes aware of such interruption of service. Interim reports will be given to the Commission as significant information changes (e.g., estimated time to restore, estimated impact to customers, cause of the interruption, etc.) until it is reported that the affected service is restored.

(d) Retention Requirement: None.

(10) Customer Access Line Testing. All customer access lines must be designed, installed, and maintained to meet the levels in subsection (b) of this section.

(a) Measurement: Each large telecommunications utility must make all loop parameter measurements at the network interface, or as close as access allows.

(b) Objective Service Level: Each access line must meet the following levels:

(A) Loop Current: The serving wire center loop current, when terminated into a 400-ohm load, must be at least 20 milliamperes;

(B) Loop Loss: The maximum loop loss, as measured with a 1004-hertz tone from the serving wire center, must not exceed 8.5 decibels (dB);

(C) Metallic Noise: The maximum metallic noise level, as measured on a quiet line from the serving wire center, must not exceed 20 decibels above referenced noise level — C message weighting (dBmC);

(D) Power Influence: As a goal, power influence, as measured on a quiet line from the serving wire center, must not exceed 80 dBmC.

(c) Reporting Requirement: A large telecommunications utility must report measurement readings as directed by the Commission.

(d) Retention Requirement: None.

(11) Customer Access Lines and Wire Center Switching Equipment.

All combinations of access lines and wire center switching equipment must be capable of accepting and correctly processing at least the following network control signals from the customer premises equipment. The wire center must provide dial tone and maintain an actual measured loss between interoffice and access trunk groups.

(a) Measurement: Each large telecommunications utility must make measurements at or to the serving wire center.

(b) Objective Service Level:

(A) Dial Tone Speed. Ninety-eight percent of originating average busy hour call attempts must receive dial tone within three seconds;

(B) A large telecommunications utility must maintain all interoffice and access trunk groups so that the actual measured loss (AML) in no more than 30 percent of the trunks deviates from the expected measured loss (EML) by more than 0.7 dB and no more than 4.5 percent of the trunks deviates from EML by more than 1.7 dB.

(c) Reporting Requirement: None.

(d) Retention Requirement: None.

(12) Special Service Access Lines. All special service access lines must meet the performance requirements specified in applicable large telecommunications utility tariffs or contracts.

(13) Large Telecommunications Utility Interconnectivity. A large telecommunications utility connected to the facilities of another telecommunications utility or competitive telecommunications provider must operate its system in a manner that will not impede either company's ability to meet required standards of service. A large telecommunications utility must report interconnection operational problems promptly to the Commission.

(14) Remedies for Violation of This Standard.

(a) If a large telecommunications utility subject to this rule fails to meet a minimum service quality standard, the Commission must require the large telecommunications utility to submit a plan for improving performance as provided in ORS 759.450(5). If a large telecommunications utility does not meet the goals of its improvement plan within six months, or if the plan is disapproved by the Commission, the Commission may assess penalties in accordance with ORS 759.450(5) through (7).

(b) In addition to the remedy provided under ORS 759.450(5), if the Commission believes that a large telecommunications utility subject to this rule has violated one or more of its service standards, the Commission must give the large telecommunications utility notice and an opportunity to request a hearing. If the Commission finds a violation has occurred, the Commission may require the large telecommunications utility to provide the following relief to the affected customers:

(A) An alternative means of telecommunications service for violations of paragraph (4)(b)(B) of this rule;

(B) Customer billing credits equal to the associated non-recurring and recurring charges of the large telecommunications utility for the affected service for the period of the violation; and

(C) Other relief authorized by Oregon law.

(15)(a) If the Commission determines that effective competition exists in one or more exchange(s), it may exempt all telecommunications utilities and competitive telecommunications providers providing telecommunications services in the exchange(s) from the requirements of this rule, in whole or in part. In making this determination, the Commission will consider:

(A) The extent to which the service is available from alternative providers in the relevant exchange(s);

(B) The extent to which the services of alternative providers are functionally equivalent or substitutable at comparable rates, terms, and conditions;

(C) Existing barriers to market entry;

(D) Market share and concentration;

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(E) Number of suppliers;

(F) Price to cost ratios;

(G) Demand side substitutability (e.g., customer perceptions of competitors as viable alternatives); and

(H) Any other factors deemed relevant by the Commission.

(b) When a large telecommunications utility petitions the Commission for exemption under this provision, the Commission must provide notice of the petition to all relevant telecommunications utilities and competitive telecommunications providers providing the applicable service(s) in the exchange(s) in question. The Commission will provide such notified telecommunications utilities and competitive telecommunications providers an opportunity to submit comments in response to the petition. The comments may include requests that, following the Commission's analysis outlined above in paragraphs (15)(a)(A) through (H), the commenting telecommunications utilities and competitive telecommunications providers be exempt from these rules for the applicable service(s) in the relevant exchange(s).

(c) The Commission may grant a large telecommunications utility's petition for an exemption from service quality reporting requirements if the large telecommunications utility meets all service quality objective service levels set forth in sections (4) through (8) of this rule for the 12 months prior to the month in which the petition is filed.

[Publications: Publications referenced are available from the agency]

Stat. Auth.: ORS 183, 756 & 759

Stats. Implemented: 756.040, 759.020, 759.035, 759.030, 759.050, 759.240, 759.450

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 23-1985, f. & ef. 12-11-85 (Order No. 85-1171); PUC 1-1997, f. & ef. 1-7-97 (Order No. 96-332); PUC 13-2000, f. & cert. ef. 6-9-00; PUC 13-2001, f. & cert. ef. 5-25-01; PUC 7-2002, f. & cert. ef. 2-26-02; PUC 10-2005, f. & cert. ef. 12-27-05; PUC 6-2011, f. & cert. ef. 9-14-11; PUC 2-2014, f. & cert. ef. 1-22-14

860-032-0012

Retail Telecommunications Service Standards for Competitive Telecommunications Providers

Every large telecommunications utility, as defined in OAR 860-023-0001(2), must adhere to the standards in OAR 860-023-0055. Every small telecommunications utility, as defined in 860-034-0010(3)(a) must adhere to the standards in 860-034-0390. Every competitive telecommunications provider, as defined in ORS 759.005(1), that maintains more than 1,000 access lines on a statewide basis, must adhere to the following service standards:

(1) Definitions.

(a) "Access Line" — A facility engineered with dialing capability to provide retail telecommunications service that connects a customer's service location to the Public Switched Telephone Network;

(b) "Average Busy Season Busy Hour" — The hour that has the highest average traffic for the three highest months, not necessarily consecutive, in a 12-month period. The busy hour traffic averaged across the busy season is termed the average busy season busy hour traffic;

(c) "Average Speed of Answer" — The average time that elapses between the time the call is directed to a representative and the time it is answered;

(d) "Blocked Call" — A properly dialed call that fails to complete to its intended destination except for a normal busy (60 interruptions per minute);

(e) "Customer" — Any person, firm, partnership, corporation, municipality, cooperative, organization, governmental agency, or other legal entity that has applied for, been accepted, and is currently receiving local exchange telecommunications service;

(f) "Exchange" — Geographic area defined by maps filed with and approved by the Commission for the provision of local exchange telecommunications service;

(g) "Final Trunk Group" — A last-choice trunk group that receives overflow traffic and that may receive first-route traffic for which there is no alternative route;

(h) "Force Majeure" — Circumstances beyond the reasonable control of a competitive telecommunications provider, including but not limited to, delays caused by:

(A) A vendor in the delivery of equipment, where the competitive telecommunications provider has made a timely order of equipment;

(B) Local, state, federal, or tribal government authorities in approving easements or access to rights of way, where the competitive telecommunications provider has made a timely application for such approval;

(C) The customer, including but not limited to, the customer's construction project or lack of facilities, or failure to provide access to the customer's premises;

(D) Uncontrollable events, such as explosion, fire, floods, frozen ground, tornadoes, severe weather, epidemics, injunctions, wars, acts of terrorism, strikes or work stoppages, and negligent or willful misconduct by customers or third parties, including but not limited to, outages originating from introduction of a virus onto the provider's network;

(i) "Held Order for Lack of Facilities" — Request for access line service delayed beyond the initial commitment date due to lack of facilities. An access line service order includes an order for new service, transferred service, additional lines, or change of service;

(j) "Initial Commitment Date" — The initial date pledged by the competitive telecommunications provider to provide a service, facility, or repair action. This date is within the minimum time set forth in these rules or a date determined by good faith negotiations between the customer and the competitive telecommunications provider;

(k) "Network Interface" — The point of interconnection between the competitive telecommunications provider's communications facilities and customer terminal equipment, protective apparatus, or wiring at a customer's premises. The network interface must be located on the customer's side of the competitive telecommunications provider's protector;

(l) "Retail Telecommunications Service" — A telecommunications service provided for a fee to customers. Retail telecommunications service does not include a service provided by a competitive telecommunications provider to another competitive telecommunications provider or telecommunications utility, unless the competitive telecommunications provider or telecommunications utility receiving the service is the end user of the service;

(m) "Service Area" — The entire geographic area the Commission has certified a competitive telecommunications provider to serve. A competitive telecommunications provider may petition the Commission to designate a different geographic area as its service quality reporting area.

(n) "Tariff" — A schedule showing rates, tolls, and charges that the competitive telecommunications provider has established for a retail service;

(o) "Trouble Report" — A report of a malfunction that affects the functionality and reliability of retail telecommunications service on existing access lines, switching equipment, circuits, or features made up to and including the network interface, to a competitive telecommunications provider by or on behalf of that competitive telecommunications provider's customer, which affects the functionality and reliability of retail telecommunications service;

(p) "Wire Center" — A facility where local telephone subscribers' access lines converge and are connected to switching equipment that provides access to the Public Switched Telephone Network, including remote switching units and host switching units. A wire center does not include collocation arrangements in a connecting competitive telecommunications provider's wire center or broadband hubs that have no switching equipment.

(2) Measurement and Reporting Requirements. A competitive telecommunications provider must take the measurements required by this rule and report them to the Commission as specified. Reported measurements must be reported to the first significant digit (i.e., one number should be reported to the right of the decimal point). The service quality objective service levels set forth in sections 4 through 8 of this rule apply only to normal operating conditions and do not establish a level of performance to be achieved during force majeure events.

(3) Additional Reporting Requirements. The Commission may require a competitive telecommunications provider to submit additional reports on any item covered by this rule.

(4) Provisioning and Held Orders for Lack of Facilities. The representative of the competitive telecommunications provider must give a retail customer an initial commitment date of not more than six business days after a request for access line service, unless a later date is determined through good faith negotiations between the customer and the competitive telecommunications provider. The competitive telecommunications provider may change the initial commitment date only if requested by the customer. When establishing the initial commitment date, the competitive telecommunications provider may take into account the actual time required for the customer to meet prerequisites; e.g., line extension charges or trench and conduit requirements. If a request for service becomes a held order for lack of facilities, the serving competitive telecommunications provider must, within five business days, send or otherwise provide the customer a written commitment to fill the order.

(a) Measurement:

(A) Commitments Met — A competitive telecommunications provider must calculate the monthly percentage of commitments met for

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service, based on the initial commitment date, across its Oregon service territory. Commitments missed for reasons solely attributed to customers, another competitive telecommunications provider or telecommunications utility may be excluded from the calculation of the “commitments met” results;

(B) Held Orders for Lack of Facilities — A competitive telecommunications provider must determine the total monthly number of held orders, due to lack of facilities, not completed by the initial commitment date during the reporting month and the number of primary (initial access line) held orders, due to lack of facilities, over 30 days past the initial commitment date.

(b) Objective Service Level:

(A) Commitments Met — Each competitive telecommunications provider must meet at least 90 percent of its commitments for service.

(B) Held Orders:

(i) The number of held orders for the lack of facilities for each competitive telecommunications provider must not exceed the greater of two per wire center, or designated service area, per month averaged over the entire Oregon geographic area served by the competitive telecommunications provider, or five held orders for lack of facilities per 1,000 inward orders and

(ii) The total number of primary held orders for lack of facilities in excess of 30 days past the initial commitment date must not exceed 10 percent of the total monthly held orders for lack of facilities within the entire Oregon geographic area served by the competitive telecommunications provider.

(c) Reporting Requirement: Each competitive telecommunications provider must report monthly to the Commission the percentage of commitments met for service, total number of held orders for lack of facilities, and the total number of primary held orders for lack of facilities over 30 days past the initial commitment date.

(d) Retention Requirement: Each competitive telecommunications provider must maintain records about held orders for lack of facilities for one year. The record must explain why each order is held and the initial commitment date.

(5) Trouble Reports. Each competitive telecommunications provider must maintain an accurate record of all reports of malfunction made by its customers.

(a) Measurement: A competitive telecommunications provider must determine the number of customer trouble reports that were received during the month. The competitive telecommunications provider must relate the count to the total working access lines within a reporting wire center, or designated service area. A competitive telecommunications provider need not report those trouble reports that were caused by circumstances beyond its control. The approved trouble report exclusions are:

(A) Cable Cuts: A competitive telecommunications provider may take an exclusion if the “buried cable location” (locate) was either not requested or was requested and was accurate. If a competitive telecommunications provider or the provider’s contractor caused the cut, the exclusion can only be used if the locate was accurate and all general industry practices were followed;

(B) Internet Service Provider (ISP) Blockage: If an ISP does not have enough access trunks to handle peak traffic;

(C) Modem Speed Complaints: An exclusion may be taken if the copper cable loop is tested at the subscriber location and the objective service levels in section 10 of this rule were met;

(D) No Trouble Found: Where no trouble is found, one exemption may be taken. If a repeat report of the same trouble is received within a 30-day period, the repeat report and subsequent reports must be counted;

(E) New Feature or Service: Trouble reports related to a customer’s unfamiliarity with the use or operation of a new (within 30 days) feature or service;

(F) No Access: An exclusion may be taken if a repair appointment was kept and the copper based access line at the nearest accessible terminal met the objective service levels in section 10 of this rule. If a repeat trouble report is received within the following 30-day period, the repeat report and subsequent reports must be counted;

(G) Subsequent Tickets/Same Trouble/Same Access Line: Only one trouble report for a specific complaint for the same access line should be counted within a 48-hour period. All repeat trouble reports after the 48-hour period must be counted;

(H) Non-Regulated or Deregulated Equipment: Trouble associated with such equipment should not be counted;

(I) Trouble with Other Competitive Telecommunications Providers or Telecommunications Utilities: A trouble report caused solely by another competitive telecommunications provider or telecommunications utility;

(J) Lightning Strikes: Trouble reports received for damage caused by lightning strikes can be excluded if all accepted grounding, bonding, and shielding practices were followed by the competitive telecommunications provider, at the damaged location; and

(K) Other exclusions: As approved by the Commission.

(b) Objective Service Level: A competitive telecommunications provider must maintain service so that the monthly trouble report rate, after approved trouble report exclusions, does not exceed:

(A) For wire centers, or designated service areas with more than 1,000 access lines: two per 100 working access lines per wire center, or designated service area, more than three times during a sliding 12-month period.

(B) For wire centers, or designated service area, with 1,000 or less access lines: three per 100 working access lines per wire center, or designated service area, more than three times during a sliding 12-month period.

(c) Reporting Requirement: Each competitive telecommunications provider must report monthly to the Commission:

(A) The trouble report rate by wire center, or designated service area;

(B) The reason(s) a wire center, or designated service area, meeting the standard (did not exceed the trouble report rate threshold for more than three of the last 12 months) exceeded a trouble report rate of 3.0 per 100 working access lines during the reporting month;

(C) The reason(s) a wire center, or designated service area, not meeting the standard, after the exclusion adjustment, exceeded the trouble report rate threshold per 100 access lines during the reporting month; and

(D) The access line count for each wire center, or designated service area.

(d) Retention Requirement: Each competitive telecommunications provider must maintain a record of reported trouble in such a manner that it can be forwarded to the Commission upon the Commission’s request. The competitive telecommunications provider must keep all records for a period of one year. The record of reported trouble must contain as a minimum the:

(A) Telephone number;

(B) Date and time received;

(C) Time cleared;

(D) Type of trouble reported;

(E) Location of trouble; and

(F) Whether or not the present trouble was within 30 days of a previous trouble report.

(6) Repair Clearing Time. This standard establishes the clearing time for all trouble reports from the time the customer reports the trouble to the competitive telecommunications provider until the trouble is resolved. The competitive telecommunications provider must provide each customer making a network trouble report with a commitment time when the competitive telecommunications provider will repair or resolve the problem.

(a) Measurement: The competitive telecommunications provider must calculate the percentage of trouble reports cleared within 48 hours of receiving a report for each repair center, or designated service area. Alternatively, the competitive telecommunications provider may use the following weekend exception to calculate the percentage for trouble reports cleared for those reports that are received between 12 pm on Friday until 5 pm on Sunday.

(A) The trouble reports cleared must be calculated for reports received between 12 pm Friday and 5 pm Saturday and cleared by 5 pm the following Monday for each repair center, or designated service area.

(B) The trouble reports cleared must be calculated for reports received between 5 pm Saturday and 5 pm Sunday and cleared by 5 pm the following Tuesday for each repair center, or designated service area. Alternative weekend repair calculations must be aggregated into the calculation for the percentage of trouble reports cleared within 48 hours.

(b) Objective Service Level: A competitive telecommunications provider must monthly clear at least 90 percent of all trouble reports within 48 hours of receiving a report for each repair center, or designated service area. Alternatively, for those reports that are received between 12 pm on Friday and 5 pm on Sunday, the competitive telecommunications provider may use the following weekend exception to calculate the percentage for trouble reports cleared:

(A) The competitive telecommunications provider must clear 90 percent of all trouble reports received between 12 pm Friday and 5 pm Saturday by 5 pm the following Monday for each repair center or designated service area.

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(B) The competitive telecommunications provider must clear 90 percent of all trouble reports received between 5 pm Saturday and 5 pm Sunday by 5 pm the following Tuesday for each repair center or designated service area.

In the standard or alternative calculation methods, trouble reports attributed solely to customers of another competitive telecommunications provider or telecommunications utility may be excluded from the calculation of the “repair clearing time” results.

(c) Reporting Requirement: Each competitive telecommunications provider must report monthly to the Commission the percentage of trouble reports cleared within 48 hours by each repair center, or designated service area with optional adjustments allowed for weekend repair exceptions described in (b). A competitive telecommunications provider must use its best efforts to complete out-of-service restorations for business customers. In addition, a competitive telecommunications provider must use its best efforts to complete out-of-service restorations for residential customers who have identified either a medical necessity or no access to an alternative means of voice or E-911 communications.

(d) A competitive telecommunications provider must indicate in its report if it opts to use the alternative weekend exception period reporting.

(e) Retention Requirement: None.

(7) Blocked Calls. A competitive telecommunications provider must engineer and maintain all intraoffice, interoffice, and access trunking and associated switching components to allow completion of calls made during the average busy season busy hour without encountering blockage or equipment irregularities in excess of levels listed in subsection (7)(b) of this rule.

(a) Measurement:

(A) A competitive telecommunications provider must collect traffic data; i.e., peg counts and usage data generated by individual components of equipment or by the wire center as a whole, and calculate blockage levels of the interoffice final trunk groups.

(B) System blockage is determined by special testing at the wire center. Commission Staff or a competitive telecommunications provider technician will place test calls to a predetermined test number, and the total number of attempted calls and the number of completed calls will be counted. The percentage of calls completed must be calculated.

(b) Objective Service Level:

(A) A competitive telecommunications provider must maintain interoffice final trunk groups to allow 99 percent completion of calls during the average busy season busy hour without blockage (P.01 grade of service); and

(B) A competitive telecommunications provider must maintain its switch operation so that 99 percent of the calls do not experience blockage during the normal busy hour.

(C) When a competitive telecommunications provider fails to maintain the interoffice final trunk group P.01 grade of service for four or more consecutive months, it will be considered out-of-standard until the condition is resolved. A single repeat blockage within two months of restoring the P.01 grade of service will be considered a continuation of the original blockage.

(c) Reporting Requirement: Each competitive telecommunications provider must report monthly to the Commission:

(A) Local and extended area service (EAS) final trunk groups that do not meet the objective service level for trunk group blockage, measured from each of its switches, regardless of the ownership of the terminating switch;

(B) Its tandem switch final trunk group blockages associated with EAS traffic;

(C) Any known cause for the blockage and actions to bring the trunks into standard; and

(D) Identity of the competitive telecommunications provider or telecommunications utility, if other than the reporting competitive telecommunications provider, responsible for maintaining those final trunk groups not meeting the standard.

(d) Retention Requirement: Each competitive telecommunications provider must maintain records for one year.

(8) Access to Competitive Telecommunications Provider Representatives. This rule sets the allowed time for competitive telecommunications provider business office or repair service center representatives to answer customer calls.

(a) Measurement:

(A) Direct Representative Answering: A competitive telecommunications provider must measure the answer time from the first ring at the competitive telecommunications provider business office or repair service center;

(B) Driven, Automated, or Interactive Answering System: The option of transferring to the competitive telecommunications provider representative must be included in the initial local service-screening message. The competitive telecommunications provider must measure the answering time from the point a call is directed to its representatives; e.g., when the call leaves the Voice Response Unit;

(C) Each competitive telecommunications provider must calculate:

(i) The monthly percentage of the total calls placed to the business office and repair service center and the number of calls answered by representatives within 20 seconds; or

(ii) The average speed of answer time for the total calls received by the business office and repair service center.

(b) Objective Service Level:

(A) No more than 1 percent of calls to the competitive telecommunications provider business office or repair service center may encounter a busy signal.

(B) The competitive telecommunications provider representatives must answer at least 80 percent of calls within 20 seconds or have an average speed of answer time of 50 seconds or less.

(c) Reporting Requirement:

(A) Each competitive telecommunications provider must report monthly to the Commission an exception report if busy signals were encountered in excess of 1 percent for either the business office or repair service center; and

(B) Each competitive telecommunications provider must report monthly to the Commission the percentage of calls answered within 20 seconds or the average speed of answer time for both the business office and repair service center. Once a method of measurement is reported by the provider, that method can only be changed with permission of the Commission.

(d) Retention Requirement: None.

(9) Interruption of Service Notification. A competitive telecommunications provider must report significant outages that affect customer service. These interruptions could be caused by switch outage, electronic outage, cable cut, or construction.

(a) Measurement: A competitive telecommunications provider must notify the Commission when an interruption occurs that exceeds any of the following thresholds:

(A) Cable cuts, excluding service wires and wires placed in lieu of cable, or electronic outages lasting longer than 30 minutes and affecting 50 percent or more of in-service lines.

(B) Toll or Extended Area Service isolation lasting longer than 30 minutes and affecting 50 percent or more of in-service lines.

(C) Isolation of a central office (host or remote) from the E 9-1-1 emergency dialing code or isolation of a Public Safety Answering Position (PSAP).

(D) Isolation of a wire center for more than 15 minutes.

(E) Outage of the business office or repair center access system lasting longer than 15 minutes in those instances where the traffic cannot be routed to a different center.

(b) Objective Service Level: Not applicable.

(c) Reporting Requirement: A competitive telecommunications provider must report service interruptions to the Commission engineering staff by telephone, by facsimile, by electronic mail, or personally within two hours during normal work hours of the business day after the company becomes aware of such interruption of service. Interim reports will be given to the Commission as significant information changes (e.g., estimated time to restore, estimated impact to customers, cause of the interruption, etc.) until it is reported that the affected service is restored.

(d) Retention Requirement: None.

(10) Customer Access Line Testing. All customer access lines must be designed, installed, and maintained to meet the levels in subsection (b) of this section.

(a) Measurement: Each competitive provider must make all loop parameter measurements at the network interface, or as close as access allows;

(b) Objective Service Level: Each access line must meet the following levels:

(A) Loop Current: The serving wire center loop current, when terminated into a 400-ohm load, must be at least 20 milliamperes;

(B) Loop Loss: The maximum loop loss, as measured with a 1004-hertz tone from the serving wire center, must not exceed 8.5 decibels (dB);

(C) Metallic Noise: The maximum metallic noise level, as measured on a quiet line from the serving wire center, must not exceed 20 decibels above referenced noise level — C message weighting (dBrnC); and

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(D) Power Influence: As a goal, power influence, as measured on a quiet line from the serving wire center, must not exceed 80 dBmC.

(c) Reporting Requirement: A competitive telecommunications provider must report measurement readings as directed by the Commission;

(d) Retention Requirement: None.

(11) Customer Access Lines and Wire Center Switching Equipment. All combinations of access lines and wire center switching equipment must be capable of accepting and correctly processing at least the following network control signals from the customer premises equipment. The wire center must provide dial tone and maintain an actual measured loss between interoffice and access trunk groups.

(a) Measurement: Each competitive telecommunications provider must make measurements at or to the serving wire center;

(b) Objective Service Level:

(A) Dial Tone Speed. Ninety-eight percent of originating average busy hour call attempts must receive dial tone within three seconds; and

(B) A competitive telecommunications provider must maintain all interoffice and access trunk groups so that the actual measured loss (AML) in no more than 30 percent of the trunks deviates from the expected measured loss (EML) by more than 0.7 dB and no more than 4.5 percent of the trunks deviates from EML by more than 1.7 dB.

(c) Reporting Requirement: None.

(d) Retention Requirement: None.

(12) Special Service Access Lines. All special service access lines must meet the performance requirements specified in applicable competitive telecommunications provider tariffs or contracts.

(13) Competitive Telecommunications Provider Interconnectivity. A competitive telecommunications provider connected to the facilities of another competitive telecommunications provider or telecommunications utility must operate its system in a manner that will not impede either company's ability to meet required standards of service. A competitive telecommunications provider must report interconnection operational problems promptly to the Commission.

(14) Remedies for Violation of This Standard.

(a) If a competitive telecommunications provider subject to this rule fails to meet a minimum service quality standard, the Commission must require the competitive telecommunications provider to submit a plan for improving performance as provided in ORS 759.450(5). If a competitive telecommunications provider does not meet the goals of its improvement plan within six months, or if the plan is disapproved by the Commission, the Commission may assess penalties in accordance with ORS 759.450(5) through (7).

(b) In addition to the remedy provided under ORS 759.450(5), if the Commission believes that a competitive telecommunications provider subject to this rule has violated one or more of its service standards, the Commission must give the competitive telecommunications provider notice and an opportunity to request a hearing. If the Commission finds a violation has occurred, the Commission may require the competitive telecommunications provider to provide the following relief to the affected customers:

(A) An alternative means of telecommunications service for violations of paragraph (4)(b)(B) of this rule;

(B) Customer billing credits equal to the associated non-recurring and recurring charges of the competitive telecommunications provider for the affected service for the period of the violation; and

(C) Other relief authorized by Oregon law.

(15)(a) If the Commission determines that effective competition exists in one or more exchange(s), it may exempt all competitive telecommunications providers and telecommunications utilities providing telecommunications services in those exchanges from the requirements of this rule, in whole or in part. In making this determination, the Commission will consider:

(A) The extent to which the service is available from alternative providers in the relevant exchange(s);

(B) The extent to which the services of alternative providers are functionally equivalent or substitutable at comparable rates, terms, and conditions;

(C) Existing barriers to market entry;

(D) Market share and concentration;

(E) Number of suppliers;

(F) Price to cost ratios;

(G) Demand side substitutability (e.g., customer perceptions of competitors as viable alternatives); and

(H) Any other factors deemed relevant by the Commission.

(b) When a competitive telecommunications provider petitions the Commission for exemption under this provision, the Commission must provide notice of the petition to all relevant competitive telecommunications providers and telecommunications utilities providing the applicable service(s) in the exchange(s) in question. The Commission will provide such notified competitive telecommunications providers and telecommunications utilities an opportunity to submit comments in response to the petition. The comments may include requests that, following the Commission's analysis outlined above in paragraphs (15)(a)(A) through (H), the commenting competitive telecommunications provider or telecommunications utilities be exempt from these rules for the applicable service(s) in the relevant exchange(s).

(c) The Commission may grant a competitive telecommunications provider's petition for an exemption from service quality reporting requirements if the competitive telecommunications provider meets all service quality objective service levels set forth in sections (4) through (8) of this rule for the 12 months prior to the month in which the petition is filed.

Stat. Auth.: ORS 183, 756 & 759

Stats. Implemented: : ORS 759.035, 759.050 & 759.240, 759.450

Hist.: PUC 5-1991, f. & cert. ef. 4-3-91; PUC 4-2000, f. & cert. ef. 2-9-00; PUC 13-2001, f. & cert. ef. 5-25-01; PUC 7-2002, f. & cert. ef. 2-26-02; PUC 10-2005, f. & cert. ef. 12-27-05; PUC 6-2011, f. & cert. ef. 9-14-11; PUC 2-2014, f. & cert. ef. 1-22-14

860-034-0390

Retail Telecommunications Service Standards for Small Telecommunications Utilities

Every small telecommunications utility must adhere to the following standards:

(1) Definitions.

(a) "Access Line" — A facility engineered with dialing capability to provide retail telecommunications service that connects a customer's service location to the Public Switched Telephone Network;

(b) "Average Busy Season Busy Hour" — The hour that has the highest average traffic for the three highest months, not necessarily consecutive, in a 12-month period. The busy hour traffic averaged across the busy season is termed the average busy season busy hour traffic;

(c) "Blocked Call" — A properly dialed call that fails to complete to its intended destination except for a normal busy (60 interruptions per minute);

(d) "Customer" — Any person, firm, partnership, corporation, municipality, cooperative, organization, governmental agency, or other legal entity that has applied for, been accepted, and is currently receiving local exchange telecommunications service;

(e) "Exchange" — Geographic area defined by maps filed with and approved by the Commission for the provision of local exchange telecommunications service;

(f) "Final Trunk Group" — A last-choice trunk group that receives overflow traffic and that may receive first-route traffic for which there is no alternative route;

(g) "Force Majeure" — Circumstances beyond the reasonable control of a small telecommunications utility, including but not limited to, delays caused by:

(A) A vendor in the delivery of equipment, where the small telecommunications utility has made a timely order of equipment;

(B) Local, state, federal, or tribal government authorities in approving easements or access to rights of way, where the small telecommunications utility has made a timely application for such approval;

(C) The customer, including but not limited to, the customer's construction project or lack of facilities, or failure to provide access to the customer's premises;

(D) Uncontrollable events, such as explosion, fire, floods, frozen ground, tornadoes, severe weather, epidemics, injunctions, wars, acts of terrorism, strikes or work stoppages, and negligent or willful misconduct by customers or third parties, including but not limited to, outages originating from introduction of a virus onto the provider's network;

(h) "Held Order for Lack of Facilities" — Request for access line service delayed beyond the initial commitment date due to lack of facilities. An access line service order includes an order for new service, transferred service, additional lines, or change of service;

(i) "Initial Commitment Date" — The initial date pledged by the small telecommunications utility to provide a service, facility, or repair action. This date is within the minimum time set forth in these rules or a date determined by good faith negotiations between the customer and the small telecommunications utility;

(j) "Network Interface" — The point of interconnection between the small telecommunications utility provider's communications facilities and

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customer terminal equipment, protective apparatus, or wiring at a customer's premises. The network interface must be located on the customer's side of the small telecommunications utility's protector;

(k) "Retail Telecommunications Service" — A telecommunications service provided for a fee to customers. Retail telecommunications service does not include a service provided by a small telecommunications utility to another telecommunications utility or competitive telecommunications provider, unless the telecommunications utility or competitive telecommunications provider receiving the service is the end user of the service;

(l) "Tariff" — A schedule showing rates, tolls, and charges that the small telecommunications utility has established for a retail service;

(m) "Trouble Report" — A report of a malfunction that affects the functionality and reliability of retail telecommunications service on existing access lines, switching equipment, circuits, or features made up to and including the network interface, to a small telecommunications utility by or on behalf of that small telecommunications utility's customer;

(n) "Wire Center" — A facility where local telephone subscribers' access lines converge and are connected to switching equipment that provides access to the Public Switched Telephone Network, including remote switching units and host switching units. A wire center does not include collocation arrangements in a connecting small telecommunications utility's wire center or broadband hubs that have no switching equipment.

(2) Measurement and Reporting Requirements. A small telecommunications utility that maintains 1,000 or more access lines on a statewide basis must take the measurements required by this rule and report them to the Commission as specified. Reported measurements must be reported to the first significant digit (i.e., one number should be reported to the right of the decimal point). A telecommunications utility that maintains fewer than 1,000 access lines on a statewide basis need not take the required measurements and file the required reports unless ordered to do so by the Commission. The service quality objective service levels set forth in sections 4 through 8 of this rule apply only to normal operating conditions and do not establish a level of performance to be achieved during force majeure events.

(3) Additional Reporting Requirements. The Commission may require a small telecommunications utility to submit additional reports on any item covered by this rule.

(4) Provisioning and Held Orders for Lack of Facilities. The representative of the small telecommunications utility must give a retail customer an initial commitment date of not more than six business days after a request for access line service, unless a later date is determined through good faith negotiations between the customer and the small telecommunications utility. The small telecommunications utility may change the initial commitment date only if requested by the customer. When establishing the initial commitment date, the small telecommunications utility may take into account the actual time required for the customer to meet prerequisites; e.g., line extension charges or trench and conduit requirements. If a request for service becomes a held order for lack of facilities, the serving small telecommunications utility must, within five business days, send or otherwise provide the customer a written commitment to fill the order.

(a) Measurement:

(A) Commitments Met — A small telecommunications utility must calculate the monthly percentage of commitments met for service, based on the initial commitment date, across its Oregon service territory. Commitments missed for reasons solely attributed to customers, another telecommunications utility or competitive telecommunications provider may be excluded from the calculation of the "commitments met" results;

(B) Held Orders for Lack of Facilities — A small telecommunications utility must determine the total monthly number of held orders, due to lack of facilities, not completed by the initial commitment date during the reporting month and the number of primary (initial access line) held orders, due to lack of facilities, over 30 days past the initial commitment date.

(b) Objective Service Level:

(A) Commitments Met — Each small telecommunications utility must meet at least 90 percent of its commitments for service.

(B) Held Orders:

(i) The number of held orders for the lack of facilities for each small telecommunications utility must not exceed the greater of two per wire center per month averaged over the small telecommunications utility's Oregon service territory, or five held orders for lack of facilities per 1,000 inward orders; and

(ii) The total number of primary held orders for lack of facilities in excess of 30 days past the initial commitment date must not exceed 10 percent of the total monthly held orders for lack of facilities within the small telecommunications utility's Oregon service territory.

(c) Reporting Requirement: Each small telecommunications utility must report monthly to the Commission the percentage of commitments met for service, total number of held orders for lack of facilities, and the total number of primary held orders for lack of facilities over 30 days past the initial commitment date.

(d) Retention Requirement: Each small telecommunications utility must maintain records about held orders for lack of facilities for one year. The record must explain why each order is held and the initial commitment date.

(5) Trouble Reports. Each small telecommunications utility must maintain an accurate record of all reports of malfunction made by its customers.

(a) Measurement: A small telecommunications utility must determine the number of customer trouble reports that were received during the month. The small telecommunications utility must relate the count to the total working access lines within a reporting wire center. A small telecommunications utility need not report those trouble reports that were caused by circumstances beyond its control. The approved trouble report exclusions are:

(A) Cable Cuts: A small telecommunications utility may take an exclusion if the "buried cable location" (locate) was either not requested or was requested and was accurate. If a small telecommunications utility or a utility's contractor caused the cut, the exclusion can only be used if the locate was accurate and all general industry practices were followed;

(B) Internet Service Provider (ISP) Blockage: If an ISP does not have enough access trunks to handle peak traffic;

(C) Modem Speed Complaints: An exclusion may be taken if the copper cable loop is tested at the subscriber location and the objective service levels in section 10 of this rule were met;

(D) No Trouble Found: Where no trouble is found, one exemption may be taken. If a repeat report of the same trouble is received within a 30-day period, the repeat report and subsequent reports must be counted;

(E) New Feature or Service: Trouble reports related to a customer's unfamiliarity with the use or operation of a new (within 30 days) feature or service;

(F) No Access: An exclusion may be taken if a repair appointment was kept and the copper based access line at the nearest accessible terminal met the objective service levels in section 10 of this rule. If a repeat trouble report is received within the following 30-day period, the repeat report and subsequent reports must be counted;

(G) Subsequent Tickets/Same Trouble/Same Access Line: Only one trouble report for a specific complaint for the same access line should be counted within a 48-hour period. All repeat trouble reports after the 48-hour period must be counted;

(H) Non-Regulated or Deregulated Equipment: Trouble associated with such equipment should not be counted;

(I) Trouble with Other Telecommunications Utilities or Competitive Telecommunications Providers: A trouble report caused solely by another telecommunications utility or competitive telecommunications provider;

(J) Lightning Strikes: Trouble reports received for damage caused by lightning strikes can be excluded if all accepted grounding, bonding, and shielding practices were followed by the small telecommunications utility at the damaged location; and

(K) Other exclusions: As approved by the Commission.

(b) Objective Service Level: A small telecommunications utility must maintain service so that the monthly trouble report rate, after approved trouble report exclusions, does not exceed:

(A) For wire centers with more than 1,000 access lines: two per 100 working access lines per wire center more than three times during a sliding 12-month period.

(B) For wire centers with 1,000 or less access lines: three per 100 working access lines per wire center more than three times during a sliding 12-month period.

(c) Reporting Requirement: Each small telecommunications utility must report monthly to the Commission:

(A) The trouble report rate by wire center;

(B) The reason(s) a wire center meeting the standard (did not exceed the trouble report rate threshold for more than three of the last 12 months) exceeded a trouble report rate of 3.0 per 100 working access lines during the reporting month;

(C) The reason(s) a wire center not meeting the standard, after the exclusion adjustment, exceeded the trouble report rate threshold per 100 access lines during the reporting month; and

(D) The access line count for each wire center.

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(d) Retention Requirement: Each small telecommunications utility must maintain a record of reported trouble in such a manner that it can be forwarded to the Commission upon the Commission's request. The small telecommunications utility must keep all records for a period of one year. The record of reported trouble must contain as a minimum the:

- (A) Telephone number;
- (B) Date and time received;
- (C) Time cleared;
- (D) Type of trouble reported;
- (E) Location of trouble; and
- (F) Whether or not the present trouble was within 30 days of a previous trouble report.

(6) Repair Clearing Time. This standard establishes the clearing time for all trouble reports from the time the customer reports the trouble to the small telecommunications utility until the trouble is resolved. The small telecommunications utility must provide each customer making a network trouble report with a commitment time when the small telecommunications utility will repair or resolve the problem.

(a) Measurement: The small telecommunications utility must calculate the percentage of trouble reports cleared within 48 hours of receiving a report for each repair center. Alternatively, the small telecommunications utility may use the following weekend exception to calculate the percentage for trouble reports cleared for those reports that are received between 12 pm on Friday until 5 pm on Sunday.

(A) The trouble reports cleared must be calculated for reports received between 12 pm Friday and 5 pm Saturday and cleared by 5 pm the following Monday for each repair center.

(B) The trouble reports cleared must be calculated for reports received between 5 pm Saturday and 5 pm Sunday and cleared by 5 pm the following Tuesday for each repair center.

Alternative weekend repair calculations must be aggregated into the calculation for the percentage of trouble reports cleared within 48 hours.

(b) Objective Service Level: A small telecommunications utility must monthly clear at least 90 percent of all trouble reports within 48 hours of receiving a report for each repair center. Alternatively for those reports that are received between 12 pm Friday and 5 pm on Sunday, the small telecommunications utility may use the following weekend exception to calculate the percentage for trouble report cleared:

(A) The small telecommunications utility must clear 90 percent of all trouble reports received between 12 pm Friday and 5 pm Saturday by 5 pm the following Monday for each repair center.

(B) The small telecommunications utility must clear 90 percent of all trouble reports received between 5 pm Saturday and 5 pm Sunday by 5 pm the following Tuesday for each repair center.

(c) Reporting Requirement: Each small telecommunications utility must report monthly to the Commission the percentage of trouble reports cleared within 48 hours by each repair center, with optional adjustments allowed for weekend repair exceptions described in (b). A small telecommunications utility must use its best efforts to complete out-of-service restorations for business customers. In addition, a small telecommunications utility must use its best efforts to complete out-of-service restorations for residential customers who have identified either a medical necessity or no access to an alternative means of voice or E-911 communications.

(d) A small telecommunications utility must indicate in its report if it opts to use the alternative weekend exception period reporting.

(e) Retention Requirement: None.

(7) Blocked Calls. A small telecommunications utility must engineer and maintain all intraoffice, interoffice, and access trunking and associated switching components to allow completion of calls made during the average busy season busy hour without encountering blockage or equipment irregularities in excess of levels listed in subsection (7)(b) of this rule.

(a) Measurement:

(A) A small telecommunications utility must collect traffic data; i.e., peg counts and usage data generated by individual components of equipment or by the wire center as a whole, and calculate blockage levels of the interoffice final trunk groups.

(B) System blockage is determined by special testing at the wire center. Commission Staff or a small telecommunications utility technician will place test calls to a predetermined test number, and the total number of attempted calls and the number of completed calls will be counted. The percentage of calls completed must be calculated.

(b) Objective Service Level:

(A) A small telecommunications utility must maintain interoffice final trunk groups to allow 99 percent completion of calls during the average busy season busy hour without blockage (P.01 grade of service); and

(B) A small telecommunications utility must maintain its switch operation so that 99 percent of the calls do not experience blockage during the normal busy hour.

(C) When a small telecommunications utility fails to maintain the interoffice final trunk group P.01 grade of service for four or more consecutive months, it will be considered out-of-standard until the condition is resolved. A single repeat blockage within two months of restoring the P.01 grade of service will be considered a continuation of the original blockage.

(c) Reporting Requirement: Each small telecommunications utility must report monthly to the Commission:

(A) Local and extended area service (EAS) final trunk groups that do not meet the objective service level for trunk group blockage, measured from each of its switches, regardless of the ownership of the terminating switch;

(B) Its tandem switch final trunk group blockages associated with EAS traffic;

(C) Any known cause for the blockage and actions to bring the trunks into standard; and

(D) Identity of the telecommunications utility or competitive telecommunications provider, if other than the reporting small telecommunications utility, responsible for maintaining those final trunk groups not meeting the standard.

(d) Retention Requirement: Each small telecommunications utility must maintain records for one year.

(8) Access to Small Telecommunications Utility Representatives. Small telecommunications utilities are not required to measure or report repair center and sales office access times to the Commission.

(9) Interruption of Service Notification. A small telecommunications utility must report significant outages that affect customer service. These interruptions could be caused by switch outage, electronic outage, cable cut, or construction.

(a) Measurement: A small telecommunications utility must notify the Commission when an interruption occurs that exceeds any of the following thresholds:

(A) Cable cuts, excluding service wires and wires placed in lieu of cable, or electronic outages lasting longer than 30 minutes and affecting 50 percent or more of in-service lines.

(B) Toll or Extended Area Service isolation lasting longer than 30 minutes and affecting 50 percent or more of in-service lines.

(C) Isolation of a central office (host or remote) from the E 9-1-1 emergency dialing code or isolation of a Public Safety Answering Position (PSAP).

(D) Isolation of a wire center for more than 15 minutes.

(E) Outage of the business office or repair center access system lasting longer than 15 minutes in those instances where the traffic cannot be routed to a different center.

(b) Objective Service Level: Not applicable.

(c) Reporting Requirement: A small telecommunications utility must report service interruptions to the Commission engineering staff by telephone, by facsimile, by electronic mail, or personally within two hours during normal work hours of the business day after the company becomes aware of such interruption of service. Interim reports will be given to the Commission as significant information changes (e.g., estimated time to restore, estimated impact to customers, cause of the interruption, etc.) until it is reported that the affected service is restored.

(d) Retention Requirement: None.

(10) Customer Access Line Testing. All customer access lines must be designed, installed, and maintained to meet the levels in subsection (b) of this section.

(a) Measurement: Each small telecommunications utility must make all loop parameter measurements at the network interface, or as close as access allows.

(b) Objective Service Level: Each access line must meet the following levels:

(A) Loop Current: The serving wire center loop current, when terminated into a 400-ohm load, must be at least 20 milliamperes;

(B) Loop Loss: The maximum loop loss, as measured with a 1004-hertz tone from the serving wire center, must not exceed 8.5 decibels (dB);

(C) Metallic Noise: The maximum metallic noise level, as measured on a quiet line from the serving wire center, must not exceed 20 decibels above referenced noise level — C message weighting (dBmC); and

(D) Power Influence: As a goal, power influence, as measured on a quiet line from the serving wire center, must not exceed 80 dBmC.

(c) Reporting Requirement: A small telecommunications utility must report measurement readings as directed by the Commission.

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(d) Retention Requirement: None.

(11) Customer Access Lines and Wire Center Switching Equipment. All combinations of access lines and wire center switching equipment must be capable of accepting and correctly processing at least the following network control signals from the customer premises equipment. The wire center must provide dial tone and maintain an actual measured loss between interoffice and access trunk groups.

(a) Measurement: Each small telecommunications utility must make measurements at or to the serving wire center;

(b) Objective Service Level:

(A) Dial Tone Speed. Ninety-eight percent of originating average busy hour call attempts must receive dial tone within three seconds; and

(B) A small telecommunications utility must maintain all interoffice and access trunk groups so that the actual measured loss (AML) in no more than 30 percent of the trunks deviates from the expected measured loss (EML) by more than 0.7 dB and no more than 4.5 percent of the trunks deviates from EML by more than 1.7 dB.

(c) Reporting Requirement: None.

(d) Retention Requirement: None.

(12) Special Service Access Lines. All special service access lines must meet the performance requirements specified in applicable small telecommunications utility tariffs or contracts.

(13) Small Telecommunications Utility Interconnectivity. A small telecommunications utility connected to the facilities of another telecommunications utility or competitive telecommunications provider must operate its system in a manner that will not impede either company's ability to meet required standards of service. A small telecommunications utility must report interconnection operational problems promptly to the Commission.

(14) Remedies for Violation of This Standard.

(a) If a small telecommunications utility subject to this rule fails to meet a minimum service quality standard, the Commission must require the small telecommunications utility to submit a plan for improving performance as provided in ORS 759.450(5). If a small telecommunications utility does not meet the goals of its improvement plan within six months, or if the plan is disapproved by the Commission, the Commission may assess penalties in accordance with ORS 759.450(5) through (7).

(b) In addition to the remedy provided under ORS 759.450(5), if the Commission believes that a small telecommunications utility subject to this rule has violated one or more of its service standards, the Commission must give the small telecommunications utility notice and an opportunity to request a hearing. If the Commission finds a violation has occurred, the Commission may require the small telecommunications utility to provide the following relief to the affected customers:

(A) An alternative means of telecommunications service for violations of paragraph (4)(b)(B) of this rule;

(B) Customer billing credits equal to the associated non-recurring and recurring charges of the small telecommunications utility for the affected service for the period of the violation; and

(C) Other relief authorized by Oregon law.

(15)(a) If the Commission determines that effective competition exists in one or more exchange(s), it may exempt all telecommunications utilities or competitive telecommunications providers providing telecommunications services in the exchange(s) from the requirements of this rule, in whole or in part. In making this determination, the Commission will consider:

(A) The extent to which the service is available from alternative providers in the relevant exchange(s);

(B) The extent to which the services of alternative providers are functionally equivalent or substitutable at comparable rates, terms, and conditions;

(C) Existing barriers to market entry;

(D) Market share and concentration;

(E) Number of suppliers;

(F) Price to cost ratios;

(G) Demand side substitutability (e.g., customer perceptions of competitors as viable alternatives); and

(H) Any other factors deemed relevant by the Commission.

(b) When a small telecommunications utility petitions the Commission for exemption under this provision, the Commission must provide notice of the petition to all relevant telecommunications utilities and competitive telecommunications providers providing the applicable service(s) in the exchange(s) in question. The Commission will provide such notified small telecommunications utilities and competitive telecommunications providers an opportunity to submit comments in response to the

petition. The comments may include requests that, following the Commission's analysis outlined above in paragraphs (15)(a)(A) through (H), the commenting telecommunications utilities and competitive telecommunications providers be exempt from these rules for the applicable service(s) in the relevant exchange(s).

(c) The Commission may grant a small telecommunications utility's petition for an exemption from service quality reporting requirements if the small telecommunications utility meets all service quality objective service levels set forth in sections (4) through (8) of this rule for the 12 months prior to the month in which the petition is filed.

[Publications: Publications referenced are available from the agency]

Stat. Auth.: ORS 183 & 756

Stats. Implemented: : ORS 759.035, 759.050 & 759.240, 759.450

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 23-1985, f. & ef. 12-11-85 (Order No. 85-1171); PUC 4-1997, f. & cert. ef. 1-7-97; PUC 3-1999, f. & cert. ef. 8-10-99; PUC 13-2000, f. & cert. ef. 6-9-00; PUC 13-2001, f. & cert. ef. 5-25-01; PUC 7-2002, f. & cert. ef. 2-26-02; PUC 10-2005, f. & cert. ef. 12-27-05; PUC 6-2011, f. & cert. ef. 9-14-11; PUC 2-2014, f. & cert. ef. 1-22-14

Public Utility Commission, Board of Maritime Pilots Chapter 856

Rule Caption: New and amended rules implement SB 851 authorizing a board operations fee.

Adm. Order No.: BMP 1-2014

Filed with Sec. of State: 1-23-2014

Certified to be Effective: 1-23-14

Notice Publication Date: 9-1-2013

Rules Adopted: 856-010-0006

Rules Amended: 856-010-0003

Subject: New and amended rule language implements SB 851 by prescribing the process for collecting and remitting a board operations fee.

Rules Coordinator: Susan Johnson—(971) 673-1530

856-010-0003

Definitions

(1) "Barge" — A general term for a heavy, flat bottomed, often rectangular vessel used to carry cargo, usually in sheltered and inland waters but also, sometimes at sea; usually pushed or towed by tug. By U.S. Government definition, barges are any non-self propelled vessels other than houseboats and dredges.

(2) "Loaded tanker" — A tanker whose mean draft equals or exceeds 80 percent of its maximum allowable draft, or whose mean draft exceeds 30 feet.

(3) "Ocean-going vessel" — Any ship actively engaged in carrying cargo or passengers for hire in offshore navigation between ports.

(4) "Pilot" — An individual licensed pursuant to ORS Chapter 776 and any individual who had notified the board that the individual is in a pilot trainee status.

(5) "Pilotage" — The act or business of piloting. Also the fee paid for a pilot's services.

(6) "Piloting" — The act of assisting the master of a vessel in navigating the vessel while it is underway on a pilotage ground.

(7) "Licensed physician" — Means an individual who holds a degree of Doctor of Medicine or Doctor of Osteopathy and has a valid license issued by the Oregon Board of Medical Examiners or the Washington Medical Quality Assurance Commission.

(8) "Ship" — A floating, decked vessel that is self-propelled and regularly carries cargo or passengers for hire or is engaged in military purposes in deep water oceanic navigation. Deep water oceanic navigation is navigation in seas beyond the territorial jurisdiction of the United States.

(9) "Ship turn" — For purposes of OAR 856-010-0010(4), "ship turn" is defined as meaning turning a ship in the Willamette River from a generally upstream orientation to a generally downstream orientation, or from a generally downstream orientation to a generally upstream orientation, which may be made with or without the aid of a tug or towboat.

(10) "Tank barge" — A barge with double bottoms designed to transport liquids.

(11) "Tanker" — A vessel specially constructed for carriage of bulk liquids including, but not limited to, petroleum and its products, chemicals and liquefied natural gas.

(12) "Transit" — For purposes of OAR 856-010-0010(4) a "transit" is a complete trip over part of the Columbia and Willamette River pilotage ground, with one end of the trip at Astoria and the other end at Portland or

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Vancouver harbor. A transit also includes any combination of trip segments between ports or anchorages, which together begin at Astoria and end at Portland or Vancouver harbor, or begin at Portland or Vancouver and end at Astoria.

(13) "Trip" — Any instance of travel by a vessel under the direction of a pilot as required by ORS 776.405 between two points on any of the pilotage grounds defined by 776.025(1) through (4).

(14) "Tug"; "towboat"; "towing vessel" — A strongly built, high-powered vessel of small tonnage specially designed for towing or pushing vessels or for use in berthing large ships.

(15) "Unlimited state-licensed pilot" — An individual who holds an Oregon license to pilot a vessel without any restriction or limitation.

(16) "Upper harbor in Portland" — That portion of the pilotage ground defined by ORS 776.025(2) lying on the Willamette River between the St. Johns Bridge and the Ross Island Bridge.

(17) "Vessel" — Includes every description of water craft, including nondisplacement craft, used or capable of being used as a means of transportation on water, except that, for the purposes of ORS 776.405(1)(a), and the board operations fee authorized by Oregon Laws 2013, Chapter 539, a barge is not a vessel.

(18) "Working pilot" — An unlimited state-licensed pilot who regularly provides piloting services for compensation pursuant to the published tariff.

(19) "Pilot apprentice trainee" — For purposes of OAR 856-010-0014, an individual who does not meet the experience requirements of 856-010-0010(3) and (4), and who has been certified by the Board to enter the Apprentice Training Program.

(20) "Pilot trainee" — For purposes of OAR 856-010-0014 and 856-010-0018, an individual who meets the experience requirements of 856-010-0010(3) and (4)(a).

Stat. Auth.: ORS 776.115

Stats. Implemented: ORS 775.405 & 2013 OL Ch. 539

Hist.: MP 1-1992, f. & cert. ef. 4-29-92; MP 3-1995, f. & cert. ef. 3-16-95; MP 2-1996, f. & cert. ef. 8-1-96; BMP 4-2008, f. & cert. ef. 1-24-08; BMP 3-2013(Temp), f. 8-12-13, cert. ef. 8-15-13 thru 2-10-14; BMP 1-2014, f. & cert. ef. 1-23-14

856-010-0006

Board Operations Fee

(1) The Board operations fee authorized by Oregon Laws 2013, Chapter 539, shall be \$50 effective July 15, 2013. Thereafter, the fee shall be reviewed quarterly and adjusted as needed as provided in subsection (2) of this section, subject to the maximum allowed by ORS Chapter 776.

(2) The amount of the Board operations fee shall be reviewed quarterly, at the first Board meeting following each September 30, December 31, March 31 and June 30. Based upon the Board's review, the operations fee may be adjusted down or up, subject to the maximum fee amount allowed by Oregon Laws 2013, Chapter 539 and subsection (3) of this section. In reviewing the fee and deciding whether to adjust it, the Board shall consider the total of fees remitted to the Board during the preceding quarter or quarters, the Board's current and projected budgetary needs, the total of fees projected to be remitted to the Board during the following quarter or quarters, and any other factors deemed relevant by the Board. If the Board concludes that an adjustment to the fee is appropriate, it shall request approval for the recommended adjustment from the Oregon Department of Administrative Services, and if such approval is obtained, shall report the adjustment to the Legislature's Emergency Board.

(3) The maximum allowed amount for the Board operations fee shall be \$100 until July 1, 2015. The maximum allowed amount shall be adjusted each biennium on July 1, beginning July 1, 2015. The change in the maximum allowed amount shall be proportional to the percentage change in the 24-month period prior to the beginning of the biennium in the Portland-Salem, OR-WA, Consumer Price Index for All Urban Consumers for All Items, as published by the Bureau of Labor Statistics of the United States Department of Labor.

(4) The amount of the Board operations fee shall be published in the Oregon Pilotage Tariff for each pilotage ground under the paragraph heading "Board Operations Fee."

(5) Licensees of the Board shall invoice vessels for the Board operations fee when invoicing vessels for other authorized pilotage fees and charges. For vessels entering or leaving the Columbia River, Board licensees for the Columbia River Bar shall invoice and collect fees from inbound vessels, and licensees for the Columbia and Willamette River pilotage ground shall invoice and collect the fee from outbound vessels. For vessels entering or leaving the Yaquina Bay bar or Coos Bay bar pilotage grounds, the Board operations fee shall be invoiced and collected by the licensees for such grounds from both inbound and outbound vessels.

(6) On or before the 10th day of each month, Board licensees shall remit to the Board the full amount of all Board operations fees collected from vessels during the preceding calendar month. At the time of remitting the collected fees to the Board, the remission shall be accompanied by a report of the number of vessels invoiced for the fee during the preceding month, the total amount of fees invoiced, the number of vessels from which the fee was collected during the preceding month, the total of Board operations fees collected, and the amount that remains invoiced but uncollected.

Stat. Auth.: ORS 776

Stats. Implemented: 2013 OL Ch. 539

Hist.: BMP 3-2013(Temp), f. 8-12-13, cert. ef. 8-15-13 thru 2-10-14; BMP 1-2014, f. & cert. ef. 1-23-14

***** Racing Commission Chapter 462

Rule Caption: Permanent Rule Regulating Limited Term Special Event Licenses

Adm. Order No.: RC 1-2014

Filed with Sec. of State: 2-13-2014

Certified to be Effective: 2-13-14

Notice Publication Date: 2-1-2014

Rules Adopted: 462-200-0635

Rules Amended: 462-120-0060

Subject: Amend: 462-120-0060 (Temporary Licenses):Amends rule to include a special event license.

Adopt: 462-200-0635 (Show Pick N with Unique Ticket Jackpot): Adopts rule with unique ticket jackpot.

Rules Coordinator: Karen Parkman—(971) 673-0208

462-120-0060

Temporary Licenses

(1) Upon receipt of a completed application, the commission may issue a temporary license. The temporary license must be in the licensee's possession at all times while on a racecourse. A temporary license, except a temporary owner's license issued under OAR 462-120-0040(4)(b)(i), is valid for 10 days unless it is replaced by a regular license or until the applicant is served with a ruling denying licensure, whichever occurs first. Another temporary license may be issued and is valid for an additional 10 days unless it is replaced by a regular license or until the applicant is served with a ruling denying licensure.

(2) Upon receipt of a completed application, the commission may issue a Special Event License to any person employed by, or acting under the direct supervision of, a licensed advanced deposit wagering company located in the State of Oregon. The Special Event License shall automatically expire 1 year from the date of issuance without notice. Employment under this Special Event License shall not exceed 90 work days during the period of licensure. The fee for this license shall be \$20.00.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.020

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2008, f. & cert. ef. 9-30-08; RC 1-2010, f. 9-23-10, cert. ef. 10-1-10; RC 2-2013(Temp), f. & cert. ef. 9-20-13 thru 3-19-14; RC 1-2014, f. & cert. ef. 2-13-14

462-200-0635

Show Pick N with Unique Ticket Jackpot

(1) The Show Pick N with Unique Ticket Jackpot (hereinafter "Jackpot") is a multi race mutuel wager consisting of a minimum of five (5) Jackpot races. Contests selected may include races from multiple race tracks. The official order of finish as posted shall determine the race outcome for purposes of this wager. The licensee offering the wager must obtain written approval from the Commission concerning the scheduling of Jackpot contests. Any changes to the approved Jackpot format require prior approval from the Commission.

(2) Wagers placed on the Jackpot shall be placed into two separate pools.

(a) Major Pool. The major pool shall receive 80% of the total amount wagered, subject to applicable takeout. The major pool shall be distributed to those selecting the first, second or third place finisher in all of the Jackpot contests (Show Pick All). There is no carryover for the major pool. If there are no tickets correctly selecting a first, second or third place finisher in all of the Jackpot contests, the pool shall be distributed to those who selected a first, second or third place finisher in the greatest number of contests.

(b) Minor Pool. The minor pool shall receive 20% of the total amount wagered, subject to allowable takeout. The minor pool shall be distributed

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to the holder of a “Unique” ticket that selected the first place finisher in all of the Jackpot races. A “Unique” winning ticket shall exist when the total amount wagered on a winning combination selecting the first place finisher in each of the selected Jackpot races is equal to the minimum allowable wager. (e.g. 20 cents if the base wager is \$1.00) If there is not a “Unique” ticket for the minor pool, the net amount in the pool shall be added (carried over) to the minor pool offered at the next scheduled Jackpot event. A single ticket holder possessing multiple winning tickets, even if they are the only winning tickets, will not be deemed to have a “Unique” ticket and the Jackpot shall carryover as prescribed in these rules.

(3) If there is a dead heat for first in any of the Jackpot contests then such dead heated betting interest will be considered winners for Jackpot purposes. Any tickets including dead heat winners will be considered separate tickets for the purposes of identifying unique tickets for the Jackpot pool.

(4) If any betting interest is scratched, excused or determined to be a non-starter after the wager has been placed in the Jackpot, the actual favorite, as evidenced by the total amounts wagered in the Win pool at the host race meet licensee for the contest at the close of wagering for that contest, shall be substituted for the scratched betting interest for all purposes. In the event that the Win pool total for two or more favorites is identical, the substitute selection shall be the favorite betting interest with the lowest program number.

(5) If there is a scratch after the first race in the Jackpot, the betting favorite as determined by the host track’s win pool will be substituted for the scratched betting interest. Any tickets including both the scratched betting interest and the betting favorite will be considered two separate, non-unique tickets for the purposes of identifying unique tickets for the Jackpot pool.

(6) The Jackpot pool shall be cancelled and all Jackpot wagers for the individual event shall be refunded if:

(a) If one or more races included in the Jackpot sequence is cancelled or declared “no contest”.

(b) If any of the races in the Jackpot scheduled after the first leg end up being priced and made official prior to the first leg in the Jackpot being priced and made official.

(7) Mandatory payout days: After the Jackpot carryover (Minor Pool) pool reaches \$500,000; the next Jackpot event will require a mandatory payout.

(8) When the Jackpot converts to a mandatory payout, the wager will convert to a traditional Pick 5 wager with no unique ticket provision nor any Show Pick All payout. The Jackpot pool will be distributed to the tickets selecting the winner in the greatest number of contests. In the rare occurrence that no tickets contained a winning betting interest, the wagering for that event will be refunded and the mandatory payout will carry over to the next Jackpot event.

(9) If any of the races in the Jackpot has a surface change (For example: a race switches from Turf to Dirt), the selections and results for that race remain regardless of whether the surface change occurs before or after the first race in the Jackpot.

Stat. Auth.: ORS 462.270(3)

State. Implemented: ORS 462.270(3)

Hist.: RC 1-2013(Temp), f. 8-20-13, cert. ef. 8-21-13 thru 2-17-14; RC 1-2014, f. & cert. ef. 2-13-14

**Secretary of State,
Audits Division
Chapter 162**

Rule Caption: Update Minimum Standards for Audits of Oregon Municipal Corporations to reflect changes in professional standards

Adm. Order No.: AUDIT 1-2014

Filed with Sec. of State: 2-13-2014

Certified to be Effective: 2-13-14

Notice Publication Date: 12-1-2013

Rules Amended: 162-010-0000, 162-010-0010, 162-010-0020, 162-010-0030, 162-010-0050, 162-010-0115, 162-010-0120, 162-010-0130, 162-010-0140, 162-010-0190, 162-010-0200, 162-010-0230, 162-010-0260

Rules Repealed: 162-010-0160, 162-010-0170

Subject: 1. Amend definitions to address terms and language in rules.

2. Amend rules for outdated and clarifying language to bring rules up to date.

3. Amend rules for minor edits.

4. Repeal OAR 162-010-0160 — Duplicates information required for audits by professional standards.

5. Repeal OAR 162-010-0170 — Duplicates information required for audits by professional standards.

Rules Coordinator: Julie A. Sparks—(503) 986-2262

162-010-0000

Preface

(1) Pursuant to the provisions of ORS 297.465, there is presented herewith the Minimum Standards for Audits of Oregon Municipal Corporations.

(2) These Standards have been approved by the Oregon Board of Accountancy (the Board), and have been adopted by the Secretary of State as Administrative Rules under the provisions of ORS Chapter 183.

(3) All audits of municipal corporations shall be made in accordance with these Standards, and all audit reports shall be in the form prescribed herein. The Standards are effective for audits of fiscal years ending after March 31, 2014.

Stat. Auth.: ORS 297

Stats. Implemented: ORS 297.465

Hist.: DOA 3-1986, f. & ef. 5-29-86; DOA 1-1991, f. 3-8-91, cert. ef. 7-1-91; DOA 2-1995, f. 3-1-95, cert. ef. 7-1-95; AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01; AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07; AUDIT 1-2010, f. 3-23-10, cert. ef. 4-1-10; AUDIT 1-2014, f. & cert. ef. 2-13-14

162-010-0010

Definitions

The following definitions describe terms within the context of their application to Municipal Audit Law.

(1) “Independent Auditor” means the Accountants whose names are included in the roster prepared and maintained by the Oregon Board of Accountancy and defined in ORS 297.405.

(2) “Municipal Audit Law” means the laws enacted by the Oregon Legislature and prescribed in Oregon Revised Statutes (ORS) Chapter 297.405 to 297.740 and 297.990.

(3) “Municipal Corporation” means any public entity subject to audit defined in ORS 297.405.

(4) “Cash basis or modified cash basis” means a basis of accounting that the entity uses to record cash receipts and disbursements and modifications of the cash basis having substantial support, such as recording depreciation on capital assets. The cash basis of accounting is the only special purpose framework allowable under Oregon law.

(5) “Fiscal year” means for a municipal corporation with the power to impose ad valorem property taxes, the fiscal year commencing on July 1 and ending on June 30, and for all other municipal corporations, an accounting period of 12 months ending on the last day of any month.

(6) “Documentation” means the written record of procedures performed, relevant evidence obtained, and conclusions the independent auditor reached.

(7) “Governing body” means the city council, board of commissioners, board of directors, county court or other managing board of a municipal corporation including a board managing a municipality owned public utility or a dock commission

(8) “Management” means the person(s) with executive responsibility for the conduct of the municipal corporation’s operation and may include some or all of those charged with governance; for example the elected or appointed public officials.

(9) “Legally adopted budget” means the statutory budget required by Oregon law prescribed on ORS Chapter 294.305 to 294.565 (Local Budget Law) and intergovernmental entities formed under ORS Chapter 190.

Stat. Auth.: ORS 297

Stats. Implemented: ORS 297.465

Hist.: SD 104, f. 2-20-76, ef. 7-1-76; DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0665; DOA 1-1991, f. 3-8-91, cert. ef. 7-1-91; DOA 2-1995, f. 3-1-95, cert. ef. 7-1-95; AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01; AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07; AUDIT 1-2014, f. & cert. ef. 2-13-14

162-010-0020

General Requirements

(1) All municipal corporations, as defined in ORS 297.405, are required to have their accounts and fiscal affairs audited annually in accordance with generally accepted auditing standards as promulgated by the

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American Institute of Certified Public Accountants (AICPA), unless they qualify under 297.435 to be reviewed in accordance with Statements on Standards for Accounting and Review Services (SSARS), or file financial reports in lieu of having an audit. The accounts to be audited and examined may include financial statements, or they may consist solely of books, records, and other financial data

(2) The independent auditor who contracts to conduct an audit of a municipal corporation must personally conduct the audit to an extent satisfactory to the Secretary of State, prepare an Independent Auditor's Report and express an opinion on the accounts in accordance with these rules. The expression of opinion must be signed by the independent auditor. The Independent Auditor's Report and expression of opinion are to be issued to the municipal corporation within six months after the close of the calendar or fiscal year unless an extension of time has been granted by the Secretary of State.

(3) Management (of the municipal corporation) has the responsibility for adopting sound accounting policies, for maintaining an adequate and effective system of accounts, for the safeguarding of assets, and for devising a system of internal control that will, among other things, help assure the production of proper financial statements. The transactions which should be reflected in the accounts and in the financial statements are matters within the direct knowledge and control of management. The independent auditor's knowledge of such transactions is limited to that acquired through the audit. Accordingly, the fairness of the representations made through financial statements is an implicit and integral part of management's responsibility. The independent auditor may make suggestions as to the form or content of financial statements or he/she may draft them in whole or in part, based on management's accounts and records. However, responsibility for the statements examined is confined to the expression of opinion on them. The financial statements remain the representations of management.

(4) Since the functions and forms of government, as well as the accounting, internal control, and management information systems, will vary greatly among municipal corporations, the independent auditor must be familiar with legal provisions applicable to municipal corporations and the accounting principles promulgated by GASB and other accounting principles considered to be generally acceptable for governmental organizations. The independent auditor shall review the information systems of accounting and internal control, develop audit programs to adequately test those systems, and form an opinion with respect to the financial statements of the municipal corporation.

(5) Officials of the municipal corporation should make an accounting of all resources for which they are responsible. Preparation of the financial statements and notes thereto and the supplementary schedules considered necessary for full disclosure of financial position and results of operations as set forth in OAR 162-010-0050 through 162-010-0150 will be considered an appropriate accounting.

(6) The independent auditor is expected to determine if the accounts and records are maintained in a manner that will permit the preparation of financial statements that will fairly present the financial position and results of operations of the municipal corporation in accordance with legal provisions and in accordance with generally accepted accounting principles. The accounting principles contemplated are those contained in the pronouncements of authoritative bodies including, but not necessarily limited to, the Governmental Accounting Standards Board (GASB), the AICPA and the Financial Accounting Standards Board (FASB). If the municipal corporation fails to prepare and present the financial statements specified in OAR 162-010-0050 through 162-010-0150, the independent auditor must make a reasonable attempt to draft them for the municipal corporation from the accounts and records made available for audit. If the financial statements cannot be drafted with reasonable effort, appropriate comments must be included in the audit report, together with recommendations for improvements necessary to permit their preparation in the future. Wherever there is a conflict between legal provisions and generally accepted accounting principles, legal provisions are to take precedence. The independent auditor shall make appropriate disclosure of such conflicts and shall be aware that a qualification of the opinion may be necessary.

(7) In addition to auditing the accounts and financial statements of a municipal corporation, the independent auditor is required to review the municipal corporation's fiscal affairs. The review shall include, but not necessarily be limited to, determining if financial operations have been carried out in accordance with appropriate legal provisions including federal and state laws, charter provisions, court orders, ordinances, resolutions, and rules and regulations issued by other governmental agencies. It is the inde-

pendent auditor's responsibility to disclose in the audit report material instances of noncompliance with such legal provisions.

(8) The scope of the audit of a municipal corporation shall include programs wholly or partially funded by other federal, state, or local governmental agencies. In determining the audit procedures to be applied to such programs, the independent auditor shall consider any specific audit procedures which may have been developed for those programs by appropriate governmental agencies. The independent auditor shall also determine if financial reporting requirements applicable to such programs have been complied with.

(9) The audit report of a municipal corporation shall contain financial statements with appropriate notes, the Independent Auditor's Report containing his or her expression of opinion on the financial statements, or an assertion that an opinion cannot be expressed, and the auditor's comments relating to the review of fiscal affairs and compliance with legal requirements.

(a) The independent auditor must prepare the independent auditor's opinion in accordance with the Statements on Auditing Standards issued by the AICPA.

(b) The independent auditor's report should include either an opinion on whether the accompanying financial information is fairly presented in all material respect in relation to the basic financial statements taken as a whole or a disclaimer of opinion depending on whether the information has been subjected to the auditing procedures applied in the audit of the basic financial statements.

(c) In a GAAP presentation the independent auditor shall express an "in relation to" opinion on budgetary comparison schedules presented as required supplementary information.

(d) The independent auditor shall express an "in relation to" opinion" on the combining and individual fund statements and schedules presented as supplementary information required by OAR 162-010-0050 through 162-010-0150.

(e) The auditor's comments relating to the review of fiscal affairs, including compliance with legal requirements shall be in accordance with the provisions of OAR 162-010-200 through 162-010-320.

(10) Audit reports are required to contain, immediately inside the front cover, the names and mailing addresses of officers of the municipal corporation and members of its governing body. In addition, audit reports of special districts, as defined by law, shall contain the name of the district's registered agent and its registered address. If a special district has not designated a registered agent or registered address, then the audit report shall so indicate.

(11) It is the responsibility of the municipal corporation to file a copy of its audit report with the Secretary of State. The reports are subject to review for compliance with these rules, and the Secretary of State may call for submission by the independent auditor of the work papers and audit programs covering an engagement. The work papers and audit programs must contain satisfactory documented evidence of compliance with these rules.

(12) Within 30 days after delivering the audit report, as required by law, the independent auditor shall submit a summary of the revenues and expenditures of the municipal corporation for the period covered by the audit. The summary shall be made in the manner and on forms prescribed by the Secretary of State. One copy of the summary shall be delivered to the municipal corporation. Instructions are as follows:

(a) General: The summary shall include the revenues and expenditures or receipts and disbursements presented in the government-wide statement of activities.

(b) The amounts shall also include fiduciary fund additions and deductions.

(c) Revenues and expenditures of component units and turnovers to other governments should be identified in the summary as reductions in arriving at the net totals. Those amounts are included in the separately issued financial statements of the other governments.

Stat. Auth.: ORS 297

Stats Implemented: ORS 297.465

Hist.: SD 104, f. 2-20-76, ef. 7-1-76; DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0015; DOA 1-1991, f. 3-8-91, cert. ef. 7-1-91; DOA 2-1995, f. 3-1-95, cert. ef. 7-1-95; AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01; AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07; AUDIT 1-2010, f. 3-23-10, cert. ef. 4-1-10; AUDIT 1-2014, f. & cert. ef. 2-13-14

162-010-0030

Contracts

(1) Audits are to be undertaken in accordance with a contract executed by the independent auditor and the municipal corporation. The contract shall set forth clearly the scope of work to be conducted by the independent auditor and must include provision for an expression of opinion on the financial statements of the municipal corporation and for a determination of

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compliance with financial related legal provisions. If the municipal corporation does not prepare the financial statements set forth in OAR 162-010-0050 through 162-010-0150, the contract must provide for the independent auditor to make a reasonable attempt to draft them for and on behalf of the municipal corporation. The contract should consider the following provisions:

THIS CONTRACT, made this _____ day of _____, 20____, in accordance with the requirements of Oregon Revised Statutes 297.405 through 297.740 between _____ (Auditor) _____, Certified Public Accountant(s) of _____, Oregon, and the _____ (Municipal Corporation) _____, Oregon, provides as follows:

It hereby is agreed that _____ (Auditor) _____ shall conduct an audit of the accounts and fiscal affairs of _____ (Municipal Corporation) _____, Oregon, for the period beginning _____, and ending _____, (and annually thereafter) in accordance with the Minimum Standards for Audits of Municipal Corporations as prescribed by law. The audit shall be undertaken in order to express an opinion upon the financial statement of _____ (Municipal Corporation) _____, Oregon, and to determine if the _____ (Municipal Corporation) _____ has complied substantially with appropriate legal provisions.

_____ (Auditor) _____ agree(s) that the services contracted to perform under this contract shall be rendered by or under personal supervision and that the work will be faithfully performed with care and diligence.

It is understood and agreed that, should unusual conditions arise or be encountered during the course of the audit whereby the services of _____ (Auditor) _____ are necessary beyond the extent of the work contemplated, written notification of such unusual conditions shall be delivered to the _____ (Municipal Corporation) _____, Oregon, who shall instruct in writing _____ (Auditor) _____ concerning such additional services, and that a signed copy of each such notification and instruction shall be delivered immediately to the Secretary of State by the party issuing the same.

The audit shall be started as soon after this contract is executed as is agreeable to the parties hereto and shall be completed and a written report thereon delivered within a reasonable time, but not later than six months, after the close of the audit period covered by this contract. Adequate copies of such report shall be delivered to the _____ (Municipal Corporation) _____, Oregon, and its form and content shall be in accordance with and not less than that required by the Minimum Standards for Audits of Oregon Municipal Corporations.

It is understood and agreed that the _____ (Municipal Corporation) _____, Oregon, is responsible for such financial statements as may be necessary to fully disclose and fairly present the results of operations for the period under audit and the financial condition at the end of that period. Should such financial statements not be prepared and presented within a reasonable period of time, it is understood that _____ (Auditor) _____ shall draft them for _____ (Municipal Corporation) _____, Oregon. The cost of preparing such financial statements shall be ((in addition to) (included in)) the fee for conducting the audit.

It is understood and agreed that either party may cancel this contract by giving notice in writing to the other party at least (ninety days) prior to July 1 of any year.

In consideration of the faithful performance of the conditions, covenants, and undertakings herein set forth the _____ (Municipal Corporation) _____, Oregon, hereby agrees to pay _____ (Auditor) _____ the sum of _____ (a reasonable fee) _____ and the _____ (Municipal Corporation) _____, Oregon, hereby affirms that proper provision for the payment of such fee has been or will be duly made and that funds for the payment thereof are or will be made legally available.

(Auditor)
by _____

(Municipal Corporation)
by _____

(2) If the municipal corporation requests the scope of the audit to be expanded to include a performance audit, a separate contract covering the expanded scope audit should be executed. Performance audits should be conducted in accordance with Government Auditing Standards published by the Comptroller General or the United States.

Stat. Auth.: ORS 297.465
Stats. Implemented: ORS 297.465

Hist.: SD 104, f. 2-20-76, ef. 7-1-76; DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0020; DOA 1-1991, f. 3-8-91, cert. ef. 7-1-91; AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01; AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07; AUDIT 1-2010, f. 3-23-10, cert. ef. 4-1-10; AUDIT 1-2011, f. & cert. ef. 1-27-11; AUDIT 1-2014, f. & cert. ef. 2-13-14

162-010-0050 Financial Statements

(1) The GASB is recognized as the standard-setting authority of GAAP for state and local governments. As such, fair presentation of financial position and results of operations in conformity with GAAP for Oregon municipal corporations are those financial statements, notes thereto, and supporting information consistent with GASB Statements and Interpretations and the hierarchy of GAAP applicable to state and local governments established by the AICPA and adopted by GASB.

(2) Since the focus of accounting in a governmental unit is the individual fund, the financial statements to be presented in the municipal corporation's annual report must also include nonmajor fund combining statements and individual fund statements/schedules.

(3) Compliance with municipal audit law includes financial statements prepared on the cash basis of accounting.

(4) In the event information necessary to prepare the financial statements or any of them individually, is not readily available, or is not main-

tained by the municipal corporation, then appropriate disclosure must be made in the accountant's report.

Stat. Auth.: ORS 297

Stats Implemented: ORS 297.465

Hist.: SD 104, f. 2-20-76, ef. 7-1-76; DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0100; DOA 1-1991, f. 3-8-91, cert. ef. 7-1-91; DOA 2-1995, f. 3-1-95, cert. ef. 7-1-95; AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01; AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07; AUDIT 1-2010, f. 3-23-10, cert. ef. 4-1-10; AUDIT 1-2014, f. & cert. ef. 2-13-14

162-010-0115 Required Supplementary Financial Information (RSI)

For financial statements presented in accordance with GAAP, the Governmental Accounting Standards Board has determined that certain statements, schedules, statistical data, or other information are necessary to supplement, although not required to be a part of, the basic financial statements. These standards do not place any additional responsibilities upon the independent auditor beyond those required by generally accepted auditing standards and OAR 162-10-0020(9)(c).

Stat. Auth.: ORS 297

Stats. Implemented: ORS 297.465

Hist.: AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07; AUDIT 1-2014, f. & cert. ef. 2-13-14

162-010-0120 Supplementary Financial Information (SI)

In addition to financial statements, notes and required supplementary information thereto, certain other financial information is considered necessary for full disclosure of the fiscal affairs of Oregon municipal corporations. Whenever appropriate, audit reports must contain the other financial information set forth in OAR 162-010-0130 through 162-010-0150 or reasonable combinations thereof. In the event information necessary to prepare these schedules, or any of them individually, is not readily available or is not maintained by the municipal corporation, then appropriate comments to that effect shall be included in the audit report. If appropriate, these schedules may be included in the notes to the financial statements.

Stat. Auth.: ORS 297

Stats. Implemented: ORS 297.465

Hist.: SD 104, f. 2-20-76, ef. 7-1-76; DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0135; DOA 2-1995, f. 3-1-95, cert. ef. 7-1-95; AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01; AUDIT 1-2014, f. & cert. ef. 2-13-14

162-010-0130 Schedule of Revenues, Expenditures/Expenses, and Changes in Fund Balances/Net Assets/Net Position, Budget and Actual (Each Fund)

An individual schedule of revenues, expenditures/expenses, and changes in fund balances/net assets/net position, budget and actual, must be prepared for each fund of any municipal corporation for which budgets are legally required. They must compare estimated with actual revenues or receipts, transfers in, expenditures or disbursements, transfers out and ending balances on the basis of the legally adopted budget. If the municipal corporation has made appropriations in a manner which differs materially from the presentation of estimated expenditures in the budget document, a separate schedule must be included which compares actual expenditures/expenses with the legally adopted appropriations.

Stat. Auth.: ORS 297

Stats. Implemented: ORS 297.465

Hist.: SD 104, f. 2-20-76, ef. 7-1-76; DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0125; AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01; AUDIT 1-2010, f. 3-23-10, cert. ef. 4-1-10; AUDIT 1-2014, f. & cert. ef. 2-13-14

162-010-0140 Schedule of Accountability for Independently Elected Officials

A schedule of accountability must be prepared for each independently elected official collecting or receiving money on behalf of the municipal corporation. This schedule is to present, at a minimum, beginning balances, receipts, disbursements, refunds, and turnovers to the appropriate governmental official, reconciled to cash on hand at the beginning and end of the audit period.

Stat. Auth.: ORS 297

Stats. Implemented: ORS 297.465

Hist.: SD 104, f. 2-20-76, ef. 7-1-76; DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0140; DOA 1-1991, f. 3-8-91, cert. ef. 7-1-91; DOA 2-1995, f. 3-1-95, cert. ef. 7-1-95; AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01; AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07; AUDIT 1-2014, f. & cert. ef. 2-13-14

162-010-0190 Other Financial or Statistical Information (OI)

The report may include such other financial or statistical information as desired by the municipal corporation, including financial statements relating specifically to programs funded wholly or partially by other governmental agencies.

Stat. Auth.: ORS 297

Stats. Implemented: ORS 297.465

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Hist.: SD 104, f. 2-20-76, ef. 7-1-76; DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0195; AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07; AUDIT 1-2014, f. & cert. ef. 2-13-14

162-010-0200

Independent Auditor's Review of Fiscal Affairs

Each audit report shall contain appropriate comments and disclosures relating to the independent auditor's review of fiscal affairs and compliance with legal requirements. These comments and disclosures shall, at a minimum, reference the subjects set forth in OAR 162-010-0230 through 162-010-0320. The independent auditor is required to prepare working papers that show a clear understanding of the procedures performed, the evidence obtained and its source, and the conclusions reached to support each disclosure.

Stat. Auth.: ORS 297

Stats. Implemented: ORS 328.465

Hist.: SD 104, f. 2-20-76, ef. 7-1-76; DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0200; AUDIT 1-1998, f. 2-2-98, cert. ef. 2-15-98; AUDIT 1-2010, f. 3-23-10, cert. ef. 4-1-10; AUDIT 1-2014, f. & cert. ef. 2-13-14

162-010-0230

Accounting Records and Internal Control

The independent auditor shall state in a separately issued by-product report, that in planning the audit, he or she followed generally accepted auditing standards in obtaining an understanding of the entity and its internal control over financial reporting. If significant deficiencies, material weaknesses or other recommendations for improvements have been communicated in a separate letter to management or in a report issued in accordance with *Government Auditing Standards*, reference to it should be made.

Stat. Auth.: ORS 297.465

Stats. Implemented: ORS 297.465

Hist.: SD 104, f. 2-20-76, ef. 7-1-76; DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0215; DOA 1-1991, f. 3-8-91, cert. ef. 7-1-91; AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01; AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07; AUDIT 1-2010, f. 3-23-10, cert. ef. 4-1-10; AUDIT 1-2014, f. & cert. ef. 2-13-14

162-010-0260

Budget

Compliance with legal requirements relating to the preparation, adoption, and execution of the annual or biennial budget for the year being audited, and the preparation and adoption of the budget for the next succeeding year shall be disclosed. Also, the auditor shall disclose the financial or organizational level at which the governing body makes the annual appropriations. The minimum levels of legal appropriation are established in ORS 294.

Stat. Auth.: ORS 297

Stats. Implemented: ORS 297.465

Hist.: SD 104, f. 2-20-76, ef. 7-1-76; DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0230; DOA 2-1995, f. 3-1-95, cert. ef. 7-1-95; AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07; AUDIT 1-2014, f. & cert. ef. 2-13-14

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

Rule Caption: Designating Temporary Electronic Filing System for 2014 Primary Election State Voters' Pamphlet

Adm. Order No.: ELECT 8-2014(Temp)

Filed with Sec. of State: 2-13-2014

Certified to be Effective: 2-13-14 thru 3-15-14

Notice Publication Date:

Rules Adopted: 165-016-2014

Subject: This rule is proposed for temporary adoption to specify that if the Secretary of State issues a written determination that the regularly designated electronic filing system for voters' pamphlet filings is unavailable for use, all voters' pamphlet filings shall be filed using electronic mail as specified in this rule.

Rules Coordinator: Brenda Bayes—(503) 986-1518

165-016-2014

Designating Temporary Electronic Filing System for 2014 Primary Election State Voters' Pamphlet

(1) In the event that the Secretary of State issues a written determination that the regularly designated electronic filing system for voters' pamphlet filings is unavailable for use, all voters' pamphlet filings shall be filed using electronic mail as described in this rule.

(2) Candidates filing a statement by fee must submit the SEL 430 form marked "fee" along with their voters' pamphlet statement by email to orestar-support.sos@state.or.us.

(a) To pay the required filing fee, candidates must contact the Elections Division at 503-986-1518 to make payment using VISA or MasterCard.

(b) The filing is not considered complete and will not be accepted unless payment is made by 5 pm of the next business day following the receipt of the statement.

(3) Candidates filing a statement by petition must submit the SEL 430 form marked "prospective petition" along with their voters' pamphlet statement by email to orestar-support.sos@state.or.us. The Elections Division shall review the prospective petition and if complete will provide written approval to circulate by email that will include:

(a) A signature sheet template;

(b) The number of signatures required; and

(c) The filing deadline.

(4) Candidates may include a photograph for publication with their statement. If the candidate statement is filed under this rule, any photograph submitted must be submitted by email to orestar-support.sos@state.or.us.

(5) Major political parties filing a Precinct Committeeperson Statement outlining the duties and responsibilities of a precinct committeeperson must submit the SEL 420 form along with their voters' pamphlet statement by email to orestar-support.sos@state.or.us.

(6) Any amendments to statements filed under this rule must be submitted by email to orestar-support.sos@state.or.us.

(7) Any statement submitted to an email address other than orestar-support.sos@state.or.us will not be accepted.

Stat. Auth.: ORS 246.150 & 251.014

stats. Implemented: ORS 251.014

Hist.: ELECT 8-2014(Temp), f. & cert. ef. 2.13.14 thru 3-15-14

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**Veterinary Medical Examining Board
Chapter 875**

Rule Caption: Deletes references to Euthanasia Task Force; adds definition of 'indirect supervision.'

Adm. Order No.: VMEB 1-2014

Filed with Sec. of State: 1-17-2014

Certified to be Effective: 1-17-14

Notice Publication Date: 8-1-2013

Rules Amended: 875-005-0005

Subject: Deletes definition of 'lethal drug' and 'Task Force' relative to the Euthanasia Task Force.

Adds definition of 'indirect supervision' companion to amendment of Division 30 that allows Certified Veterinary Technicians to perform duties outside veterinary facilities.

Rules Coordinator: Lori V. Makinen—(971) 673-0224

875-005-0005

Definitions

(1) "Agency": Any animal control department, humane society, or facility which contracts with a public agency or arranges to provide animal sheltering services and is registered by the Oregon State Board of Pharmacy.

(2) "Board": The Oregon State Veterinary Medical Examining Board.

(3) "Board of Pharmacy": The Oregon State Board of Pharmacy.

(4) "Certified Euthanasia Technician" or "CET": A person who is employed by or a volunteer at a humane society or animal control agency and is certified by the Board pursuant to ORS 475.190(4). Any person who was trained prior to October 15, 1983 in euthanasia methods, in the course provided by Multnomah County Animal Control and the Oregon Humane Society, and who has been subsequently certified by the Board.

(5) "Client": An entity, person, group or corporation that has entered into an agreement with a veterinarian for the purpose of obtaining veterinary medical services.

(6) "Comprehensive": Pertaining to all animal species.

(7) "Conviction of Cruelty to Animals": for purposes of ORS 686.130(11) is defined to include but not limited to animal abuse in the first or second degree, aggravated animal abuse in the first degree, and animal neglect in the first degree.

(8) "Designated Agent": A CET who is responsible for the withdrawal and return of sodium pentobarbital from the drug storage cabinet.

(9) "Good Standing and Repute": As used in ORS 686.045(1), means:

(a) A university accredited by the American Veterinary Medical Association (AVMA); or

(b) A foreign school listed by the AVMA whose graduates are eligible to apply for a certificate through the Educational Commission for Foreign

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Veterinary Graduates (ECFVG) committee of the AVMA, or other programs approved by the Board.

(10) "Herd or Flock Animal": Animals managed as a group only for economic gain including but not limited to breeding, sale, show, food production, or racing.

(11) "Mobile Clinic": A vehicle, including but not limited to a camper, motor home, trailer, or mobile home, used as a veterinary medical facility. A mobile clinic is not required for house calls or farm calls.

(12) Surgery Procedure:

(a) "Aseptic Surgery": Aseptic surgical technique exists when everything that comes in contact with the surgical field is sterile and precautions are taken to ensure sterility during the procedure.

(b) "Antiseptic Surgery": Antiseptic surgical technique exists when care is taken to avoid bacterial contamination.

(c) Any injection or implant of a small permanent identification device is considered surgery.

(13) "Supervision" means that each act shall be performed by any employee or volunteer in the practice only after receiving specific directions from a licensed veterinarian.

(a) "Direct" supervision under this provision means both the certified veterinary technician and the licensed veterinarian are on the premises at the same time;

(b) "Immediate" supervision under this provision means that the supervising veterinarian is in the immediate vicinity of where the work is being performed and is actively engaged in supervising this work throughout the entire period it is being performed;

(c) "Indirect" supervision under this provision means that a CVT may, after receiving specific direction from an Oregon-licensed veterinarian, perform duties permitted under OAR 875-030-0040 at a client's home or other location where the animal is kept. A valid VCPR must exist in order for a CVT to perform duties under indirect supervision.

(14) "Veterinary Client Patient Relationship (VCPR)": Except where the patient is a wild or feral animal or its owner is unknown; a VCPR shall exist when the following conditions exist: The veterinarian must have sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the medical condition of the animal. This means that the veterinarian has seen the animal within the last year and is personally acquainted with the care of the animal by virtue of a physical examination of the animal or by medically appropriate and timely visits to the premises where the animal is kept.

(15) "Veterinary Medical Facility": Any premise, unit, structure or vehicle where any animal is received and/or confined and veterinary medicine is practiced, except when used for the practice of veterinary medicine pursuant to an exemption under ORS 686.040.

(16) "Veterinary Technician": a person licensed by the Board as a Certified Veterinary Technician.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 475.190, 609.405, 686.130, 686.255 & 686.510

Hist.: VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 2-2006, f. & cert. ef. 5-11-06; VMEB 1-2008, f. & cert. ef. 2-11-08; VMEB 6-2008, f. & cert. ef. 5-21-08; VMEB 7-2008, f. & cert. ef. 7-22-08; VMEB 5-2011(Temp), f. & cert. ef. 12-12-11 thru 6-9-12; Administrative correction, 6-27-12; VMEB 1-2012, f. & cert. ef. 6-25-12; VMEB 3-2012, f. & cert. ef. 8-28-12; VMEB 1-2014, f. & cert. ef. 1-17-14

Rule Caption: Adds requirements for physical examination and medical records; requires provision of prescription if requested.

Adm. Order No.: VMEB 2-2014

Filed with Sec. of State: 1-17-2014

Certified to be Effective: 1-17-14

Notice Publication Date: 8-1-2013

Rules Amended: 875-015-0020, 875-015-0030

Subject: Adds requirement to evaluate and document patient's integumentary system, allows estimate of weight for large animals, and requires licensee to provide a prescription for biological and drugs if requested by the client.

Rules Coordinator: Lori V. Makinen—(971) 673-0224

875-015-0020

Minimum Requirements for Veterinary Medical Facilities and Veterinary Licensees

Each veterinary medical facility and veterinary licensee shall comply with the following:

(1) Air Quality: Adequate heating and cooling must be provided for the comfort and well-being of the animals, and the facility must have sufficient ventilation in all areas to prevent mildew and condensation, and to exhaust toxic and/or noxious fumes and/or odors.

(2) Lighting: Sufficient lighting must be provided in all areas sufficient for the safety of personnel and the intended use of this area.

(3) Water: Potable water must be provided.

(4) Waste Disposal: Waste disposal equipment shall be so operated as to minimize insect or other vermin infestation, and to prevent odor and disease hazards or other nuisance conditions. The veterinary medical facility shall have sanitary and aesthetic disposal of dead animals and other wastes which complies with all applicable federal, state, county and municipal laws, rules, ordinances and regulations.

(5) Storage: All supplies, including food and bedding, shall be stored in a manner that adequately protects such supplies against infestation, contamination or deterioration. Adequate refrigeration shall be provided for all supplies that are of a perishable nature, including foods, drugs and biologicals.

(6) Examination Area: Examination and surgery tables shall have impervious surfaces.

(7) Laboratory: May be either in the veterinary medical facility or through consultative services, adequate to render diagnostic information. An in-house laboratory shall meet the following minimum standards:

(a) The laboratory shall be clean and orderly with provision for ample storage;

(b) Adequate refrigeration shall be provided;

(c) Any tests performed shall be properly conducted by currently recognized methods to assure reasonable accuracy and reliability of results.

(d) Laboratory equipment must provide results of diagnostic quality. Protocols must be in place and followed regularly to assure the quality and reproducibility of the diagnostic information produced.

(8) Radiology: Equipment for diagnostic radiography must be available either on or off the veterinary medical facility. Such equipment must be on the premises if orthopedic or open thoracic procedures are performed. The equipment must meet federal and state protective requirements and be capable of producing, reading and labeling good quality diagnostic radiographs, including imaging diagnosis and findings. Equipment for providing diagnostic oral radiography must be available to the veterinary medical facility whenever surgical dental services are offered.

(9) Animal Housing Areas: Each veterinary medical facility confining animals must have individual cages, pens, exercise areas or stalls to confine said animals in a comfortable, sanitary and safe manner. Animals that are hospitalized for treatment of contagious diseases must be isolated physically and procedurally so as to prevent the spread of disease.

(10) Licenses: Licenses of every veterinarian or veterinary technician practicing in the veterinary medical facility shall be displayed in a place conspicuous to the public. Relief or temporary licensees may post legible photocopies of licenses. Mobile practice licensees shall have their license or a legible copy available for verification upon client request.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.130

Hist.: VME 5-1992, f. & cert. ef. 12-10-92; VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 9-2008, f. & cert. ef. 7-22-08; VMEB 2-2014, f. & cert. ef. 1-17-14

875-015-0030

Minimum Veterinary Practice Standards

Each veterinary medical facility shall comply with the following:

(1) Medical Records: A legible individual record shall be maintained for each animal. However, the medical record for a litter may be recorded either on the dam's record or on a litter record until the individual animals are permanently placed or reach the age of three months. Records for herd or flock animals may be maintained on a group or client basis. All records shall be readily retrievable and must be kept for a minimum of three (3) years following the last treatment or examination. Records shall include, but are not limited to, the following information:

(a) Name or initials of the veterinarian responsible for entries; any written entry to a medical record that is made subsequent to the date of treatment or service must include the date that the entry was added.

(b) Name, address and telephone number of the owner and/or client;

(c) Name, number or other identification of the animal and/or herd or flock;

(d) Species, breed, age, sex, and color or distinctive markings, where applicable, each individual animal;

(e) Vaccination history, if known, shall be part of the medical record;

(f) Beginning and ending dates of custody of the animal;

(g) Pertinent history and presenting complaint;

(h) A physical exam shall be performed to establish or maintain a VCPR; and then each time an animal is presented with a new health problem, unless the animal's temperament precludes examination, or physical exam is declined by the owner. For each physical exam the following con-

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ditions shall be evaluated and findings documented when applicable by species, even if such condition is normal:

- (A) Temperature;
- (B) Current weight or weight estimate for large animals;
- (C) Body condition or score;
- (D) Eyes, ears, nose and throat;
- (E) Oral cavity;
- (F) Cardiovascular and respiratory systems including heart rate and pulse, auscultation of the thorax, trachea, as species appropriate, and respiratory rate;
- (G) Evaluation of the abdomen by palpation and/or auscultation if applicable by species;
- (H) Lymph nodes;
- (I) Musculoskeletal system;
- (J) Neurological system;
- (K) Genito/urinary system;
- (L) Integumentary system
- (M) All data obtained by instrumentation;
- (N) Diagnostic assessment;
- (O) If relevant, a prognosis of the animal's condition;
- (P) Diagnosis or tentative diagnosis at the beginning of custody of animal;

(Q) Treatments and intended treatment plan, medications, immunizations administered, dosages, frequency and route of administration;

(R) All prescription or legend drugs dispensed, ordered or prescribed shall be recorded including: dosage, frequency, quantity and directions for use. Any changes made by telecommunications shall be recorded. Legend drugs in original unopened manufacturer's packaging dispensed or ordered for herd use are exempt from this rule. Legend and prescription drugs are as defined by the U.S. Food and Drug Administration in 'FDA and the Veterinarian'.

(S) Surgical procedures shall be described including name of the surgeon, suture material used, and diagnostic findings;

(T) Progress of the case while in the veterinary medical facility;

(U) Exposed radiographs shall have permanent facility and animal identification;

(V) If a client waives or declines any examinations, tests, or other recommended treatments, such waiver or denial shall be noted in the records.

(2) Surgery: Surgery shall be performed in a manner compatible with current veterinary practice with regard to anesthesia, asepsis or antiseptis, life support and monitoring procedures, and recovery care. The minimum standards for surgery shall be:

(a) Aseptic surgery shall be performed in a room or area designated for that purpose and isolated from other activities during the procedure. A separate, designated area is not necessarily required for herd or flock animal surgery or antiseptic surgery;

(b) The surgery room or area shall be clean, orderly, well-lighted and maintained in a sanitary condition;

(c) All appropriate equipment shall be sterilized:

(A) Chemical disinfection ("cold sterilization") shall be used only for field conditions or antiseptic surgical procedures;

(B) Provisions for sterilization shall include a steam pressure sterilizer (autoclave) or gas sterilizer (e.g., ethylene oxide) or equivalent.

(d) For each aseptic surgical procedure, a separate sterile surgical pack shall be used for each animal. Surgeons and surgical assistants shall use aseptic technique throughout the entire surgical procedure;

(e) Minor surgical procedures shall be performed at least under antiseptic surgical techniques;

(f) All animals shall be prepared for surgery as follows:

(A) Clip and surgically prepare the surgical area for aseptic surgical procedures;

(B) Loose hair must be removed from the surgical area;

(C) Scrub the surgical area with appropriate surgical soap;

(D) Disinfect the surgical area;

(E) Drape the surgical area appropriately.

(3) A veterinarian shall use appropriate and humane methods of anesthesia, analgesia and sedation to minimize pain and distress during any procedures or conditions and shall comply with the following standards:

(a) Animals shall have a documented physical exam conducted within 24 hours prior to the administration of a sedative or anesthetic, which is necessary for veterinary procedures, unless the temperament of the patient precludes an exam prior to the use of chemical restraint;

(b) An animal under general anesthesia for a medical or surgical procedure shall be under direct observation throughout the anesthetic period

and during recovery from anesthesia until the patient is awake and in sternal recumbency;

(c) A method of cardiac monitoring shall be employed to assess heart rate and rhythm repeatedly during anesthesia and may include a stethoscope or electronic monitor;

(d) A method of monitoring the respiratory system shall be employed to assess respiratory rate and pattern repeatedly during anesthesia and may include a stethoscope or electronic monitor.

(e) Where general anesthesia is performed in a hospital or clinic for companion animal species (excluding farm animals), anesthetic equipment available shall include an oxygen source, equipment to maintain an open airway and a stethoscope;

(f) Anesthetic and sedation procedures and anesthetic and sedative medications used shall be documented, including agent used, dosage, route of administration, and strength, if available in more than one strength;

(g) Adequate means for resuscitation including intravenous catheter and fluids shall be available;

(h) Emergency drugs shall be immediately available at all times;

(i) While under sedation or general anesthesia, materials shall be provided to help prevent loss of body heat;

(j) Analgesic medications, techniques and/or husbandry methods shall be used to prevent and minimize pain in animals experiencing or expected to experience pain, including but not limited to all surgical procedures;

(k) Chemical restraint may be used in conjunction with, but not in lieu of, analgesic therapy;

(l) Appropriate analgesic therapy shall be guided by information specific to each case, including but not limited to species, breed, patient health and behavioral characteristics, the procedure performed, and the expected degree and duration of pain;

(4) Library: A library of appropriate and current veterinary journals and textbooks or access to veterinary internet resources shall be available for ready reference.

(5) Laboratory: Veterinarians shall have the capability for use of either in-house or outside laboratory service for appropriate diagnostic testing of animal samples.

(6) Biologicals and drugs: The minimum standards for drug procedures shall be:

(a) All biological substances shall be stored, maintained, administered, dispensed and prescribed in compliance with federal and state laws and manufacturers' recommendations;

(b) Controlled substances and legend drugs shall be dispensed, ordered or prescribed based on a VCPR and shall be labeled with the following:

(A) Name of client and identification of animal(s);

(B) Date dispensed;

(C) Complete directions for use;

(D) Name, strength, dosage and the amount of the drug dispensed;

(E) Manufacturer's expiration date;

(F) Name of prescribing veterinarian and veterinary medical facility.

(c) No biological or drug shall be administered or dispensed after the expiration date, for a fee.

(d) If requested, a prescription shall be provided to a client for medications prescribed by the veterinarian under a valid VCPR.

(7) A veterinarian shall not use, or participate in the use of, any form of advertising or solicitation which contains a false, deceptive or misleading statement or claim:

(a) Specialty Services: Veterinarians shall not make a statement or claim as a specialist or specialty practice unless the veterinarian is a diplomate of a recognized specialty organization of the American Veterinary Medical Association;

(b) The public shall be informed if an animal will be left unattended in the veterinary facility.

(8) The veterinarian shall be readily available or has arranged for emergency coverage or follow-up evaluation in the event of adverse reaction or the failure of the treatment regimen.

(9) Euthanasia: Documented consent shall be obtained and a physical exam conducted prior to performing euthanasia. The exam may be limited to the elements necessary for the humane application of the procedure, such as a weight estimate and visual assessment if necessary due to the patient's condition or temperament. When ownership and identification of an animal cannot be reasonably established, the medical record for euthanasia shall contain a physical description of the animal.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.040 & 686.370

Hist.: VME 5-1992, f. & cert. ef. 12-10-92; VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 2-2006, f. & cert. ef. 5-11-06; VMEB 1-2008, f. & cert. ef. 2-11-08; VMEB 2-2010, f. & cert. ef. 5-6-10; VMEB 4-2011, f. & cert. ef. 8-5-11; VMEB 2-2014, f. & cert. ef. 1-17-14

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Rule Caption: Updates license application process, qualifications and CE requirements.

Adm. Order No.: VMEB 3-2014

Filed with Sec. of State: 1-17-2014

Certified to be Effective: 1-17-14

Notice Publication Date: 8-1-2013

Rules Amended: 875-010-0000, 875-010-0016, 875-010-0021, 875-010-0045, 875-010-0050, 875-010-0090

Subject: Updates qualifications for veterinary licenses, student interns and veterinary interns; license renewal procedures. Adds requirements for

official transcript for application.

Rules Coordinator: Lori V. Makinen—(971) 673-0224

875-010-0000

Qualifications for Licenses and Permits

Applicants for Oregon veterinary licenses shall meet the following requirements:

(1) Graduate from a veterinary college or veterinary department of a university or college of good standing and repute as defined in OAR 875-005-0005(9)(a)(b) or, if a graduate of an unaccredited veterinary school, completion of all requirements of the Education Commission for Foreign Veterinary Graduates (ECFVG) program or the Program for the Assessment of Veterinary Education (PAVE); and

(2)(a) Pass the North American Veterinary Licensing Exam (NAVLE) or the National Board Exam (NBE) and Clinical Competency Test (CCT), and Oregon Jurisprudence Exam/Regional Disease Test as required by OAR 875-010-0015(3).

(b) An applicant may request a waiver of the Clinical Competency Test requirement if all the following conditions are met:

(A) The applicant has graduated from an accredited veterinary school or earned the ECFVG or PAVE certificate or completed another equivalency program approved by the Board, as described in OAR 875-010-0000, prior to and including 1990;

(B) Has been engaged in active veterinary clinical practice for at least five contiguous years immediately preceding the date of application;

(C) Has held license(s) in good standing in other state(s) or U.S. territories since graduation; and

(D) Has met Continuing Education requirements at least equivalent to 10 hours per year during the five years immediately preceding the date of application.

(E) The Board may request other documentation of competent clinical practice.

(3) Temporary and active licenses may be issued to applicants who have at least one year experience, as set out in ORS 686.045(3) and 686.065(1)(b).

(4) The Board may refuse to issue a license or permit to an applicant for any of the following:

(a) Violations of veterinary practice laws and rules in other states, provinces or countries;

(b) Evidence of previous veterinary incompetence or negligence;

(c) Violations of other laws substantially related to the qualifications, functions or duties of veterinary medicine;

(d) The sale or use of illegal drugs or substance abuse; or

(e) Making a misrepresentation or omission on application or otherwise to the Board.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.045 & 686.065

Hist.: VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 2-2006, f. & cert. ef. 5-11-06; VMEB 3-2014, f. & cert. ef. 1-17-14

875-010-0016

Veterinary License Examinations

“North American Veterinary Licensing Examination (NAVLE)”: The National Board of Veterinary Medical Examiners (NBVME) provides this examination to test a candidate’s qualification for entry-level clinical practice and comprehensive veterinary knowledge. Effective November 2000, the NAVLE replaces the National Board Examination (NBE) and Clinical Competency Test (CCT).

(1) NBVME is the sole provider of the NAVLE. The NBVME will report the scores of NAVLE to the Board.

(2) The passing score for NAVLE shall be 425. If the National Board Examination (NBE) and/or Clinical Competency (CCT) were taken December 1992, or later, the candidate must receive a passing score accord-

ing to the criterion-referenced scoring method implemented by the Professional Exam Service in December 1992.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.075

Hist.: VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 1-2011, f. & cert. ef. 3-2-11; VMEB 3-2014, f. & cert. ef. 1-17-14

875-010-0021

Recalculation, Review and Appeal of Examination Results

(1) The Jurisprudence Exam/Regional Disease Test may be taken more than once, however, applicants who fail the JPE/RDT three times may be required to make further attempts to pass in the presence of a Board staff or member..

(2) An applicant may request a review of the NAVLE examination results according to the review procedures of the NBVME.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.075

Hist.: VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 1-2011, f. & cert. ef. 3-2-11; VMEB 3-2014, f. & cert. ef. 1-17-14

875-010-0045

Student Interns

(1) Any person wishing to work in Oregon as a student intern may do so if he or she is engaged in a student intern program administered by a veterinary college or university, or a veterinary technology program, approved by the Board or the American Veterinary Medical Association.

(2) Supervision of student interns. All acts which a student intern may perform must be under the direct supervision of a licensed veterinarian. “Direct supervision” means that each act shall be performed by the student intern only after receiving specific directions from and in the presence of an Oregon licensed veterinarian. Certified Veterinary Technician student interns may work under direct supervision of a licensed veterinarian or Certified Veterinary Technician.

(3) Veterinary student interns may perform the following acts:

(a) Obtaining and Recording Information. Student interns may obtain and record the following information:

(A) Complete admission records, including recording the statements made by the client concerning the patient’s problems and history. Student interns may also record their own observations of the patient. However, student interns cannot state or record their opinion concerning diagnosis of the patient;

(B) Maintain daily progress records, surgery logs, X-ray logs, Drug Enforcement Agency logs, and all other routine records as directed by the supervising veterinarian.

(b) Perform surgery, if relevant coursework has been successfully completed, and if determined by the supervising veterinarian to be competent in basic surgical techniques;

(c) Preparation of patients, instruments, equipment, and medicants for surgery. Student interns may:

(A) Prepare and sterilize surgical packs;

(B) Clip, surgically scrub, and disinfect the surgical site in preparation for surgery;

(C) Administer preanesthetic drugs as prescribed by the supervising veterinarian;

(D) Position the patient for anesthesia;

(E) Administer anesthesia as prescribed by the supervising veterinarian;

(F) Operate anesthetic machines, oxygen equipment, and monitoring equipment.

(d) Collection of specimens and performance of laboratory procedures. Preceptees and Student Interns may:

(A) Collect urine, feces, sputum, and all other excretions for laboratory analysis;

(B) Collect blood samples for laboratory;

(C) Collect skin scrapings;

(D) Perform routine laboratory procedures including urinalysis, fecal analyses, hematological, and serological examinations.

(e) Assisting the veterinarian in diagnostic medical and surgical procedures. Student interns may assist supervising veterinarians in the following diagnostic, medical, and surgical proceedings:

(A) Take the patient’s temperature, pulse and respiration;

(B) Medically bathe the patient;

(C) Administer topical, oral, hypodermic, and intravenous medication as directed by the supervising veterinarian;

(D) Operate diagnostic imaging equipment;

(E) Perform dental prophylaxis, including operating ultrasonic dental instruments.

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(f) Student interns may perform other acts not specifically enumerated herein under the supervision of a veterinarian licensed to practice veterinary medicine in the State of Oregon.

(4) Certified Veterinary Technician student interns may perform all the acts enumerated in OAR 875-030-0040(2) and may not perform the acts prohibited in 875-030-0050.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.040(13)

Hist.: VE 7-1978, f. & ef. 7-10-78; VME 2-1994, f. & cert. ef. 11-30-94; VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 1-2010, f. & cert. ef. 5-6-10; VMEB 3-2014, f. & cert. ef. 1-17-14

875-010-0050

Supervision of Interns

An intern license is issued for the purpose of providing a supervised internship to veterinarians who have less than one (1) year experience following graduation from a veterinary school or college as defined in OAR 875-005-0005(8).

(1) "Supervision," as used in ORS 686.085, requires an Oregon licensed veterinarian to provide supervision of the Intern as follows:

(a) Direct supervision of the Intern for each and every procedure until such time as the supervising veterinarian reasonably concludes that the Intern has sufficient training and experience to competently conduct a particular procedure, or class of procedures, independently;

(b) The supervising veterinarian shall document and make available to the Board, if requested, the documentation used in making the decision to allow the Intern to work independently.

(c) The supervising veterinarian need not continue to directly supervise that procedure or class of procedures, upon the supervisor's determination that competency has been achieved by the Intern; however, the supervising veterinarian shall continue to reasonably monitor the results thereof;

(d) The supervising veterinarian shall continue to directly supervise all procedures for which the supervisor has not yet made a competency determination.

(2) However, in no event may the supervising veterinarian:

(a) Be absent from the veterinary clinic for more than 14 consecutive days, or more than 21 total days, in a six month period, exclusive of weekends;

(b) Conduct the supervision from a separate clinic.

(3) The supervising veterinarian shall notify the Board within 15 calendar days if an intern is no longer under that veterinarian's supervision.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.085

Hist.: VE 6-1978, f. & ef. 7-10-78; VME 2-1994, f. & cert. ef. 11-30-94; VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 1-2008, f. & cert. ef. 2-11-08; VMEB 3-2014, f. & cert. ef. 1-17-14

875-010-0090

Continuing Education Requirements (CE)

(1) All active licensees, including veterinarians and certified veterinary technicians, must comply with the CE provided in this rule in order to renew their licenses.

(2) Licensees wishing to renew their license must complete the minimum required number of CE hours every two years. Veterinarians shall report 30 hours of CE to the Board with license renewals for every odd-numbered year. Certified veterinary technicians shall report 15 hours of CE to the Board for every even-numbered year. The required hours may be obtained online and be satisfied with any combination of the following continuing education activities:

(a) Attendance at scientific workshops or seminars approved by the Board or by the American Association of Veterinary Boards Registry of Approved Continuing Education (RACE).

(b) A maximum of four hours for veterinarians or two hours for certified veterinary technicians reading approved scientific journals. One subscription to an approved journal is equal to one hour of credit.

(c) A maximum of six hours for veterinarians or three hours for certified veterinary technicians of workshops or seminars on non-scientific subjects relating to the practice of veterinary medicine such as communication skills, practice management, stress management, or chemical impairment.

(3) Workshops, seminars, and prepared materials on scientific and non-scientific subjects relating to veterinary medicine sponsored by the following organizations are approved:

(a) American Veterinary Medical Association (AVMA) and Canadian Veterinary Medical Association (CVMA);

(b) Specialty and allied groups of the American Veterinary Medical Association and Canadian Veterinary Medical Association;

(c) Regional meetings such as the Inter-Mountain Veterinary Medical Association, Central Veterinary Conference, and Western Veterinary Conference;

(d) Any state or province veterinary medical association;

(e) Any local or regional veterinary medical association;

(f) The American Animal Hospital Association;

(g) American and Canadian Veterinary Schools accredited by the American Veterinary Medical Association;

(h) All federal, state or regional veterinary medical academies or centers;

(i) Other programs receiving prior approval by the Board;

(j) The Board may approve other sponsors for lectures or prepared materials upon written request by the attending veterinarian or the sponsor.

(4) Scientific journals and publications relating to veterinary medicine are approved by the Board to satisfy a maximum of four hours of non-lecture CE activities.

(5) Study in a graduate resident program at an AVMA-approved veterinary school will satisfy the CE requirements for the year in which the veterinarian is enrolled in such program.

(6) Postgraduate coursework in veterinary science or veterinary public health at an AVMA- or Board-approved educational institution will satisfy CE requirements on a semester or credit hour basis for the reporting period in which the coursework occurs.

(7) Reporting CE credits.

(a) At the time of making application for license renewal in years when CE reporting is required, the veterinarian shall certify on the application form that 30 hours of CE, and the veterinary technician shall certify on the application form that 15 hours of CE, as set forth in this rule have been satisfied. Proof of participation in such CE programs must be kept by the licensee for a period of at least two years, and the licensee must permit the Board to inspect CE records. Failure to keep or provide these records to the Board shall constitute grounds for non-renewal of the license, or, if the license has been issued for that year, for revocation of the license;

(b) Proof of compliance with the CE requirement of this rule may be supplied through registration forms at lectures, certificates issued by the sponsors of lectures, subscriptions to journals, and other documentation approved by the Board.

(8) The Board may approve CE programs presented by non-veterinarians, if program content is pertinent or complementary to veterinary medicine.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.410 - 686.420

Hist.: VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 2-2006, f. & cert. ef. 5-11-06; VMEB 1-2008, f. & cert. ef. 2-11-08; VMEB 2-2008(Temp), f. & cert. ef. 2-11-08 thru 8-9-08; Administrative correction 8-21-08; VMEB 13-2008, f. & cert. ef. 12-15-08; VMEB 1-2009, f. & cert. ef. 4-20-09; VMEB 2-2013, f. & cert. ef. 10-29-13; VMEB 3-2014, f. & cert. ef. 1-17-14

Rule Caption: Eliminates obsolete VTNE criteria; adds indirect supervision; increases fees.

Adm. Order No.: VMEB 4-2014

Filed with Sec. of State: 1-17-2014

Certified to be Effective: 1-17-14

Notice Publication Date: 8-1-2013

Rules Amended: 875-030-0010, 875-030-0020, 875-030-0030, 875-030-0040, 875-030-0050

Subject: Deletes obsolete criteria for on-the-job eligibility for the Veterinary Technician National Exam; adds indirect supervision to allow CVT duties

away from veterinary facility; raises license and renewal fee to \$35.

Rules Coordinator: Lori V. Makinen—(971) 673-0224

875-030-0010

Criteria for Becoming a Certified Veterinary Technician (CVT)

In order to become a CVT, an individual must:

(1) Pass the examinations referred to in OAR 875-030-0020; and

(2) Hold a certificate in veterinary technology (or a comparable certificate) from a college accredited by the American Veterinary Medical Association, or other program approved by the Board.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.350 - 686.370

Hist.: VE 5, f. & ef. 8-3-76; VME 3-1983, f. & ef. 1-21-83; VME 2-1989, f. 8-29-89, cert. ef. 10-1-89; VME 1-1991, f. & cert. ef. 1-24-91; VME 3-1991, f. & cert. ef. 12-9-91; VME 3-1992, f. & cert. ef. 10-9-92; Renumbered from 875-010-0025; VMEB 2-2000, f. & cert. ef. 6-21-00; VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 2-2006, f. & cert. ef. 5-11-06; VMEB 10-2008, f. & cert. ef. 7-22-08; VMEB 15-2008, f. & cert. ef. 12-15-08; VMEB 3-2009, f. &

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cert. ef. 10-15-09; VMEB 3-2010, f. & cert. ef. 5-6-10; VMEB 2-2011, f. & cert. ef. 3-2-11; VMEB 4-2014, f. & cert. ef. 1-17-14

875-030-0020

Examinations for Certified Veterinary Technicians

(1) Applicants for licensure as CVTs shall pass the Veterinary Technician National Examination (VTNE) with a criterion score of 425 or greater. The Board will accept VTNE scores transferred to Oregon through the Veterinary Information Verifying Agency (VIVA) if the examination was taken in another state.

(2) In addition to the VTNE, applicants must successfully complete an open book examination on the Oregon Veterinary Practice Act (ORS 686) with a passing score of at least 95 percent, and the Regional Disease Test, with a passing score of 100 percent.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.350 - 686.370

Hist.: VE 5, f. & ef. 8-3-76; VME 3-1983, f. & ef. 1-21-83; VME 2-1989, f. 8-29-89, cert. ef. 10-1-89; VME 1-1991, f. & cert. ef. 1-24-91; VME 3-1991, f. & cert. ef. 12-9-91; VME 3-1992, f. & cert. ef. 10-9-92; Renumbered from 875-010-0025; VME 2-1996, f. & cert. ef. 11-6-96; VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 3-2009, f. & cert. ef. 10-15-09; VMEB 2-2011, f. & cert. ef. 3-2-11; VMEB 4-2014, f. & cert. ef. 1-17-14

875-030-0030

Issuance of Licenses, Fees, Renewals for Certified Veterinary Technicians

(1) Upon filing a complete application and meeting all the criteria of OAR 875-030-0010, the Board will issue the applicant a Certified a Veterinary Technician license.

(2) Each CVT license shall expire on December 31st of each year.

(3) On or about November 1 of each year, the Board will send a renewal application to the last known address of the CVT on file with the Board. CVTs shall keep the Board advised of their address at all times. The Board shall be entitled to rely on its records, regardless of whether the CVT keeps the Board so advised.

(4) CVTs may be renewed annually without re-examination upon timely application. A renewal application accompanied by the annual fee of \$35 must be returned to the Board postmarked no later than December 31st of each year in order to be considered timely filed.

(a) Renewal forms received or postmarked between January 1st and 31st will incur a late fee of \$10.

(b) Renewal forms received or postmarked between February 1st and February 28 or 29 will incur a late fee of \$25.

(c) Renewal forms received or postmarked between March 1st and April 30 will incur a late fee of \$35.

(d) If the CVT license lapses, a 21-month grace period begins. The CVT may renew the license within the 21-month period by paying the maximum delinquent fee and the current annual renewal fee, and by providing documentation of veterinary technician activities, including having completed 15 hours of approved continuing education, during the interim. After 21 months, the license may be revoked and the CVT may have to re-qualify for licensure by taking an examination specified by the board.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.255 & 686.350 - 686.370

Hist.: VE 5, f. & ef. 8-3-76; VME 3-1983, f. & ef. 1-21-83; VME 2-1989, f. 8-29-89, cert. ef. 10-1-89; VME 1-1991, f. & cert. ef. 1-24-91; VME 3-1991, f. & cert. ef. 12-9-91; VME 3-1992, f. & cert. ef. 10-9-92; Renumbered from 875-010-0025; VMEB 1-2008, f. & cert. ef. 2-11-08; VMEB 4-2014, f. & cert. ef. 1-17-14

875-030-0040

Supervision of Certified Veterinary Technicians

(1) All duties of CVTs must be performed under the supervision of a licensed veterinarian.

(2) CVTs may perform the following acts:

(a) Obtain and record information:

(A) Complete admission records, including recording the statements made by the client concerning the patient's problems and history. The CVT may also record the technician's own observations of the patient. However, the CVT cannot state or record his or her opinion concerning diagnosis of the patient;

(B) Maintain daily progress records, surgery logs, X-ray logs, Drug Enforcement Administration (DEA) logs, and all other routine records as directed by the supervising veterinarian.

(b) Prepare Patients, Instruments, Equipment and Medicant for Surgery:

(A) Prepare and sterilize surgical packs;

(B) Clip, surgically scrub, and disinfect the surgical site in preparation for surgery;

(C) Administer preanesthetic drugs as prescribed by the supervising veterinarian;

(D) Position the patient for anesthesia;

(E) Induce anesthesia as prescribed by the supervising veterinarian;

(F) Operate anesthetic machines, oxygen equipment, and monitoring equipment.

(G) Place an endotracheal tube for the purpose of delivering oxygen and anesthetic gas to the patient requiring inhalant anesthesia.

(c) Collect specimens and perform laboratory procedures:

(A) Collect urine, feces, sputum, and all other excretions and secretions for laboratory analysis;

(B) Collect blood samples for laboratory analysis;

(C) Collect skin scrapings;

(D) Perform routine laboratory procedures including urinalysis, fecal analyses, hematological and serological examinations.

(d) Apply and remove wound and surgical dressings, casts, and splints;

(e) Assist the veterinarian in diagnostic, medical, and surgical proceedings:

(A) Monitor and record the patient's vital signs;

(B) Medically bathe the patient;

(C) Administer topical, oral hypodermic, and intravenous medication as directed by the supervising veterinarian;

(D) Operate X-ray equipment and other diagnostic imaging equipment;

(E) Take electrocardiograms, electroencephalograms, and tracings;

(F) Perform dental prophylaxis, including operating ultrasonic dental instruments pursuant to OAR 875-015-0050.

(G) Perform extractions under the immediate supervision of a licensed veterinarian.

(H) Administer rabies vaccine under the direct supervision of a licensed veterinarian.

(I) Under direct supervision of a veterinarian, inject or implant a permanent identification device.

(J) Under indirect supervision, carry out an Oregon-licensed veterinarians' home care instructions for duties permitted under OAR 875-030-0040. A valid VCPR must exist in order for a CVT to perform duties under indirect supervision.

(3) CVTs may perform other acts not specifically enumerated herein under the supervision of a veterinarian licensed to practice veterinary medicine in the State of Oregon. However, nothing in this section shall be construed to permit a CVT to do the following:

(a) Make any diagnosis;

(b) Prescribe any treatments;

(c) Perform surgery, except as an assistant to the veterinarian;

(d) Sign a rabies vaccination or any other animal health certificate.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.350 - 686.370

Hist.: VE 5, f. & ef. 8-3-76; VME 3-1983, f. & ef. 1-21-83; VME 2-1989, f. 8-29-89, cert. ef. 10-1-89; VME 1-1991, f. & cert. ef. 1-24-91; VME 3-1991, f. & cert. ef. 12-9-91; VME 3-1992, f. & cert. ef. 10-9-92; Renumbered from 875-010-0025; VMEB 1-2002(Temp), f. & cert. ef. 4-23-02 thru 10-20-02; Administrative correction 12-2-02; VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 2-2006, f. & cert. ef. 5-11-06; VMEB 1-2008, f. & cert. ef. 2-11-08; VMEB 11-2008, f. & cert. ef. 7-22-08; VMEB 4-2014, f. & cert. ef. 1-17-14

875-030-0050

Practice Limitations for Individuals not Certified as Veterinary Technicians

(1) Persons who are not licensed by this Board as CVTs may, under the supervision of a licensed veterinarian, perform all acts that a CVT may perform except:

(2) Induce anesthesia, except to place an endotracheal tube to establish an airway in emergencies (OAR 875-030-0040(2)(b)(E));

(3) Operate X-ray equipment unless the person has completed 20 hours training in radiograph safety (2)(b)(G) as required by the Oregon State Health Division (OAR 333);

(4) Perform dental extractions (2)(e)(G);

(5) Administer rabies vaccine (2)(e)(H); and

(6) Inject or implant a permanent identification device(875-030-0040(I)).

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.350 - 686.370

Hist.: VE 5, f. & ef. 8-3-76; VME 3-1983, f. & ef. 1-21-83; VME 2-1989, f. 8-29-89, cert. ef. 10-1-89; VME 1-1991, f. & cert. ef. 1-24-91; VME 3-1991, f. & cert. ef. 12-9-91; VME 3-1992, f. & cert. ef. 10-9-92; Renumbered from 875-010-0025; VMEB 1-2002(Temp), f. & cert. ef. 4-23-02 thru 10-20-02; Administrative correction 12-2-02; VMEB 1-2008, f. & cert. ef. 2-11-08; VMEB 5-2008, f. & cert. ef. 5-12-08; VMEB 12-2008, f. & cert. ef. 7-22-08; VMEB 16-2008, f. & cert. ef. 12-15-08; VMEB 4-2014, f. & cert. ef. 1-17-14

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141-035-0065	2-1-2014	Amend	2-1-2014	150-305.230	1-1-2014	Amend	2-1-2014
141-035-0068	2-1-2014	Amend	2-1-2014	150-305.285	1-1-2014	Amend	2-1-2014
141-040-0020	2-1-2014	Amend	2-1-2014	150-305.655	1-1-2014	Repeal	2-1-2014
141-040-0214	2-1-2014	Amend	2-1-2014	150-305.810	12-26-2013	Amend	2-1-2014
141-045-0010	2-1-2014	Amend	2-1-2014	150-306.135	1-1-2014	Amend	2-1-2014
141-045-0031	2-1-2014	Amend	2-1-2014	150-308.010	1-1-2014	Amend	2-1-2014
141-045-0041	2-1-2014	Amend	2-1-2014	150-308A.724	1-1-2014	Repeal	2-1-2014
141-045-0061	2-1-2014	Amend	2-1-2014	150-309.100(3)-(B)	1-1-2014	Amend	2-1-2014
141-045-0100	2-1-2014	Amend	2-1-2014	150-309.110(1)-(A)	1-1-2014	Amend	2-1-2014
141-089-0640	1-1-2014	Amend	1-1-2014	150-311.223(4)	1-1-2014	Amend	2-1-2014
141-089-0645	1-1-2014	Amend	1-1-2014	150-311.674	1-1-2014	Repeal	2-1-2014
141-089-0820	1-1-2014	Amend	1-1-2014	150-311.689	1-1-2014	Repeal	2-1-2014
141-089-0825	1-1-2014	Amend	1-1-2014	150-314.280(3)	1-1-2014	Amend	2-1-2014
141-089-0830	1-1-2014	Amend	1-1-2014	150-314.380(2)-(B)	1-1-2014	Amend	2-1-2014
141-089-0835	1-1-2014	Amend	1-1-2014	150-314.385(4)	12-26-2013	Amend	2-1-2014
141-145-0000	2-1-2014	Adopt	2-1-2014	150-314.410(4)	1-1-2014	Amend	2-1-2014
141-145-0005	2-1-2014	Adopt	2-1-2014	150-314.415(7)	12-26-2013	Amend	2-1-2014
141-145-0010	2-1-2014	Adopt	2-1-2014	150-314.775	1-1-2014	Amend	2-1-2014
141-145-0015	2-1-2014	Adopt	2-1-2014	150-314.778	1-1-2014	Amend	2-1-2014
141-145-0020	2-1-2014	Adopt	2-1-2014	150-314.HB2071(B)	12-26-2013	Renumber	2-1-2014
141-145-0025	2-1-2014	Adopt	2-1-2014	150-315.068	1-1-2014	Amend	2-1-2014
141-145-0030	2-1-2014	Adopt	2-1-2014	150-315.204-(A)	1-1-2014	Amend	2-1-2014
141-145-0035	2-1-2014	Adopt	2-1-2014	150-315.304(9)	1-1-2014	Amend	2-1-2014
141-145-0040	2-1-2014	Adopt	2-1-2014	150-315.514	12-26-2013	Amend	2-1-2014
141-145-0045	2-1-2014	Adopt	2-1-2014	150-316.014	12-26-2013	Am. & Ren.	2-1-2014
141-145-0050	2-1-2014	Adopt	2-1-2014	150-316.102	1-1-2014	Amend	2-1-2014
141-145-0055	2-1-2014	Adopt	2-1-2014	150-316.127(10)	1-1-2014	Amend	2-1-2014
141-145-0060	2-1-2014	Adopt	2-1-2014	150-316.368	1-1-2014	Amend	2-1-2014
141-145-0065	2-1-2014	Adopt	2-1-2014	150-316.680(1)(c)-(A)	1-1-2014	Repeal	2-1-2014
141-145-0070	2-1-2014	Adopt	2-1-2014	150-316.680(1)(c)-(B)	1-1-2014	Repeal	2-1-2014
141-145-0075	2-1-2014	Adopt	2-1-2014	150-316.693	1-1-2014	Adopt	2-1-2014
141-145-0080	2-1-2014	Adopt	2-1-2014	150-316.789	1-1-2014	Repeal	2-1-2014
141-145-0085	2-1-2014	Adopt	2-1-2014	150-316.791	1-1-2014	Repeal	2-1-2014

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150-317.010(4)	1-1-2014	Amend	2-1-2014	213-017-0009	2-3-2014	Amend	3-1-2014
150-317.067	1-1-2014	Amend	2-1-2014	213-017-0009(T)	2-3-2014	Repeal	3-1-2014
150-457.440(9)	1-1-2014	Amend	2-1-2014	213-018-0012	2-3-2014	Adopt	3-1-2014
160-010-0700	1-1-2014	Adopt	2-1-2014	213-018-0012(T)	2-3-2014	Repeal	3-1-2014
160-010-0700	1-3-2014	Adopt	2-1-2014	213-018-0013	2-3-2014	Adopt	3-1-2014
160-010-0701	1-1-2014	Adopt	2-1-2014	213-018-0013(T)	2-3-2014	Repeal	3-1-2014
160-010-0701	1-3-2014	Adopt	2-1-2014	213-018-0036	2-3-2014	Adopt	3-1-2014
160-010-0710	1-1-2014	Adopt	2-1-2014	213-018-0036(T)	2-3-2014	Repeal	3-1-2014
160-010-0710	1-3-2014	Adopt	2-1-2014	213-019-0008	2-3-2014	Amend	3-1-2014
160-010-0720	1-1-2014	Adopt	2-1-2014	213-019-0008(T)	2-3-2014	Repeal	3-1-2014
160-010-0720	1-3-2014	Adopt	2-1-2014	213-019-0010	2-3-2014	Amend	3-1-2014
161-006-0155	1-1-2014	Amend(T)	2-1-2014	213-019-0012	2-3-2014	Amend	3-1-2014
161-006-0160	1-1-2014	Amend(T)	2-1-2014	213-019-0015	2-3-2014	Amend	3-1-2014
161-025-0060	1-1-2014	Amend(T)	2-1-2014	250-001-0000	1-15-2014	Amend	2-1-2014
161-570-0025	1-1-2014	Amend(T)	2-1-2014	250-001-0005	1-15-2014	Amend	2-1-2014
161-570-0030	1-1-2014	Amend(T)	2-1-2014	250-001-0040	1-15-2014	Adopt	2-1-2014
162-010-0000	2-13-2014	Amend	3-1-2014	250-001-0050	1-15-2014	Adopt	2-1-2014
162-010-0010	2-13-2014	Amend	3-1-2014	250-001-0060	1-15-2014	Adopt	2-1-2014
162-010-0020	2-13-2014	Amend	3-1-2014	250-015-0001	1-15-2014	Amend	2-1-2014
162-010-0030	2-13-2014	Amend	3-1-2014	250-015-0002	1-15-2014	Amend	2-1-2014
162-010-0050	2-13-2014	Amend	3-1-2014	250-015-0005	1-15-2014	Amend	2-1-2014
162-010-0115	2-13-2014	Amend	3-1-2014	250-015-0006	1-15-2014	Amend	2-1-2014
162-010-0120	2-13-2014	Amend	3-1-2014	250-015-0008	1-15-2014	Amend	2-1-2014
162-010-0130	2-13-2014	Amend	3-1-2014	250-015-0010	1-15-2014	Amend	2-1-2014
162-010-0140	2-13-2014	Amend	3-1-2014	250-015-0011	1-15-2014	Repeal	2-1-2014
162-010-0160	2-13-2014	Repeal	3-1-2014	250-015-0015	1-15-2014	Repeal	2-1-2014
162-010-0170	2-13-2014	Repeal	3-1-2014	250-015-0016	1-15-2014	Repeal	2-1-2014
162-010-0190	2-13-2014	Amend	3-1-2014	250-015-0017	1-15-2014	Repeal	2-1-2014
162-010-0200	2-13-2014	Amend	3-1-2014	250-015-0019	1-15-2014	Repeal	2-1-2014
162-010-0230	2-13-2014	Amend	3-1-2014	250-015-0020	1-15-2014	Repeal	2-1-2014
162-010-0260	2-13-2014	Amend	3-1-2014	250-015-0021	1-15-2014	Repeal	2-1-2014
165-001-0050	1-2-2014	Amend	2-1-2014	250-015-0022	1-15-2014	Amend	2-1-2014
165-010-0005	1-2-2014	Amend	2-1-2014	250-015-0023	1-15-2014	Repeal	2-1-2014
165-010-0080	1-2-2014	Repeal	2-1-2014	250-015-0024	1-15-2014	Repeal	2-1-2014
165-012-0005	1-2-2014	Amend	2-1-2014	250-015-0025	1-15-2014	Repeal	2-1-2014
165-012-0240	1-2-2014	Amend	2-1-2014	250-015-0026	1-15-2014	Amend	2-1-2014
165-013-0010	1-2-2014	Amend	2-1-2014	250-015-0027	1-15-2014	Repeal	2-1-2014
165-014-0005	1-2-2014	Amend	2-1-2014	250-015-0028	1-15-2014	Repeal	2-1-2014
165-014-0030	1-7-2014	Amend	2-1-2014	250-015-0029	1-15-2014	Repeal	2-1-2014
165-016-2014	2-13-2014	Adopt(T)	3-1-2014	250-015-0031	1-15-2014	Repeal	2-1-2014
165-020-0025	1-2-2014	Repeal	2-1-2014	250-015-0032	1-15-2014	Repeal	2-1-2014
170-063-0000	1-15-2014	Amend(T)	2-1-2014	250-015-0033	1-15-2014	Repeal	2-1-2014
173-006-0005	12-19-2013	Amend	2-1-2014	250-015-0035	1-15-2014	Adopt	2-1-2014
173-008-0005	12-19-2013	Amend	2-1-2014	250-016-0080	1-15-2014	Amend	2-1-2014
177-075-0040	12-1-2013	Amend	1-1-2014	250-016-0090	1-15-2014	Adopt	2-1-2014
177-075-0040(T)	12-1-2013	Repeal	1-1-2014	250-019-0010	1-15-2014	Repeal	2-1-2014
177-099-0095	1-1-2014	Amend	2-1-2014	250-019-0020	1-15-2014	Repeal	2-1-2014
213-003-0001	2-3-2014	Amend	3-1-2014	250-019-0030	1-15-2014	Repeal	2-1-2014
213-008-0002	2-3-2014	Amend	3-1-2014	250-019-0040	1-15-2014	Repeal	2-1-2014
213-017-0004	2-3-2014	Amend	3-1-2014	250-019-0050	1-15-2014	Repeal	2-1-2014
213-017-0005	2-3-2014	Amend	3-1-2014	250-019-0060	1-15-2014	Repeal	2-1-2014
213-017-0005(T)	2-3-2014	Repeal	3-1-2014	250-019-0070	1-15-2014	Repeal	2-1-2014
213-017-0006	2-3-2014	Amend	3-1-2014	250-019-0080	1-15-2014	Repeal	2-1-2014
213-017-0006(T)	2-3-2014	Repeal	3-1-2014	250-020-0032	1-15-2014	Amend	2-1-2014
213-017-0008	2-3-2014	Amend	3-1-2014	250-020-0385	1-15-2014	Amend	2-1-2014

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255-030-0013	11-27-2013	Amend	1-1-2014	291-097-0231	1-17-2014	Adopt(T)	3-1-2014
255-030-0021	11-27-2013	Amend	1-1-2014	291-104-0111	2-12-2014	Amend(T)	3-1-2014
255-030-0023	11-27-2013	Amend	1-1-2014	291-104-0116	2-12-2014	Amend(T)	3-1-2014
255-030-0024	11-27-2013	Amend	1-1-2014	291-104-0125	2-12-2014	Amend(T)	3-1-2014
255-030-0025	11-27-2013	Amend	1-1-2014	291-104-0135	2-12-2014	Amend(T)	3-1-2014
255-030-0026	11-27-2013	Amend	1-1-2014	291-104-0140	2-12-2014	Amend(T)	3-1-2014
255-030-0027	11-27-2013	Amend	1-1-2014	291-109-0125	12-13-2013	Suspend	1-1-2014
255-030-0032	11-27-2013	Amend	1-1-2014	291-109-0125	1-17-2014	Suspend	3-1-2014
255-030-0035	11-27-2013	Amend	1-1-2014	291-109-0180	12-13-2013	Amend(T)	1-1-2014
255-030-0040	11-27-2013	Amend	1-1-2014	291-109-0180	1-17-2014	Amend(T)	3-1-2014
255-030-0046	11-27-2013	Adopt	1-1-2014	291-109-0200	12-13-2013	Adopt(T)	1-1-2014
255-030-0055	11-27-2013	Amend	1-1-2014	291-109-0200	1-17-2014	Adopt(T)	3-1-2014
255-060-0012	1-17-2014	Amend(T)	3-1-2014	309-011-0070	1-28-2014	Repeal	3-1-2014
255-062-0016	11-27-2013	Amend	1-1-2014	309-011-0075	1-28-2014	Repeal	3-1-2014
255-075-0079	2-14-2014	Amend(T)	3-1-2014	309-011-0080	1-28-2014	Repeal	3-1-2014
259-008-0005	1-2-2014	Amend	2-1-2014	309-011-0085	1-28-2014	Repeal	3-1-2014
259-008-0005	1-29-2014	Amend	3-1-2014	309-011-0090	1-28-2014	Repeal	3-1-2014
259-008-0010	1-2-2014	Amend	2-1-2014	309-011-0095	1-28-2014	Repeal	3-1-2014
259-008-0020	1-2-2014	Amend	2-1-2014	309-012-0130	12-20-2013	Amend(T)	2-1-2014
259-008-0020	1-29-2014	Amend	3-1-2014	309-012-0150	12-20-2013	Amend(T)	2-1-2014
259-008-0025	1-2-2014	Amend	2-1-2014	309-012-0180	12-20-2013	Amend(T)	2-1-2014
259-008-0025	1-2-2014	Amend	2-1-2014	309-012-0190	12-20-2013	Amend(T)	2-1-2014
259-008-0060	1-2-2014	Amend	2-1-2014	309-012-0230	12-20-2013	Adopt(T)	2-1-2014
259-008-0067	1-29-2014	Amend	3-1-2014	309-018-0100	2-3-2014	Adopt	3-1-2014
259-008-0069	1-2-2014	Amend	2-1-2014	309-018-0100(T)	2-3-2014	Repeal	3-1-2014
259-008-0070	1-2-2014	Amend	2-1-2014	309-018-0105	2-3-2014	Adopt	3-1-2014
259-008-0070	1-28-2014	Amend	3-1-2014	309-018-0105(T)	2-3-2014	Repeal	3-1-2014
259-008-0075	1-2-2014	Amend	2-1-2014	309-018-0110	2-3-2014	Adopt	3-1-2014
259-008-0080	1-2-2014	Amend	2-1-2014	309-018-0110(T)	2-3-2014	Repeal	3-1-2014
259-008-0080	1-29-2014	Amend	3-1-2014	309-018-0115	2-3-2014	Adopt	3-1-2014
259-008-0090	1-2-2014	Amend	2-1-2014	309-018-0115(T)	2-3-2014	Repeal	3-1-2014
259-008-0090	1-29-2014	Amend	3-1-2014	309-018-0120	2-3-2014	Adopt	3-1-2014
259-008-0100	1-2-2014	Amend	2-1-2014	309-018-0120(T)	2-3-2014	Repeal	3-1-2014
259-009-0005	2-6-2014	Amend	3-1-2014	309-018-0125	2-3-2014	Adopt	3-1-2014
259-009-0062	2-6-2014	Amend	3-1-2014	309-018-0125(T)	2-3-2014	Repeal	3-1-2014
259-009-0070	1-28-2014	Amend	3-1-2014	309-018-0130	2-3-2014	Adopt	3-1-2014
259-013-0000	1-2-2014	Amend	2-1-2014	309-018-0130(T)	2-3-2014	Repeal	3-1-2014
259-013-0220	1-2-2014	Amend	2-1-2014	309-018-0135	2-3-2014	Adopt	3-1-2014
259-013-0230	1-2-2014	Amend	2-1-2014	309-018-0135(T)	2-3-2014	Repeal	3-1-2014
259-060-0300	1-2-2014	Amend	2-1-2014	309-018-0140	2-3-2014	Adopt	3-1-2014
259-060-0300	1-28-2014	Amend	3-1-2014	309-018-0140(T)	2-3-2014	Repeal	3-1-2014
274-015-0010	1-1-2014	Amend	2-1-2014	309-018-0145	2-3-2014	Adopt	3-1-2014
274-015-0010(T)	1-1-2014	Repeal	2-1-2014	309-018-0145(T)	2-3-2014	Repeal	3-1-2014
291-014-0100	12-13-2013	Amend	1-1-2014	309-018-0150	2-3-2014	Adopt	3-1-2014
291-014-0100	1-14-2014	Amend	2-1-2014	309-018-0150(T)	2-3-2014	Repeal	3-1-2014
291-014-0110	12-13-2013	Amend	1-1-2014	309-018-0155	2-3-2014	Adopt	3-1-2014
291-014-0110	1-14-2014	Amend	2-1-2014	309-018-0155(T)	2-3-2014	Repeal	3-1-2014
291-014-0120	12-13-2013	Amend	1-1-2014	309-018-0160	2-3-2014	Adopt	3-1-2014
291-014-0120	1-14-2014	Amend	2-1-2014	309-018-0160(T)	2-3-2014	Repeal	3-1-2014
291-041-0018	12-13-2013	Adopt(T)	1-1-2014	309-018-0165	2-3-2014	Adopt	3-1-2014
291-041-0018	1-17-2014	Adopt(T)	3-1-2014	309-018-0165(T)	2-3-2014	Repeal	3-1-2014
291-041-0020	12-13-2013	Amend(T)	1-1-2014	309-018-0170	2-3-2014	Adopt	3-1-2014
291-041-0020	1-17-2014	Amend(T)	3-1-2014	309-018-0170(T)	2-3-2014	Repeal	3-1-2014
291-077-0035	12-1-2013	Amend	1-1-2014	309-018-0175	2-3-2014	Adopt	3-1-2014
291-077-0035	1-14-2014	Amend	2-1-2014	309-018-0175(T)	2-3-2014	Repeal	3-1-2014

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309-022-0215	2-3-2014	Adopt	3-1-2014	330-092-0035	1-1-2014	Amend	2-1-2014
309-022-0215(T)	2-3-2014	Repeal	3-1-2014	330-092-0040	1-1-2014	Amend	2-1-2014
309-022-0220	2-3-2014	Adopt	3-1-2014	330-092-0045	1-1-2014	Amend	2-1-2014
309-022-0220(T)	2-3-2014	Repeal	3-1-2014	330-092-0050	1-1-2014	Amend	2-1-2014
309-022-0225	2-3-2014	Adopt	3-1-2014	330-092-0055	1-1-2014	Amend	2-1-2014
309-022-0225(T)	2-3-2014	Repeal	3-1-2014	330-092-0060	1-1-2014	Repeal	2-1-2014
309-022-0230	2-3-2014	Adopt	3-1-2014	330-092-0065	1-1-2014	Repeal	2-1-2014
309-022-0230(T)	2-3-2014	Repeal	3-1-2014	330-092-0070	1-1-2014	Amend	2-1-2014
309-032-1500	2-3-2014	Repeal	3-1-2014	330-110-0010	12-12-2013	Amend	1-1-2014
309-032-1505	2-3-2014	Repeal	3-1-2014	330-110-0040	12-12-2013	Amend	1-1-2014
309-032-1510	2-3-2014	Repeal	3-1-2014	330-110-0040(T)	12-12-2013	Repeal	1-1-2014
309-032-1515	2-3-2014	Repeal	3-1-2014	330-110-0060	12-12-2013	Adopt	1-1-2014
309-032-1520	2-3-2014	Repeal	3-1-2014	330-135-0010	12-23-2013	Amend	2-1-2014
309-032-1525	2-3-2014	Repeal	3-1-2014	330-135-0015	12-23-2013	Amend	2-1-2014
309-032-1530	2-3-2014	Repeal	3-1-2014	330-135-0018	12-23-2013	Amend	2-1-2014
309-032-1535	2-3-2014	Repeal	3-1-2014	330-135-0020	12-23-2013	Amend	2-1-2014
309-032-1540	2-3-2014	Repeal	3-1-2014	330-135-0025	12-23-2013	Amend	2-1-2014
309-032-1545	2-3-2014	Repeal	3-1-2014	330-135-0030	12-23-2013	Amend	2-1-2014
309-032-1550	2-3-2014	Repeal	3-1-2014	330-135-0035	12-23-2013	Amend	2-1-2014
309-032-1555	2-3-2014	Repeal	3-1-2014	330-135-0040	12-23-2013	Amend	2-1-2014
309-032-1560	2-3-2014	Repeal	3-1-2014	330-135-0045	12-23-2013	Amend	2-1-2014
309-032-1565	2-3-2014	Repeal	3-1-2014	330-135-0047	12-23-2013	Repeal	2-1-2014
309-034-0400	2-3-2014	Repeal	3-1-2014	330-135-0048	12-23-2013	Am. & Ren.	2-1-2014
309-034-0410	2-3-2014	Repeal	3-1-2014	330-135-0050	12-23-2013	Amend	2-1-2014
309-034-0420	2-3-2014	Repeal	3-1-2014	330-135-0055	12-23-2013	Amend	2-1-2014
309-034-0430	2-3-2014	Repeal	3-1-2014	330-135-0060	12-23-2013	Adopt	2-1-2014
309-034-0440	2-3-2014	Repeal	3-1-2014	330-160-0015	2-10-2014	Amend	3-1-2014
309-034-0450	2-3-2014	Repeal	3-1-2014	330-160-0020	2-10-2014	Amend	3-1-2014
309-034-0460	2-3-2014	Repeal	3-1-2014	330-160-0025	2-10-2014	Amend	3-1-2014
309-034-0470	2-3-2014	Repeal	3-1-2014	330-160-0030	2-10-2014	Amend	3-1-2014
309-034-0480	2-3-2014	Repeal	3-1-2014	330-160-0035	2-10-2014	Adopt	3-1-2014
309-034-0490	2-3-2014	Repeal	3-1-2014	330-160-0037	2-10-2014	Adopt	3-1-2014
309-034-0500	2-3-2014	Repeal	3-1-2014	330-160-0038	2-10-2014	Adopt	3-1-2014
309-039-0500	12-20-2013	Amend(T)	2-1-2014	330-160-0040	2-10-2014	Amend	3-1-2014
309-039-0510	12-20-2013	Amend(T)	2-1-2014	330-160-0050	2-10-2014	Amend	3-1-2014
309-039-0520	12-20-2013	Amend(T)	2-1-2014	330-160-0060	2-10-2014	Adopt	3-1-2014
309-039-0530	12-20-2013	Amend(T)	2-1-2014	330-160-0070	2-10-2014	Adopt	3-1-2014
309-039-0540	12-20-2013	Amend(T)	2-1-2014	330-170-0010	1-1-2014	Amend	2-1-2014
309-039-0570	12-20-2013	Amend(T)	2-1-2014	330-170-0020	1-1-2014	Amend	2-1-2014
309-100-0000	1-28-2014	Repeal	3-1-2014	330-170-0030	1-1-2014	Amend	2-1-2014
330-070-0014	1-1-2014	Amend	2-1-2014	330-170-0040	1-1-2014	Amend	2-1-2014
330-070-0019	1-1-2014	Repeal	2-1-2014	330-170-0050	1-1-2014	Amend	2-1-2014
330-070-0020	1-1-2014	Amend	2-1-2014	330-170-0060	1-1-2014	Amend	2-1-2014
330-070-0021	1-1-2014	Amend	2-1-2014	331-440-0000	2-1-2014	Amend	2-1-2014
330-070-0022	1-1-2014	Amend	2-1-2014	331-710-0050	1-1-2014	Amend	2-1-2014
330-070-0025	1-1-2014	Amend	2-1-2014	331-710-0060	1-1-2014	Amend	2-1-2014
330-070-0026	1-1-2014	Amend	2-1-2014	331-710-0070	1-1-2014	Amend	2-1-2014
330-070-0029	1-1-2014	Amend	2-1-2014	331-710-0080	1-1-2014	Amend	2-1-2014
330-070-0064	1-1-2014	Amend	2-1-2014	331-710-0090	1-1-2014	Amend	2-1-2014
330-070-0073	1-1-2014	Amend	2-1-2014	331-710-0100	1-1-2014	Amend	2-1-2014
330-092-0005	1-1-2014	Amend	2-1-2014	331-710-0110	1-1-2014	Amend	2-1-2014
330-092-0010	1-1-2014	Amend	2-1-2014	331-720-0010	1-1-2014	Amend	2-1-2014
330-092-0015	1-1-2014	Amend	2-1-2014	331-720-0015	1-1-2014	Amend	2-1-2014
330-092-0020	1-1-2014	Amend	2-1-2014	331-720-0020	1-1-2014	Amend	2-1-2014
330-092-0025	1-1-2014	Amend	2-1-2014	331-810-0055	1-17-2014	Amend(T)	3-1-2014

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331-900-0015	1-1-2014	Amend	2-1-2014	333-008-1150	1-15-2014	Adopt(T)	2-1-2014
331-900-0020	1-1-2014	Amend	2-1-2014	333-008-1160	1-15-2014	Adopt(T)	2-1-2014
331-900-0040	1-1-2014	Amend	2-1-2014	333-008-1170	1-15-2014	Adopt(T)	2-1-2014
331-900-0050	1-1-2014	Amend	2-1-2014	333-008-1180	1-15-2014	Adopt(T)	2-1-2014
331-900-0077	1-1-2014	Adopt	2-1-2014	333-008-1190	1-15-2014	Adopt(T)	2-1-2014
331-900-0085	1-1-2014	Amend	2-1-2014	333-008-1200	1-15-2014	Adopt(T)	2-1-2014
331-900-0090	1-1-2014	Amend	2-1-2014	333-008-1210	1-15-2014	Adopt(T)	2-1-2014
331-900-0095	1-1-2014	Amend	2-1-2014	333-008-1220	1-15-2014	Adopt(T)	2-1-2014
331-900-0097	1-1-2014	Amend	2-1-2014	333-008-1230	1-15-2014	Adopt(T)	2-1-2014
331-900-0098	1-1-2014	Amend	2-1-2014	333-008-1240	1-15-2014	Adopt(T)	2-1-2014
331-900-0099	1-1-2014	Amend	2-1-2014	333-008-1250	1-15-2014	Adopt(T)	2-1-2014
331-900-0115	1-1-2014	Amend	2-1-2014	333-008-1260	1-15-2014	Adopt(T)	2-1-2014
331-905-0020	1-1-2014	Amend	2-1-2014	333-008-1270	1-15-2014	Adopt(T)	2-1-2014
331-905-0030	1-1-2014	Amend	2-1-2014	333-008-1280	1-15-2014	Adopt(T)	2-1-2014
331-905-0052	1-1-2014	Amend	2-1-2014	333-008-1290	1-15-2014	Adopt(T)	2-1-2014
331-905-0058	1-1-2014	Amend	2-1-2014	333-011-0006	1-1-2014	Repeal	2-1-2014
331-905-0095	1-1-2014	Amend	2-1-2014	333-011-0011	1-1-2014	Repeal	2-1-2014
331-910-0005	1-1-2014	Amend	2-1-2014	333-011-0016	1-1-2014	Repeal	2-1-2014
331-910-0010	1-1-2014	Amend	2-1-2014	333-011-0021	1-1-2014	Repeal	2-1-2014
331-910-0055	1-1-2014	Amend	2-1-2014	333-011-0043	1-1-2014	Repeal	2-1-2014
331-910-0060	1-1-2014	Amend	2-1-2014	333-011-0047	1-1-2014	Am. & Ren.	2-1-2014
331-915-0020	1-1-2014	Amend	2-1-2014	333-011-0048	1-1-2014	Repeal	2-1-2014
331-915-0055	1-1-2014	Amend	2-1-2014	333-011-0061	1-1-2014	Repeal	2-1-2014
331-915-0060	1-1-2014	Amend	2-1-2014	333-011-0067	1-1-2014	Repeal	2-1-2014
331-915-0065	1-1-2014	Amend	2-1-2014	333-011-0072	1-1-2014	Repeal	2-1-2014
331-915-0070	1-1-2014	Amend	2-1-2014	333-011-0073	1-1-2014	Repeal	2-1-2014
331-925-0050	1-1-2014	Amend	2-1-2014	333-011-0076	1-1-2014	Am. & Ren.	2-1-2014
331-940-0000	1-1-2014	Amend	2-1-2014	333-011-0096	1-1-2014	Repeal	2-1-2014
331-950-0040	1-1-2014	Amend	2-1-2014	333-011-0101	1-1-2014	Am. & Ren.	2-1-2014
332-020-0010	1-1-2014	Amend	2-1-2014	333-011-0106	1-1-2014	Am. & Ren.	2-1-2014
332-020-0015	1-1-2014	Amend	2-1-2014	333-011-0110	1-1-2014	Am. & Ren.	2-1-2014
333-008-0010	1-13-2014	Amend	2-1-2014	333-011-0116	1-1-2014	Repeal	2-1-2014
333-008-0010	1-15-2014	Amend(T)	2-1-2014	333-011-0155	1-1-2014	Repeal	2-1-2014
333-008-0020	1-13-2014	Amend	2-1-2014	333-011-0200	1-1-2014	Am. & Ren.	2-1-2014
333-008-0020	1-15-2014	Amend(T)	2-1-2014	333-011-0205	1-1-2014	Adopt	2-1-2014
333-008-0020(T)	1-13-2014	Repeal	2-1-2014	333-011-0210	1-1-2014	Adopt	2-1-2014
333-008-0025	1-15-2014	Amend(T)	2-1-2014	333-011-0215	1-1-2014	Adopt	2-1-2014
333-008-0045	1-13-2014	Amend	2-1-2014	333-011-0220	1-1-2014	Adopt	2-1-2014
333-008-0045	1-15-2014	Amend(T)	2-1-2014	333-011-0225	1-1-2014	Adopt	2-1-2014
333-008-0050	1-15-2014	Amend(T)	2-1-2014	333-011-0230	1-1-2014	Adopt	2-1-2014
333-008-0120	1-15-2014	Amend(T)	2-1-2014	333-011-0235	1-1-2014	Adopt	2-1-2014
333-008-1000	1-15-2014	Adopt(T)	2-1-2014	333-011-0240	1-1-2014	Adopt	2-1-2014
333-008-1010	1-15-2014	Adopt(T)	2-1-2014	333-011-0245	1-1-2014	Adopt	2-1-2014
333-008-1020	1-15-2014	Adopt(T)	2-1-2014	333-011-0250	1-1-2014	Adopt	2-1-2014
333-008-1030	1-15-2014	Adopt(T)	2-1-2014	333-011-0255	1-1-2014	Adopt	2-1-2014
333-008-1040	1-15-2014	Adopt(T)	2-1-2014	333-011-0260	1-1-2014	Adopt	2-1-2014
333-008-1050	1-15-2014	Adopt(T)	2-1-2014	333-011-0265	1-1-2014	Adopt	2-1-2014
333-008-1060	1-15-2014	Adopt(T)	2-1-2014	333-011-0270	1-1-2014	Adopt	2-1-2014
333-008-1070	1-15-2014	Adopt(T)	2-1-2014	333-011-0280	1-1-2014	Adopt	2-1-2014
333-008-1080	1-15-2014	Adopt(T)	2-1-2014	333-011-0285	1-1-2014	Adopt	2-1-2014
333-008-1090	1-15-2014	Adopt(T)	2-1-2014	333-011-0300	1-1-2014	Adopt	2-1-2014
333-008-1100	1-15-2014	Adopt(T)	2-1-2014	333-011-0305	1-1-2014	Adopt	2-1-2014
333-008-1110	1-15-2014	Adopt(T)	2-1-2014	333-011-0310	1-1-2014	Adopt	2-1-2014
333-008-1120	1-15-2014	Adopt(T)	2-1-2014	333-011-0320	1-1-2014	Adopt	2-1-2014
333-008-1130	1-15-2014	Adopt(T)	2-1-2014	333-011-0325	1-1-2014	Adopt	2-1-2014

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333-017-0000	1-1-2014	Amend	2-1-2014	333-081-0025	2-1-2014	Adopt	3-1-2014
333-018-0005	1-1-2014	Amend	2-1-2014	333-081-0030	2-1-2014	Adopt	3-1-2014
333-018-0010	1-1-2014	Amend	2-1-2014	333-081-0035	2-1-2014	Adopt	3-1-2014
333-018-0015	1-1-2014	Amend	2-1-2014	333-081-0040	2-1-2014	Adopt	3-1-2014
333-018-0018	1-1-2014	Amend	2-1-2014	333-081-0045	2-1-2014	Adopt	3-1-2014
333-018-0020	1-1-2014	Amend	2-1-2014	333-081-0050	2-1-2014	Adopt	3-1-2014
333-018-0035	1-1-2014	Amend	2-1-2014	333-081-0055	2-1-2014	Adopt	3-1-2014
333-019-0010	1-1-2014	Amend	2-1-2014	333-081-0060	2-1-2014	Adopt	3-1-2014
333-019-0014	1-1-2014	Amend	2-1-2014	333-081-0065	2-1-2014	Adopt	3-1-2014
333-019-0031	1-1-2014	Amend	2-1-2014	333-081-0070	2-1-2014	Adopt	3-1-2014
333-019-0046	1-1-2014	Repeal	2-1-2014	333-081-0075	2-1-2014	Adopt	3-1-2014
333-019-0052	1-1-2014	Adopt	2-1-2014	333-081-0080	2-1-2014	Adopt	3-1-2014
333-024-0240	1-30-2014	Amend	3-1-2014	333-081-0085	2-1-2014	Adopt	3-1-2014
333-024-0241	1-30-2014	Repeal	3-1-2014	333-081-0090	2-1-2014	Adopt	3-1-2014
333-028-0200	1-1-2014	Adopt	2-1-2014	333-106-0735	1-1-2014	Adopt	2-1-2014
333-028-0210	1-1-2014	Adopt	2-1-2014	333-116-0660	1-1-2014	Amend	2-1-2014
333-028-0220	1-1-2014	Adopt	2-1-2014	333-116-0680	1-1-2014	Amend	2-1-2014
333-028-0230	1-1-2014	Adopt	2-1-2014	333-116-0683	1-1-2014	Amend	2-1-2014
333-028-0240	1-1-2014	Adopt	2-1-2014	333-116-0687	1-1-2014	Amend	2-1-2014
333-028-0250	1-1-2014	Adopt	2-1-2014	333-116-0690	1-1-2014	Amend	2-1-2014
333-050-0010	3-1-2014	Amend	3-1-2014	333-116-0700	1-1-2014	Amend	2-1-2014
333-050-0020	3-1-2014	Amend	3-1-2014	333-116-0715	1-1-2014	Amend	2-1-2014
333-050-0040	3-1-2014	Amend	3-1-2014	333-118-0040	1-1-2014	Amend	2-1-2014
333-050-0050	3-1-2014	Amend	3-1-2014	333-119-0010	1-1-2014	Amend	2-1-2014
333-050-0060	3-1-2014	Amend	3-1-2014	333-119-0090	1-1-2014	Amend	2-1-2014
333-050-0070	3-1-2014	Amend	3-1-2014	333-119-0110	1-1-2014	Amend	2-1-2014
333-050-0080	3-1-2014	Amend	3-1-2014	333-520-0060	1-1-2014	Amend(T)	2-1-2014
333-050-0100	3-1-2014	Amend	3-1-2014	334-010-0005	1-1-2014	Amend	1-1-2014
333-050-0110	3-1-2014	Amend	3-1-2014	334-010-0006	1-1-2014	Adopt	1-1-2014
333-050-0120	3-1-2014	Amend	3-1-2014	334-010-0010	1-1-2014	Amend	1-1-2014
333-050-0130	3-1-2014	Amend	3-1-2014	334-010-0033	1-1-2014	Amend	1-1-2014
333-050-0140	3-1-2014	Amend	3-1-2014	334-010-0050	1-1-2014	Amend	1-1-2014
333-052-0040	1-30-2014	Amend	3-1-2014	334-020-0005	1-1-2014	Amend	1-1-2014
333-052-0043	1-30-2014	Amend	3-1-2014	334-040-0010	1-1-2014	Amend	1-1-2014
333-052-0044	1-30-2014	Amend	3-1-2014	340-011-0005	1-6-2014	Amend	2-1-2014
333-052-0120	1-30-2014	Amend	3-1-2014	340-011-0010	1-6-2014	Amend	2-1-2014
333-053-0000	1-30-2014	Adopt	3-1-2014	340-011-0024	1-6-2014	Amend	2-1-2014
333-054-0052	1-30-2014	Adopt	3-1-2014	340-011-0029	1-6-2014	Amend	2-1-2014
333-055-0100	11-19-2013	Adopt	1-1-2014	340-011-0046	1-6-2014	Amend	2-1-2014
333-055-0100(T)	11-19-2013	Repeal	1-1-2014	340-011-0053	1-6-2014	Amend	2-1-2014
333-055-0105	11-19-2013	Adopt	1-1-2014	340-011-0061	1-6-2014	Amend	2-1-2014
333-055-0105(T)	11-19-2013	Repeal	1-1-2014	340-011-0310	1-6-2014	Amend	2-1-2014
333-055-0110	11-19-2013	Adopt	1-1-2014	340-011-0330	1-6-2014	Amend	2-1-2014
333-055-0110(T)	11-19-2013	Repeal	1-1-2014	340-011-0340	1-6-2014	Amend	2-1-2014
333-055-0115	11-19-2013	Adopt	1-1-2014	340-011-0360	1-6-2014	Amend	2-1-2014
333-056-0020	1-1-2014	Amend	2-1-2014	340-011-0370	1-6-2014	Amend	2-1-2014
333-056-0030	1-1-2014	Amend	2-1-2014	340-011-0380	1-6-2014	Amend	2-1-2014
333-056-0040	1-1-2014	Amend	2-1-2014	340-011-0390	1-6-2014	Amend	2-1-2014
333-056-0045	1-1-2014	Adopt	2-1-2014	340-011-0500	1-6-2014	Amend	2-1-2014
333-056-0050	1-1-2014	Amend	2-1-2014	340-011-0510	1-6-2014	Amend	2-1-2014
333-076-0670	1-1-2014	Amend(T)	2-1-2014	340-011-0515	1-6-2014	Amend	2-1-2014
333-081-0000	2-1-2014	Adopt	3-1-2014	340-011-0520	1-6-2014	Amend	2-1-2014
333-081-0005	2-1-2014	Adopt	3-1-2014	340-011-0525	1-6-2014	Amend	2-1-2014
333-081-0010	2-1-2014	Adopt	3-1-2014	340-011-0530	1-6-2014	Amend	2-1-2014
333-081-0015	2-1-2014	Adopt	3-1-2014	340-011-0535	1-6-2014	Amend	2-1-2014

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340-011-0545	1-6-2014	Amend	2-1-2014	340-071-0130	1-2-2014	Amend	2-1-2014
340-011-0550	1-6-2014	Amend	2-1-2014	340-071-0131	1-2-2014	Repeal	2-1-2014
340-011-0555	1-6-2014	Amend	2-1-2014	340-071-0135	1-2-2014	Amend	2-1-2014
340-011-0565	1-6-2014	Amend	2-1-2014	340-071-0140	1-2-2014	Amend	2-1-2014
340-011-0570	1-6-2014	Amend	2-1-2014	340-071-0150	1-2-2014	Amend	2-1-2014
340-011-0573	1-6-2014	Amend	2-1-2014	340-071-0155	1-2-2014	Amend	2-1-2014
340-011-0575	1-6-2014	Amend	2-1-2014	340-071-0160	1-2-2014	Amend	2-1-2014
340-011-0580	1-6-2014	Amend	2-1-2014	340-071-0162	1-2-2014	Amend	2-1-2014
340-011-0585	1-6-2014	Amend	2-1-2014	340-071-0165	1-2-2014	Amend	2-1-2014
340-011-0605	1-6-2014	Repeal	2-1-2014	340-071-0170	1-2-2014	Amend	2-1-2014
340-012-0026	1-6-2014	Amend	2-1-2014	340-071-0205	1-2-2014	Amend	2-1-2014
340-012-0027	1-6-2014	Repeal	2-1-2014	340-071-0215	1-2-2014	Amend	2-1-2014
340-012-0028	1-6-2014	Amend	2-1-2014	340-071-0220	1-2-2014	Amend	2-1-2014
340-012-0030	1-6-2014	Amend	2-1-2014	340-071-0260	1-2-2014	Amend	2-1-2014
340-012-0038	1-6-2014	Amend	2-1-2014	340-071-0265	1-2-2014	Amend	2-1-2014
340-012-0041	1-6-2014	Amend	2-1-2014	340-071-0270	1-2-2014	Repeal	2-1-2014
340-012-0045	1-6-2014	Amend	2-1-2014	340-071-0275	1-2-2014	Amend	2-1-2014
340-012-0053	1-6-2014	Amend	2-1-2014	340-071-0290	1-2-2014	Amend	2-1-2014
340-012-0054	1-6-2014	Amend	2-1-2014	340-071-0295	1-2-2014	Amend	2-1-2014
340-012-0055	1-6-2014	Amend	2-1-2014	340-071-0302	1-2-2014	Amend	2-1-2014
340-012-0060	1-6-2014	Amend	2-1-2014	340-071-0325	1-2-2014	Amend	2-1-2014
340-012-0065	1-6-2014	Amend	2-1-2014	340-071-0335	1-2-2014	Amend	2-1-2014
340-012-0066	1-6-2014	Amend	2-1-2014	340-071-0340	1-2-2014	Amend	2-1-2014
340-012-0067	1-6-2014	Amend	2-1-2014	340-071-0345	1-2-2014	Amend	2-1-2014
340-012-0068	1-6-2014	Amend	2-1-2014	340-071-0360	1-2-2014	Amend	2-1-2014
340-012-0071	1-6-2014	Amend	2-1-2014	340-071-0400	1-2-2014	Amend	2-1-2014
340-012-0072	1-6-2014	Amend	2-1-2014	340-071-0415	1-2-2014	Amend	2-1-2014
340-012-0073	1-6-2014	Amend	2-1-2014	340-071-0420	1-2-2014	Amend	2-1-2014
340-012-0074	1-6-2014	Amend	2-1-2014	340-071-0425	1-2-2014	Amend	2-1-2014
340-012-0079	1-6-2014	Amend	2-1-2014	340-071-0435	1-2-2014	Amend	2-1-2014
340-012-0081	1-6-2014	Amend	2-1-2014	340-071-0445	1-2-2014	Amend	2-1-2014
340-012-0082	1-6-2014	Amend	2-1-2014	340-071-0520	1-2-2014	Amend	2-1-2014
340-012-0083	1-6-2014	Amend	2-1-2014	340-071-0600	1-2-2014	Amend	2-1-2014
340-012-0097	1-6-2014	Amend	2-1-2014	340-071-0650	1-2-2014	Amend	2-1-2014
340-012-0130	1-6-2014	Amend	2-1-2014	340-200-0040	12-19-2013	Amend	2-1-2014
340-012-0135	1-6-2014	Amend	2-1-2014	340-200-0040	1-6-2014	Amend	2-1-2014
340-012-0140	1-6-2014	Amend	2-1-2014	340-253-0040	1-1-2014	Amend(T)	2-1-2014
340-012-0145	1-6-2014	Amend	2-1-2014	340-253-0060	1-1-2014	Amend(T)	2-1-2014
340-012-0150	1-6-2014	Amend	2-1-2014	340-253-0100	1-1-2014	Amend(T)	2-1-2014
340-012-0155	1-6-2014	Amend	2-1-2014	340-253-0250	1-1-2014	Amend(T)	2-1-2014
340-012-0160	1-6-2014	Amend	2-1-2014	340-253-0310	1-1-2014	Amend(T)	2-1-2014
340-012-0162	1-6-2014	Amend	2-1-2014	340-253-0320	1-1-2014	Amend(T)	2-1-2014
340-012-0165	1-6-2014	Amend	2-1-2014	340-253-0340	1-1-2014	Amend(T)	2-1-2014
340-012-0170	1-6-2014	Amend	2-1-2014	340-253-0400	1-1-2014	Amend(T)	2-1-2014
340-018-0030	1-2-2014	Amend	2-1-2014	340-253-0500	1-1-2014	Amend(T)	2-1-2014
340-040-0020	12-23-2013	Amend	2-1-2014	340-253-0600	1-1-2014	Amend(T)	2-1-2014
340-040-0080	12-23-2013	Amend	2-1-2014	340-253-0630	1-1-2014	Amend(T)	2-1-2014
340-041-0009	12-23-2013	Amend	2-1-2014	340-253-0650	1-1-2014	Amend(T)	2-1-2014
340-041-0033	4-18-2014	Amend	2-1-2014	340-253-3000	1-1-2014	Amend(T)	2-1-2014
340-054-0010	2-3-2014	Amend	3-1-2014	340-253-3010	1-1-2014	Amend(T)	2-1-2014
340-054-0011	2-3-2014	Amend	3-1-2014	340-253-3020	1-1-2014	Amend(T)	2-1-2014
340-054-0071	2-3-2014	Adopt	3-1-2014	340-257-0010	12-19-2013	Amend	2-1-2014
340-054-0072	2-3-2014	Adopt	3-1-2014	340-257-0020	12-19-2013	Amend	2-1-2014
340-071-0100	1-2-2014	Amend	2-1-2014	340-257-0030	12-19-2013	Amend	2-1-2014
340-071-0115	1-2-2014	Amend	2-1-2014	340-257-0050	12-19-2013	Amend	2-1-2014

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340-257-0080	12-19-2013	Amend	2-1-2014	410-123-1260	12-23-2013	Amend	1-1-2014
340-257-0090	12-19-2013	Amend	2-1-2014	410-123-1260	1-1-2014	Amend(T)	2-1-2014
340-257-0100	12-19-2013	Amend	2-1-2014	410-123-1540	1-1-2014	Amend(T)	2-1-2014
340-257-0110	12-19-2013	Amend	2-1-2014	410-123-1670	1-1-2014	Suspend	2-1-2014
340-257-0120	12-19-2013	Amend	2-1-2014	410-125-0020	1-1-2014	Amend(T)	2-1-2014
407-025-0010	2-14-2014	Adopt	3-1-2014	410-125-0047	1-1-2014	Suspend	2-1-2014
407-025-0050	2-14-2014	Adopt	3-1-2014	410-125-0080	1-1-2014	Amend(T)	2-1-2014
409-023-0000	1-1-2014	Am. & Ren.	2-1-2014	410-125-0085	1-1-2014	Amend(T)	2-1-2014
409-023-0005	1-1-2014	Am. & Ren.	2-1-2014	410-127-0050	1-1-2014	Suspend	2-1-2014
409-023-0010	1-1-2014	Am. & Ren.	2-1-2014	410-129-0195	1-1-2014	Suspend	2-1-2014
409-023-0012	1-1-2014	Am. & Ren.	2-1-2014	410-130-0015	1-1-2014	Adopt	2-1-2014
409-023-0013	1-1-2014	Am. & Ren.	2-1-2014	410-130-0163	1-1-2014	Suspend	2-1-2014
409-023-0015	1-1-2014	Am. & Ren.	2-1-2014	410-130-0240	1-1-2014	Amend(T)	2-1-2014
409-023-0020	1-1-2014	Am. & Ren.	2-1-2014	410-131-0120	1-1-2014	Amend(T)	2-1-2014
409-023-0025	1-1-2014	Am. & Ren.	2-1-2014	410-132-0055	1-1-2014	Suspend	2-1-2014
409-023-0030	1-1-2014	Am. & Ren.	2-1-2014	410-136-3000	1-1-2014	Amend(T)	2-1-2014
409-023-0035	1-1-2014	Am. & Ren.	2-1-2014	410-136-3020	1-1-2014	Amend(T)	2-1-2014
409-045-0105	1-1-2014	Adopt(T)	2-1-2014	410-136-3060	1-1-2014	Amend(T)	2-1-2014
409-045-0110	1-1-2014	Adopt(T)	2-1-2014	410-136-3140	1-1-2014	Amend(T)	2-1-2014
409-045-0115	1-1-2014	Adopt(T)	2-1-2014	410-136-3220	1-1-2014	Amend(T)	2-1-2014
409-045-0120	1-1-2014	Adopt(T)	2-1-2014	410-136-3240	1-1-2014	Amend(T)	2-1-2014
409-045-0125	1-1-2014	Adopt(T)	2-1-2014	410-138-0000	1-1-2014	Amend(T)	2-1-2014
409-045-0130	1-1-2014	Adopt(T)	2-1-2014	410-138-0007	1-1-2014	Amend(T)	2-1-2014
409-045-0135	1-1-2014	Adopt(T)	2-1-2014	410-138-0009	1-1-2014	Amend(T)	2-1-2014
410-120-0000	12-27-2013	Amend	2-1-2014	410-141-0065	1-31-2014	Adopt	3-1-2014
410-120-0000(T)	12-27-2013	Repeal	2-1-2014	410-141-0080	2-1-2014	Amend(T)	3-1-2014
410-120-0003	1-1-2014	Adopt	2-1-2014	410-141-0520	1-31-2014	Amend	3-1-2014
410-120-0006	2-1-2014	Amend(T)	3-1-2014	410-141-0860	1-1-2014	Amend(T)	2-1-2014
410-120-0006(T)	2-1-2014	Suspend	3-1-2014	410-141-3060	11-29-2013	Amend	1-1-2014
410-120-0030	12-3-2013	Amend	1-1-2014	410-141-3065	1-31-2014	Adopt	3-1-2014
410-120-0030	1-1-2014	Amend(T)	2-1-2014	410-141-3080	11-29-2013	Amend	1-1-2014
410-120-0045	12-27-2013	Amend	2-1-2014	410-141-3080	2-1-2014	Amend(T)	3-1-2014
410-120-0045(T)	12-27-2013	Repeal	2-1-2014	410-141-3220	11-29-2013	Amend	1-1-2014
410-120-1160	12-27-2013	Amend	2-1-2014	410-141-3268	1-1-2014	Amend(T)	2-1-2014
410-120-1160(T)	12-27-2013	Repeal	2-1-2014	410-141-3420	11-29-2013	Amend	1-1-2014
410-120-1200	12-27-2013	Amend	2-1-2014	410-142-0040	1-1-2014	Amend(T)	2-1-2014
410-120-1200(T)	12-27-2013	Repeal	2-1-2014	410-146-0022	1-1-2014	Suspend	2-1-2014
410-120-1210	12-27-2013	Amend	2-1-2014	410-146-0380	1-1-2014	Suspend	2-1-2014
410-120-1210	1-1-2014	Amend(T)	2-1-2014	410-147-0125	1-1-2014	Suspend	2-1-2014
410-120-1210(T)	12-27-2013	Repeal	2-1-2014	410-148-0090	1-1-2014	Suspend	2-1-2014
410-120-1230	1-1-2014	Amend(T)	2-1-2014	410-180-0300	12-3-2013	Adopt	1-1-2014
410-120-1340	12-30-2013	Amend(T)	2-1-2014	410-180-0300(T)	12-3-2013	Repeal	1-1-2014
410-120-1855	12-27-2013	Amend	2-1-2014	410-180-0305	12-3-2013	Adopt	1-1-2014
410-120-1855(T)	12-27-2013	Repeal	2-1-2014	410-180-0305(T)	12-3-2013	Repeal	1-1-2014
410-121-0030	1-1-2014	Amend(T)	2-1-2014	410-180-0310	12-3-2013	Adopt	1-1-2014
410-121-0030	1-10-2014	Amend(T)	2-1-2014	410-180-0310(T)	12-3-2013	Repeal	1-1-2014
410-121-0030(T)	1-10-2014	Suspend	2-1-2014	410-180-0312	12-3-2013	Adopt	1-1-2014
410-121-0040	1-1-2014	Amend(T)	2-1-2014	410-180-0315	12-3-2013	Adopt	1-1-2014
410-121-0111	1-28-2014	Amend	3-1-2014	410-180-0315(T)	12-3-2013	Repeal	1-1-2014
410-121-4005	11-19-2013	Amend	1-1-2014	410-180-0320	12-3-2013	Adopt	1-1-2014
410-121-4010	11-19-2013	Amend	1-1-2014	410-180-0320(T)	12-3-2013	Repeal	1-1-2014
410-121-4020	11-19-2013	Amend	1-1-2014	410-180-0325	1-15-2014	Adopt	2-1-2014
410-122-0055	1-1-2014	Suspend	2-1-2014	410-180-0325(T)	1-15-2014	Repeal	2-1-2014
410-122-0186	2-1-2014	Amend(T)	2-1-2014	410-180-0326	1-15-2014	Adopt	2-1-2014
410-123-1060	1-1-2014	Amend(T)	2-1-2014	410-180-0327	12-3-2013	Adopt	1-1-2014

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410-180-0340	12-3-2013	Adopt	1-1-2014	410-200-0230(T)	1-15-2014	Suspend	2-1-2014
410-180-0340(T)	12-3-2013	Repeal	1-1-2014	410-200-0235	1-15-2014	Adopt(T)	2-1-2014
410-180-0345	12-3-2013	Adopt	1-1-2014	410-200-0235(T)	1-15-2014	Suspend	2-1-2014
410-180-0345(T)	12-3-2013	Repeal	1-1-2014	410-200-0240	1-15-2014	Adopt(T)	2-1-2014
410-180-0350	12-3-2013	Adopt	1-1-2014	410-200-0240(T)	1-15-2014	Suspend	2-1-2014
410-180-0350(T)	12-3-2013	Repeal	1-1-2014	410-200-0305	1-15-2014	Adopt(T)	2-1-2014
410-180-0355	12-3-2013	Adopt	1-1-2014	410-200-0305(T)	1-15-2014	Suspend	2-1-2014
410-180-0355(T)	12-3-2013	Repeal	1-1-2014	410-200-0310	1-15-2014	Adopt(T)	2-1-2014
410-180-0360	12-3-2013	Adopt	1-1-2014	410-200-0310(T)	1-15-2014	Suspend	2-1-2014
410-180-0370	12-3-2013	Adopt	1-1-2014	410-200-0315	1-15-2014	Adopt(T)	2-1-2014
410-180-0370(T)	12-3-2013	Repeal	1-1-2014	410-200-0315(T)	1-15-2014	Suspend	2-1-2014
410-180-0375	12-3-2013	Adopt	1-1-2014	410-200-0400	1-15-2014	Adopt(T)	2-1-2014
410-180-0375(T)	12-3-2013	Repeal	1-1-2014	410-200-0400(T)	1-15-2014	Suspend	2-1-2014
410-180-0380	12-3-2013	Adopt	1-1-2014	410-200-0405	1-15-2014	Adopt(T)	2-1-2014
410-180-0380(T)	12-3-2013	Repeal	1-1-2014	410-200-0405(T)	1-15-2014	Suspend	2-1-2014
410-200-0010	1-15-2014	Adopt(T)	2-1-2014	410-200-0406(T)	1-15-2014	Suspend	2-1-2014
410-200-0010(T)	1-15-2014	Suspend	2-1-2014	410-200-0410	1-15-2014	Adopt(T)	2-1-2014
410-200-0015	1-15-2014	Adopt(T)	2-1-2014	410-200-0410(T)	1-15-2014	Suspend	2-1-2014
410-200-0015(T)	1-15-2014	Suspend	2-1-2014	410-200-0415	1-15-2014	Adopt(T)	2-1-2014
410-200-0100	1-15-2014	Adopt(T)	2-1-2014	410-200-0415(T)	1-15-2014	Suspend	2-1-2014
410-200-0100(T)	1-15-2014	Suspend	2-1-2014	410-200-0420	1-15-2014	Adopt(T)	2-1-2014
410-200-0105	1-15-2014	Adopt(T)	2-1-2014	410-200-0420(T)	1-15-2014	Suspend	2-1-2014
410-200-0105(T)	1-15-2014	Suspend	2-1-2014	410-200-0425	1-15-2014	Adopt(T)	2-1-2014
410-200-0110	1-15-2014	Adopt(T)	2-1-2014	410-200-0425(T)	1-15-2014	Suspend	2-1-2014
410-200-0110(T)	1-15-2014	Suspend	2-1-2014	410-200-0435	1-15-2014	Adopt(T)	2-1-2014
410-200-0111	1-15-2014	Adopt(T)	2-1-2014	410-200-0435(T)	1-15-2014	Suspend	2-1-2014
410-200-0111(T)	1-15-2014	Suspend	2-1-2014	410-200-0440	1-15-2014	Adopt(T)	2-1-2014
410-200-0115	1-15-2014	Adopt(T)	2-1-2014	410-200-0440(T)	1-15-2014	Suspend	2-1-2014
410-200-0115(T)	1-15-2014	Suspend	2-1-2014	410-200-0500	1-15-2014	Adopt(T)	2-1-2014
410-200-0120	1-15-2014	Adopt(T)	2-1-2014	410-200-0500(T)	1-15-2014	Suspend	2-1-2014
410-200-0120(T)	1-15-2014	Suspend	2-1-2014	410-200-0505	1-15-2014	Adopt(T)	2-1-2014
410-200-0125	1-15-2014	Adopt(T)	2-1-2014	410-200-0505(T)	1-15-2014	Suspend	2-1-2014
410-200-0125(T)	1-15-2014	Suspend	2-1-2014	410-200-0510	1-15-2014	Adopt(T)	2-1-2014
410-200-0130	1-15-2014	Adopt(T)	2-1-2014	410-200-0510(T)	1-15-2014	Suspend	2-1-2014
410-200-0130(T)	1-15-2014	Suspend	2-1-2014	410-200-0515(T)	1-15-2014	Suspend	2-1-2014
410-200-0135	1-15-2014	Adopt(T)	2-1-2014	411-001-0100	1-1-2014	Amend	2-1-2014
410-200-0135(T)	1-15-2014	Suspend	2-1-2014	411-001-0110	1-1-2014	Amend	2-1-2014
410-200-0140	1-15-2014	Adopt(T)	2-1-2014	411-001-0118	1-1-2014	Amend	2-1-2014
410-200-0140(T)	1-15-2014	Suspend	2-1-2014	411-001-0120	1-1-2014	Amend	2-1-2014
410-200-0145	1-15-2014	Adopt(T)	2-1-2014	411-001-0510	12-15-2013	Amend	1-1-2014
410-200-0145(T)	1-15-2014	Suspend	2-1-2014	411-001-0510(T)	12-15-2013	Repeal	1-1-2014
410-200-0146	1-15-2014	Adopt(T)	2-1-2014	411-015-0005	12-15-2013	Amend	1-1-2014
410-200-0146(T)	1-15-2014	Suspend	2-1-2014	411-015-0005(T)	12-15-2013	Repeal	1-1-2014
410-200-0200	1-15-2014	Adopt(T)	2-1-2014	411-015-0008	12-15-2013	Amend	1-1-2014
410-200-0200(T)	1-15-2014	Suspend	2-1-2014	411-015-0008(T)	12-15-2013	Repeal	1-1-2014
410-200-0205	1-15-2014	Adopt(T)	2-1-2014	411-015-0015	12-15-2013	Amend	1-1-2014
410-200-0205(T)	1-15-2014	Suspend	2-1-2014	411-015-0015(T)	12-15-2013	Repeal	1-1-2014
410-200-0210	1-15-2014	Adopt(T)	2-1-2014	411-015-0100	12-15-2013	Amend	1-1-2014
410-200-0210(T)	1-15-2014	Suspend	2-1-2014	411-015-0100(T)	12-15-2013	Repeal	1-1-2014
410-200-0215	1-15-2014	Adopt(T)	2-1-2014	411-028-0000	12-15-2013	Adopt	1-1-2014
410-200-0215(T)	1-15-2014	Suspend	2-1-2014	411-028-0000(T)	12-15-2013	Repeal	1-1-2014
410-200-0220	1-15-2014	Adopt(T)	2-1-2014	411-028-0010	12-15-2013	Adopt	1-1-2014
410-200-0220(T)	1-15-2014	Suspend	2-1-2014	411-028-0010(T)	12-15-2013	Repeal	1-1-2014
410-200-0225	1-15-2014	Adopt(T)	2-1-2014	411-028-0020	12-15-2013	Adopt	1-1-2014
410-200-0225(T)	1-15-2014	Suspend	2-1-2014	411-028-0020(T)	12-15-2013	Repeal	1-1-2014

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411-028-0030(T)	12-15-2013	Repeal	1-1-2014	411-200-0040	2-1-2014	Amend	3-1-2014
411-028-0040	12-15-2013	Adopt	1-1-2014	411-300-0100	12-28-2013	Amend	2-1-2014
411-028-0040(T)	12-15-2013	Repeal	1-1-2014	411-300-0110	12-28-2013	Amend	2-1-2014
411-028-0050	12-15-2013	Adopt	1-1-2014	411-300-0110(T)	12-28-2013	Repeal	2-1-2014
411-028-0050(T)	12-15-2013	Repeal	1-1-2014	411-300-0120	12-28-2013	Amend	2-1-2014
411-030-0070	12-15-2013	Amend	1-1-2014	411-300-0120(T)	12-28-2013	Repeal	2-1-2014
411-030-0070(T)	12-15-2013	Repeal	1-1-2014	411-300-0130	12-28-2013	Amend	2-1-2014
411-030-0100	12-15-2013	Amend	1-1-2014	411-300-0130(T)	12-28-2013	Repeal	2-1-2014
411-030-0100(T)	12-15-2013	Repeal	1-1-2014	411-300-0140	12-28-2013	Amend	2-1-2014
411-031-0020	12-15-2013	Amend	1-1-2014	411-300-0140(T)	12-28-2013	Repeal	2-1-2014
411-031-0020(T)	12-15-2013	Repeal	1-1-2014	411-300-0150	12-28-2013	Amend	2-1-2014
411-031-0040	12-15-2013	Amend	1-1-2014	411-300-0150(T)	12-28-2013	Repeal	2-1-2014
411-031-0040(T)	12-15-2013	Repeal	1-1-2014	411-300-0155	12-28-2013	Amend	2-1-2014
411-031-0050	12-15-2013	Amend	1-1-2014	411-300-0170	12-28-2013	Amend	2-1-2014
411-034-0000	12-15-2013	Amend	1-1-2014	411-300-0190	12-28-2013	Amend	2-1-2014
411-034-0000(T)	12-15-2013	Repeal	1-1-2014	411-300-0200	12-28-2013	Amend	2-1-2014
411-034-0010	12-15-2013	Amend	1-1-2014	411-300-0205	12-28-2013	Amend	2-1-2014
411-034-0010(T)	12-15-2013	Repeal	1-1-2014	411-300-0210	12-28-2013	Amend	2-1-2014
411-034-0020	12-15-2013	Amend	1-1-2014	411-300-0220	12-28-2013	Amend	2-1-2014
411-034-0020(T)	12-15-2013	Repeal	1-1-2014	411-308-0010	12-28-2013	Amend	2-1-2014
411-034-0030	12-15-2013	Amend	1-1-2014	411-308-0010(T)	12-28-2013	Repeal	2-1-2014
411-034-0030(T)	12-15-2013	Repeal	1-1-2014	411-308-0020	12-28-2013	Amend	2-1-2014
411-034-0035	12-15-2013	Amend	1-1-2014	411-308-0020(T)	12-28-2013	Repeal	2-1-2014
411-034-0035(T)	12-15-2013	Repeal	1-1-2014	411-308-0030	12-28-2013	Amend	2-1-2014
411-034-0040	12-15-2013	Amend	1-1-2014	411-308-0030(T)	12-28-2013	Repeal	2-1-2014
411-034-0040(T)	12-15-2013	Repeal	1-1-2014	411-308-0040	12-28-2013	Amend	2-1-2014
411-034-0050	12-15-2013	Amend	1-1-2014	411-308-0050	12-28-2013	Amend	2-1-2014
411-034-0050(T)	12-15-2013	Repeal	1-1-2014	411-308-0050(T)	12-28-2013	Repeal	2-1-2014
411-034-0055	12-15-2013	Amend	1-1-2014	411-308-0060	12-28-2013	Amend	2-1-2014
411-034-0055(T)	12-15-2013	Repeal	1-1-2014	411-308-0060(T)	12-28-2013	Repeal	2-1-2014
411-034-0070	12-15-2013	Amend	1-1-2014	411-308-0070	12-28-2013	Amend	2-1-2014
411-034-0070(T)	12-15-2013	Repeal	1-1-2014	411-308-0070(T)	12-28-2013	Repeal	2-1-2014
411-034-0090	12-15-2013	Amend	1-1-2014	411-308-0080	12-28-2013	Amend	2-1-2014
411-034-0090(T)	12-15-2013	Repeal	1-1-2014	411-308-0080(T)	12-28-2013	Repeal	2-1-2014
411-040-0000	12-15-2013	Amend	1-1-2014	411-308-0090	12-28-2013	Amend	2-1-2014
411-040-0000(T)	12-15-2013	Repeal	1-1-2014	411-308-0100	12-28-2013	Amend	2-1-2014
411-045-0010	12-15-2013	Amend	1-1-2014	411-308-0100(T)	12-28-2013	Repeal	2-1-2014
411-045-0010(T)	12-15-2013	Repeal	1-1-2014	411-308-0110	12-28-2013	Amend	2-1-2014
411-045-0050	12-15-2013	Amend	1-1-2014	411-308-0120	12-28-2013	Amend	2-1-2014
411-045-0050(T)	12-15-2013	Repeal	1-1-2014	411-308-0120(T)	12-28-2013	Repeal	2-1-2014
411-048-0150	12-15-2013	Amend	1-1-2014	411-308-0130	12-28-2013	Amend	2-1-2014
411-048-0150(T)	12-15-2013	Repeal	1-1-2014	411-308-0140	12-28-2013	Amend	2-1-2014
411-048-0160	12-15-2013	Amend	1-1-2014	411-308-0150	12-28-2013	Amend	2-1-2014
411-048-0160(T)	12-15-2013	Repeal	1-1-2014	411-320-0010	12-28-2013	Amend	2-1-2014
411-048-0170	12-15-2013	Amend	1-1-2014	411-320-0020	12-28-2013	Amend	2-1-2014
411-048-0170(T)	12-15-2013	Repeal	1-1-2014	411-320-0020(T)	12-28-2013	Repeal	2-1-2014
411-065-0000	12-15-2013	Amend	1-1-2014	411-320-0030	12-28-2013	Amend	2-1-2014
411-065-0000(T)	12-15-2013	Repeal	1-1-2014	411-320-0030(T)	12-28-2013	Repeal	2-1-2014
411-070-0033	12-15-2013	Amend	1-1-2014	411-320-0040	12-28-2013	Amend	2-1-2014
411-070-0033(T)	12-15-2013	Repeal	1-1-2014	411-320-0040(T)	12-28-2013	Repeal	2-1-2014
411-070-0452	12-28-2013	Amend	2-1-2014	411-320-0045	12-28-2013	Amend	2-1-2014
411-070-0452(T)	12-28-2013	Repeal	2-1-2014	411-320-0050	12-28-2013	Amend	2-1-2014
411-200-0010	2-1-2014	Amend	3-1-2014	411-320-0060	12-28-2013	Amend	2-1-2014
411-200-0020	2-1-2014	Amend	3-1-2014	411-320-0060(T)	12-28-2013	Repeal	2-1-2014
411-200-0030	2-1-2014	Amend	3-1-2014	411-320-0070	12-28-2013	Amend	2-1-2014

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411-355-0010(T)	12-28-2013	Repeal	2-1-2014	413-100-0420	1-1-2014	Amend(T)	2-1-2014
411-355-0020	12-28-2013	Amend	2-1-2014	413-100-0430	1-1-2014	Amend(T)	2-1-2014
411-355-0020(T)	12-28-2013	Repeal	2-1-2014	413-100-0435	1-1-2014	Adopt(T)	2-1-2014
411-355-0030	12-28-2013	Amend	2-1-2014	413-100-0440	1-1-2014	Suspend	2-1-2014
411-355-0030(T)	12-28-2013	Repeal	2-1-2014	413-100-0445	1-1-2014	Amend(T)	2-1-2014
411-355-0040	12-28-2013	Amend	2-1-2014	413-100-0450	1-1-2014	Suspend	2-1-2014
411-355-0040(T)	12-28-2013	Repeal	2-1-2014	413-100-0455	1-1-2014	Amend(T)	2-1-2014
411-355-0050	12-28-2013	Amend	2-1-2014	413-100-0457	2-4-2014	Adopt(T)	3-1-2014
411-355-0060	12-28-2013	Amend	2-1-2014	413-100-0460	1-1-2014	Amend(T)	2-1-2014
411-355-0070	12-28-2013	Amend	2-1-2014	413-100-0470	1-1-2014	Suspend	2-1-2014
411-355-0080	12-28-2013	Amend	2-1-2014	413-100-0480	1-1-2014	Suspend	2-1-2014
411-355-0090	12-28-2013	Amend	2-1-2014	413-100-0490	1-1-2014	Suspend	2-1-2014
411-355-0100	12-28-2013	Amend	2-1-2014	413-100-0500	1-1-2014	Suspend	2-1-2014
411-355-0110	12-28-2013	Amend	2-1-2014	413-100-0510	1-1-2014	Suspend	2-1-2014
411-355-0120	12-28-2013	Amend	2-1-2014	413-100-0520	1-1-2014	Suspend	2-1-2014
413-010-0000	1-1-2014	Amend	2-1-2014	413-100-0530	1-1-2014	Amend(T)	2-1-2014
413-010-0010	1-1-2014	Amend	2-1-2014	413-100-0540	1-1-2014	Suspend	2-1-2014
413-010-0030	1-1-2014	Amend	2-1-2014	413-100-0550	1-1-2014	Suspend	2-1-2014
413-010-0035	1-1-2014	Amend	2-1-2014	413-100-0560	1-1-2014	Suspend	2-1-2014
413-010-0045	1-1-2014	Amend	2-1-2014	413-100-0580	12-31-2013	Renumber	2-1-2014
413-010-0055	1-1-2014	Amend	2-1-2014	413-100-0590	12-31-2013	Renumber	2-1-2014
413-010-0065	1-1-2014	Amend	2-1-2014	413-100-0600	1-1-2014	Suspend	2-1-2014
413-010-0068	1-1-2014	Amend	2-1-2014	413-100-0610	1-1-2014	Suspend	2-1-2014
413-010-0075	1-1-2014	Amend	2-1-2014	413-130-0000	2-1-2014	Amend	3-1-2014
413-010-0170	1-1-2014	Amend	2-1-2014	413-130-0010	2-1-2014	Amend	3-1-2014
413-010-0175	1-1-2014	Amend	2-1-2014	413-130-0015	2-1-2014	Amend	3-1-2014
413-010-0180	1-1-2014	Amend	2-1-2014	413-130-0020	2-1-2014	Amend	3-1-2014
413-010-0185	1-1-2014	Adopt	2-1-2014	413-130-0040	2-1-2014	Amend	3-1-2014
413-010-0300	1-1-2014	Amend	2-1-2014	413-130-0050	2-1-2014	Amend	3-1-2014
413-010-0310	1-1-2014	Amend	2-1-2014	413-130-0055	2-1-2014	Amend	3-1-2014
413-010-0320	1-1-2014	Amend	2-1-2014	413-130-0070	2-1-2014	Amend	3-1-2014
413-010-0330	1-1-2014	Amend	2-1-2014	413-130-0075	2-1-2014	Amend	3-1-2014
413-010-0340	1-1-2014	Amend	2-1-2014	413-130-0077	2-1-2014	Amend	3-1-2014
413-070-0800	1-1-2014	Amend	2-1-2014	413-130-0080	2-1-2014	Amend	3-1-2014
413-070-0810	1-1-2014	Amend	2-1-2014	413-130-0110	2-1-2014	Amend	3-1-2014
413-070-0830	1-1-2014	Amend	2-1-2014	413-130-0125	2-1-2014	Amend	3-1-2014
413-070-0840	1-1-2014	Amend	2-1-2014	413-130-0130	2-1-2014	Amend	3-1-2014
413-070-0855	1-1-2014	Amend	2-1-2014	413-140-0000	1-1-2014	Amend	2-1-2014
413-070-0860	1-1-2014	Amend	2-1-2014	413-140-0010	1-1-2014	Amend	2-1-2014
413-070-0870	1-1-2014	Amend	2-1-2014	413-140-0026	1-1-2014	Amend	2-1-2014
413-070-0880	1-1-2014	Amend	2-1-2014	413-140-0030	1-1-2014	Amend	2-1-2014
413-070-0900	2-1-2014	Amend	3-1-2014	413-140-0031	1-1-2014	Adopt	2-1-2014
413-070-0905	2-1-2014	Amend	3-1-2014	413-140-0032	1-1-2014	Adopt	2-1-2014
413-070-0909	2-1-2014	Amend	3-1-2014	413-140-0033	1-1-2014	Adopt	2-1-2014
413-070-0917	2-1-2014	Amend	3-1-2014	413-140-0035	1-1-2014	Amend	2-1-2014
413-070-0919	2-1-2014	Amend	3-1-2014	413-140-0040	1-1-2014	Amend	2-1-2014
413-070-0925	2-1-2014	Amend	3-1-2014	413-140-0045	1-1-2014	Repeal	2-1-2014
413-070-0934	2-1-2014	Amend	3-1-2014	413-140-0047	1-1-2014	Adopt	2-1-2014
413-070-0939	2-1-2014	Amend	3-1-2014	413-140-0055	1-1-2014	Repeal	2-1-2014
413-070-0949	2-1-2014	Amend	3-1-2014	413-140-0065	1-1-2014	Amend	2-1-2014
413-070-0959	2-1-2014	Amend	3-1-2014	413-140-0080	1-1-2014	Repeal	2-1-2014
413-070-0964	2-1-2014	Amend	3-1-2014	413-140-0110	1-1-2014	Amend	2-1-2014
413-070-0969	2-1-2014	Amend	3-1-2014	413-140-0120	1-1-2014	Repeal	2-1-2014
413-070-0974	2-1-2014	Amend	3-1-2014	413-215-0918	2-1-2014	Amend	3-1-2014
413-100-0400	1-1-2014	Amend(T)	2-1-2014	413-330-0000	1-1-2014	Suspend	2-1-2014
413-100-0410	1-1-2014	Amend(T)	2-1-2014	413-330-0010	1-1-2014	Suspend	2-1-2014

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413-330-0020	1-1-2014	Suspend	2-1-2014	438-006-0031	4-1-2014	Amend	1-1-2014
413-330-0030	1-1-2014	Suspend	2-1-2014	438-006-0036	4-1-2014	Amend	1-1-2014
413-330-0040	1-1-2014	Suspend	2-1-2014	438-006-0045	4-1-2014	Amend	1-1-2014
413-330-0050	1-1-2014	Suspend	2-1-2014	438-006-0062	4-1-2014	Amend	1-1-2014
413-330-0060	1-1-2014	Suspend	2-1-2014	438-006-0075	4-1-2014	Amend	1-1-2014
413-330-0080	1-1-2014	Suspend	2-1-2014	438-006-0105	4-1-2014	Repeal	1-1-2014
414-002-0005	1-15-2014	Adopt	2-1-2014	438-007-0005	4-1-2014	Amend	1-1-2014
414-002-0010	1-15-2014	Adopt	2-1-2014	438-007-0018	4-1-2014	Amend	1-1-2014
414-800-0005	1-15-2014	Adopt(T)	2-1-2014	438-007-0020	4-1-2014	Amend	1-1-2014
414-800-0010	1-15-2014	Adopt(T)	2-1-2014	438-009-0020	4-1-2014	Amend	1-1-2014
414-800-0015	1-15-2014	Adopt(T)	2-1-2014	438-011-0055	4-1-2014	Adopt	1-1-2014
414-800-0020	1-15-2014	Adopt(T)	2-1-2014	441-505-2000	2-12-2014	Adopt	3-1-2014
414-800-0025	1-15-2014	Adopt(T)	2-1-2014	441-730-0010	1-1-2014	Amend(T)	2-1-2014
414-800-0030	1-15-2014	Adopt(T)	2-1-2014	441-730-0025	1-1-2014	Amend(T)	2-1-2014
414-800-0105	1-15-2014	Adopt(T)	2-1-2014	441-730-0030	1-1-2014	Amend(T)	2-1-2014
414-800-0110	1-15-2014	Adopt(T)	2-1-2014	442-001-0000	1-2-2014	Repeal	2-1-2014
414-800-0115	1-15-2014	Adopt(T)	2-1-2014	442-001-0005	1-2-2014	Repeal	2-1-2014
414-800-0120	1-15-2014	Adopt(T)	2-1-2014	442-001-0050	1-2-2014	Repeal	2-1-2014
414-800-0125	1-15-2014	Adopt(T)	2-1-2014	442-001-0060	1-2-2014	Repeal	2-1-2014
414-800-0130	1-15-2014	Adopt(T)	2-1-2014	442-001-0070	1-2-2014	Repeal	2-1-2014
414-900-0005	1-15-2014	Adopt	2-1-2014	442-001-0080	1-2-2014	Repeal	2-1-2014
414-900-0010	1-15-2014	Adopt	2-1-2014	442-001-0090	1-2-2014	Repeal	2-1-2014
414-900-0015	1-15-2014	Adopt	2-1-2014	442-001-0100	1-2-2014	Repeal	2-1-2014
414-900-0020	1-15-2014	Adopt	2-1-2014	442-001-0110	1-2-2014	Repeal	2-1-2014
415-012-0000	1-28-2014	Amend(T)	3-1-2014	442-001-0120	1-2-2014	Repeal	2-1-2014
415-012-0057	12-20-2013	Adopt(T)	2-1-2014	442-001-0130	1-2-2014	Repeal	2-1-2014
415-012-0058	12-20-2013	Adopt(T)	2-1-2014	442-001-0140	1-2-2014	Repeal	2-1-2014
416-530-0000	1-15-2014	Amend	2-1-2014	442-001-0150	1-2-2014	Repeal	2-1-2014
416-530-0010	1-15-2014	Amend	2-1-2014	442-001-0160	1-2-2014	Repeal	2-1-2014
416-530-0020	1-15-2014	Amend	2-1-2014	442-005-0000	2-1-2014	Repeal	3-1-2014
416-530-0030	1-15-2014	Amend	2-1-2014	442-005-0010	2-1-2014	Repeal	3-1-2014
416-530-0035	1-15-2014	Amend	2-1-2014	442-005-0020	2-1-2014	Repeal	3-1-2014
416-530-0040	1-15-2014	Amend	2-1-2014	442-005-0030	2-1-2014	Repeal	3-1-2014
416-530-0050	1-15-2014	Amend	2-1-2014	442-005-0040	2-1-2014	Repeal	3-1-2014
416-530-0060	1-15-2014	Amend	2-1-2014	442-005-0050	2-1-2014	Repeal	3-1-2014
416-530-0070	1-15-2014	Amend	2-1-2014	442-005-0060	2-1-2014	Repeal	3-1-2014
416-530-0080	1-15-2014	Amend	2-1-2014	442-005-0070	2-1-2014	Repeal	3-1-2014
416-530-0090	1-15-2014	Amend	2-1-2014	442-005-0080	2-1-2014	Repeal	3-1-2014
416-530-0100	1-15-2014	Amend	2-1-2014	442-005-0090	2-1-2014	Repeal	3-1-2014
416-530-0110	1-15-2014	Amend	2-1-2014	442-005-0100	2-1-2014	Repeal	3-1-2014
416-530-0125	1-15-2014	Amend	2-1-2014	442-005-0110	2-1-2014	Repeal	3-1-2014
416-530-0130	1-15-2014	Amend	2-1-2014	442-005-0120	2-1-2014	Repeal	3-1-2014
416-530-0140	1-15-2014	Amend	2-1-2014	442-005-0130	2-1-2014	Repeal	3-1-2014
416-530-0150	1-15-2014	Amend	2-1-2014	442-005-0140	2-1-2014	Repeal	3-1-2014
416-530-0160	1-15-2014	Amend	2-1-2014	442-005-0150	2-1-2014	Repeal	3-1-2014
416-530-0170	1-15-2014	Amend	2-1-2014	442-005-0160	2-1-2014	Repeal	3-1-2014
416-530-0200	1-15-2014	Amend	2-1-2014	442-005-0170	2-1-2014	Repeal	3-1-2014
436-160-0410	7-1-2014	Amend	3-1-2014	442-005-0180	2-1-2014	Repeal	3-1-2014
437-002-0005	12-12-2013	Amend	1-1-2014	442-005-0190	2-1-2014	Repeal	3-1-2014
437-002-0080	12-12-2013	Amend	1-1-2014	442-005-0200	2-1-2014	Repeal	3-1-2014
437-002-0140	12-12-2013	Amend	1-1-2014	442-005-0210	2-1-2014	Repeal	3-1-2014
437-002-0312	12-12-2013	Amend	1-1-2014	442-005-0220	2-1-2014	Repeal	3-1-2014
437-003-0001	12-12-2013	Amend	1-1-2014	442-005-0230	2-1-2014	Repeal	3-1-2014
438-005-0035	4-1-2014	Amend	1-1-2014	442-005-0235	2-1-2014	Repeal	3-1-2014
438-005-0046	4-1-2014	Amend	1-1-2014	442-005-0240	2-1-2014	Repeal	3-1-2014
438-006-0020	4-1-2014	Amend	1-1-2014	442-005-0250	2-1-2014	Repeal	3-1-2014

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442-005-0270	2-1-2014	Repeal	3-1-2014	443-003-0075	1-1-2014	Adopt(T)	2-1-2014
442-005-0275	2-1-2014	Repeal	3-1-2014	443-003-0080	1-1-2014	Adopt(T)	2-1-2014
442-005-0280	2-1-2014	Repeal	3-1-2014	443-003-0085	1-1-2014	Adopt(T)	2-1-2014
442-005-0290	2-1-2014	Repeal	3-1-2014	443-003-0090	1-1-2014	Adopt(T)	2-1-2014
442-005-0300	2-1-2014	Repeal	3-1-2014	443-003-0095	1-1-2014	Adopt(T)	2-1-2014
442-005-0310	2-1-2014	Repeal	3-1-2014	443-003-0100	1-1-2014	Adopt(T)	2-1-2014
442-005-0320	2-1-2014	Repeal	3-1-2014	443-003-0105	1-1-2014	Adopt(T)	2-1-2014
442-005-0330	2-1-2014	Repeal	3-1-2014	443-003-0110	1-1-2014	Adopt(T)	2-1-2014
442-005-0340	2-1-2014	Repeal	3-1-2014	443-003-0115	1-1-2014	Adopt(T)	2-1-2014
442-006-0000	1-2-2014	Repeal	2-1-2014	443-003-0120	1-1-2014	Adopt(T)	2-1-2014
442-006-0010	1-2-2014	Repeal	2-1-2014	443-003-0125	1-1-2014	Adopt(T)	2-1-2014
442-006-0020	1-2-2014	Repeal	2-1-2014	459-001-0030	1-31-2014	Amend	3-1-2014
442-006-0030	1-2-2014	Repeal	2-1-2014	459-005-0525	1-31-2014	Amend	3-1-2014
442-006-0040	1-2-2014	Repeal	2-1-2014	459-005-0545	1-31-2014	Amend	3-1-2014
442-010-0010	2-1-2014	Repeal	3-1-2014	459-005-0610	11-22-2013	Amend	1-1-2014
442-010-0020	2-1-2014	Repeal	3-1-2014	459-017-0060	1-31-2014	Amend	3-1-2014
442-010-0030	2-1-2014	Repeal	3-1-2014	459-040-0060	11-22-2013	Amend	1-1-2014
442-010-0040	2-1-2014	Repeal	3-1-2014	459-040-0070	11-22-2013	Amend	1-1-2014
442-010-0050	2-1-2014	Repeal	3-1-2014	459-045-0010	11-22-2013	Amend	1-1-2014
442-010-0055	2-1-2014	Repeal	3-1-2014	459-070-0100	1-31-2014	Amend	3-1-2014
442-010-0060	2-1-2014	Repeal	3-1-2014	459-080-0500	1-31-2014	Amend	3-1-2014
442-010-0070	2-1-2014	Repeal	3-1-2014	461-001-0000	1-1-2014	Amend	2-1-2014
442-010-0075	2-1-2014	Repeal	3-1-2014	461-001-0000	1-1-2014	Amend(T)	2-1-2014
442-010-0080	2-1-2014	Repeal	3-1-2014	461-001-0000(T)	1-1-2014	Repeal	2-1-2014
442-010-0085	2-1-2014	Repeal	3-1-2014	461-001-0030	1-1-2014	Amend	2-1-2014
442-010-0090	2-1-2014	Repeal	3-1-2014	461-025-0315	1-1-2014	Amend	2-1-2014
442-010-0100	2-1-2014	Repeal	3-1-2014	461-025-0375	1-1-2014	Amend	2-1-2014
442-010-0120	2-1-2014	Repeal	3-1-2014	461-101-0010	1-1-2014	Amend	2-1-2014
442-010-0130	2-1-2014	Repeal	3-1-2014	461-101-0010(T)	1-1-2014	Repeal	2-1-2014
442-010-0140	2-1-2014	Repeal	3-1-2014	461-105-0100	1-1-2014	Amend	2-1-2014
442-010-0150	2-1-2014	Repeal	3-1-2014	461-105-0130	1-1-2014	Amend	2-1-2014
442-010-0160	2-1-2014	Repeal	3-1-2014	461-110-0210	1-1-2014	Amend	2-1-2014
442-010-0170	2-1-2014	Repeal	3-1-2014	461-110-0210(T)	1-1-2014	Repeal	2-1-2014
442-010-0180	2-1-2014	Repeal	3-1-2014	461-110-0330	1-1-2014	Amend	2-1-2014
442-010-0190	2-1-2014	Repeal	3-1-2014	461-110-0330(T)	1-1-2014	Repeal	2-1-2014
442-010-0210	2-1-2014	Repeal	3-1-2014	461-110-0340	1-1-2014	Amend	2-1-2014
442-010-0215	2-1-2014	Repeal	3-1-2014	461-110-0340(T)	1-1-2014	Repeal	2-1-2014
442-010-0220	2-1-2014	Repeal	3-1-2014	461-110-0350	1-8-2014	Amend(T)	2-1-2014
442-010-0230	2-1-2014	Repeal	3-1-2014	461-110-0400(T)	1-1-2014	Repeal	2-1-2014
442-010-0240	2-1-2014	Repeal	3-1-2014	461-110-0530	1-1-2014	Amend	2-1-2014
442-010-0260	2-1-2014	Repeal	3-1-2014	461-110-0530(T)	1-1-2014	Repeal	2-1-2014
442-010-0270	2-1-2014	Repeal	3-1-2014	461-110-0630	1-1-2014	Amend	2-1-2014
443-003-0005	1-1-2014	Adopt(T)	2-1-2014	461-110-0630(T)	1-1-2014	Repeal	2-1-2014
443-003-0010	1-1-2014	Adopt(T)	2-1-2014	461-115-0016	1-1-2014	Amend(T)	2-1-2014
443-003-0015	1-1-2014	Adopt(T)	2-1-2014	461-115-0030	1-1-2014	Amend	2-1-2014
443-003-0020	1-1-2014	Adopt(T)	2-1-2014	461-115-0030(T)	1-1-2014	Repeal	2-1-2014
443-003-0025	1-1-2014	Adopt(T)	2-1-2014	461-115-0050	1-1-2014	Amend	2-1-2014
443-003-0030	1-1-2014	Adopt(T)	2-1-2014	461-115-0050(T)	1-1-2014	Repeal	2-1-2014
443-003-0035	1-1-2014	Adopt(T)	2-1-2014	461-115-0071	1-1-2014	Amend	2-1-2014
443-003-0040	1-1-2014	Adopt(T)	2-1-2014	461-115-0071(T)	1-1-2014	Repeal	2-1-2014
443-003-0045	1-1-2014	Adopt(T)	2-1-2014	461-115-0150	1-1-2014	Amend	2-1-2014
443-003-0050	1-1-2014	Adopt(T)	2-1-2014	461-115-0430	1-1-2014	Amend	2-1-2014
443-003-0055	1-1-2014	Adopt(T)	2-1-2014	461-115-0430(T)	1-1-2014	Repeal	2-1-2014
443-003-0060	1-1-2014	Adopt(T)	2-1-2014	461-115-0530	1-1-2014	Repeal	2-1-2014
443-003-0065	1-1-2014	Adopt(T)	2-1-2014	461-115-0705	1-1-2014	Repeal	2-1-2014

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461-120-0030(T)	1-1-2014	Repeal	2-1-2014	461-135-1149	1-1-2014	Repeal	2-1-2014
461-120-0050	1-1-2014	Amend	2-1-2014	461-140-0020	1-1-2014	Amend	2-1-2014
461-120-0050(T)	1-1-2014	Repeal	2-1-2014	461-140-0040	1-1-2014	Amend	2-1-2014
461-120-0125	1-1-2014	Amend	2-1-2014	461-140-0040(T)	1-1-2014	Repeal	2-1-2014
461-120-0125(T)	1-1-2014	Repeal	2-1-2014	461-140-0120	1-1-2014	Amend	2-1-2014
461-120-0210	1-1-2014	Amend	2-1-2014	461-140-0120(T)	1-1-2014	Repeal	2-1-2014
461-120-0210(T)	1-1-2014	Repeal	2-1-2014	461-140-0210	1-1-2014	Amend	2-1-2014
461-120-0310	1-1-2014	Amend	2-1-2014	461-140-0210(T)	1-1-2014	Repeal	2-1-2014
461-120-0310(T)	1-1-2014	Repeal	2-1-2014	461-140-0270	1-1-2014	Amend	2-1-2014
461-120-0315	1-1-2014	Amend	2-1-2014	461-140-0270(T)	1-1-2014	Repeal	2-1-2014
461-120-0315(T)	1-1-2014	Repeal	2-1-2014	461-140-0300	1-1-2014	Amend	2-1-2014
461-120-0330	1-1-2014	Amend	2-1-2014	461-145-0040	1-1-2014	Amend	2-1-2014
461-120-0345	1-1-2014	Amend	2-1-2014	461-145-0040(T)	1-1-2014	Repeal	2-1-2014
461-120-0345(T)	1-1-2014	Repeal	2-1-2014	461-145-0050	1-1-2014	Amend	2-1-2014
461-120-0350	1-1-2014	Amend	2-1-2014	461-145-0050(T)	1-1-2014	Repeal	2-1-2014
461-120-0350(T)	1-1-2014	Repeal	2-1-2014	461-145-0080	1-1-2014	Amend	2-1-2014
461-120-0510	1-1-2014	Amend	2-1-2014	461-145-0080(T)	1-1-2014	Repeal	2-1-2014
461-120-0510(T)	1-1-2014	Repeal	2-1-2014	461-145-0086	1-1-2014	Amend	2-1-2014
461-120-0630	1-1-2014	Amend	2-1-2014	461-145-0086(T)	1-1-2014	Repeal	2-1-2014
461-120-0630(T)	1-1-2014	Repeal	2-1-2014	461-145-0090	1-1-2014	Amend	2-1-2014
461-125-0150	1-1-2014	Amend	2-1-2014	461-145-0090(T)	1-1-2014	Repeal	2-1-2014
461-125-0150(T)	1-1-2014	Repeal	2-1-2014	461-145-0110	1-1-2014	Amend	2-1-2014
461-130-0328	1-1-2014	Amend	2-1-2014	461-145-0110(T)	1-1-2014	Repeal	2-1-2014
461-130-0328(T)	1-1-2014	Repeal	2-1-2014	461-145-0120	1-1-2014	Amend	2-1-2014
461-135-0010	1-1-2014	Amend	2-1-2014	461-145-0120(T)	1-1-2014	Repeal	2-1-2014
461-135-0010(T)	1-1-2014	Repeal	2-1-2014	461-145-0130	1-1-2014	Amend	2-1-2014
461-135-0070	1-1-2014	Amend	2-1-2014	461-145-0130(T)	1-1-2014	Repeal	2-1-2014
461-135-0070(T)	1-1-2014	Repeal	2-1-2014	461-145-0150	1-1-2014	Amend	2-1-2014
461-135-0080	1-1-2014	Amend	2-1-2014	461-145-0150(T)	1-1-2014	Repeal	2-1-2014
461-135-0080(T)	1-1-2014	Repeal	2-1-2014	461-145-0220	1-1-2014	Amend	2-1-2014
461-135-0095	1-1-2014	Repeal	2-1-2014	461-145-0220(T)	1-1-2014	Repeal	2-1-2014
461-135-0096	1-1-2014	Repeal	2-1-2014	461-145-0230	1-1-2014	Amend	2-1-2014
461-135-0170	1-1-2014	Repeal	2-1-2014	461-145-0230(T)	1-1-2014	Repeal	2-1-2014
461-135-0505	1-1-2014	Amend	2-1-2014	461-145-0250	1-1-2014	Amend	2-1-2014
461-135-0505	1-1-2014	Amend(T)	2-1-2014	461-145-0250(T)	1-1-2014	Repeal	2-1-2014
461-135-0780	1-1-2014	Amend	2-1-2014	461-145-0280	1-1-2014	Amend(T)	2-1-2014
461-135-0832	1-1-2014	Amend	2-1-2014	461-145-0300	1-1-2014	Amend	2-1-2014
461-135-0835	1-1-2014	Amend	2-1-2014	461-145-0300(T)	1-1-2014	Repeal	2-1-2014
461-135-0841	1-1-2014	Amend	2-1-2014	461-145-0330	1-1-2014	Amend	2-1-2014
461-135-0845	1-1-2014	Amend	2-1-2014	461-145-0330(T)	1-1-2014	Repeal	2-1-2014
461-135-0875	1-1-2014	Amend	2-1-2014	461-145-0340	1-1-2014	Amend	2-1-2014
461-135-0875(T)	1-1-2014	Repeal	2-1-2014	461-145-0340(T)	1-1-2014	Repeal	2-1-2014
461-135-0900	1-1-2014	Amend	2-1-2014	461-145-0360	1-1-2014	Amend	2-1-2014
461-135-0900(T)	1-1-2014	Repeal	2-1-2014	461-145-0360(T)	1-1-2014	Repeal	2-1-2014
461-135-0930	1-1-2014	Amend	2-1-2014	461-145-0365	1-1-2014	Amend	2-1-2014
461-135-0930(T)	1-1-2014	Repeal	2-1-2014	461-145-0365(T)	1-1-2014	Repeal	2-1-2014
461-135-0950	1-1-2014	Amend	2-1-2014	461-145-0380	1-1-2014	Amend	2-1-2014
461-135-0950(T)	1-1-2014	Repeal	2-1-2014	461-145-0380(T)	1-1-2014	Repeal	2-1-2014
461-135-1060	1-1-2014	Repeal	2-1-2014	461-145-0410	1-1-2014	Amend	2-1-2014
461-135-1070	1-1-2014	Amend	2-1-2014	461-145-0410(T)	1-1-2014	Repeal	2-1-2014
461-135-1070(T)	1-1-2014	Repeal	2-1-2014	461-145-0420	1-1-2014	Amend	2-1-2014
461-135-1100	1-1-2014	Repeal	2-1-2014	461-145-0420(T)	1-1-2014	Repeal	2-1-2014
461-135-1101	1-1-2014	Repeal	2-1-2014	461-145-0430	1-1-2014	Amend	2-1-2014
461-135-1102	1-1-2014	Repeal	2-1-2014	461-145-0430(T)	1-1-2014	Repeal	2-1-2014
461-135-1120	1-1-2014	Repeal	2-1-2014	461-145-0433	1-1-2014	Amend	2-1-2014

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461-145-0440	1-1-2014	Amend	2-1-2014	461-155-0295	3-1-2014	Amend(T)	3-1-2014
461-145-0440(T)	1-1-2014	Repeal	2-1-2014	461-155-0300	1-1-2014	Amend	2-1-2014
461-145-0455	1-1-2014	Amend	2-1-2014	461-155-0350	1-1-2014	Amend	2-1-2014
461-145-0455(T)	1-1-2014	Repeal	2-1-2014	461-155-0350(T)	1-1-2014	Repeal	2-1-2014
461-145-0460	1-1-2014	Amend	2-1-2014	461-155-0670	1-1-2014	Amend	2-1-2014
461-145-0460(T)	1-1-2014	Repeal	2-1-2014	461-155-0670(T)	1-1-2014	Repeal	2-1-2014
461-145-0470	1-1-2014	Amend	2-1-2014	461-160-0015	1-1-2014	Amend	2-1-2014
461-145-0470(T)	1-1-2014	Repeal	2-1-2014	461-160-0015(T)	1-1-2014	Repeal	2-1-2014
461-145-0505	1-1-2014	Amend	2-1-2014	461-160-0040	1-1-2014	Amend	2-1-2014
461-145-0505(T)	1-1-2014	Repeal	2-1-2014	461-160-0040(T)	1-1-2014	Repeal	2-1-2014
461-145-0510	1-1-2014	Amend	2-1-2014	461-160-0060	1-1-2014	Amend	2-1-2014
461-145-0510(T)	1-1-2014	Repeal	2-1-2014	461-160-0060(T)	1-1-2014	Repeal	2-1-2014
461-145-0540	1-1-2014	Amend	2-1-2014	461-160-0100	1-1-2014	Amend	2-1-2014
461-145-0540(T)	1-1-2014	Repeal	2-1-2014	461-160-0100(T)	1-1-2014	Repeal	2-1-2014
461-145-0580	1-1-2014	Amend	2-1-2014	461-160-0120	1-1-2014	Repeal	2-1-2014
461-145-0580(T)	1-1-2014	Repeal	2-1-2014	461-160-0125	1-1-2014	Repeal	2-1-2014
461-145-0590	1-1-2014	Amend	2-1-2014	461-160-0160	1-1-2014	Amend	2-1-2014
461-145-0590(T)	1-1-2014	Repeal	2-1-2014	461-160-0160(T)	1-1-2014	Repeal	2-1-2014
461-145-0600	1-1-2014	Amend	2-1-2014	461-160-0190	1-1-2014	Repeal	2-1-2014
461-145-0600(T)	1-1-2014	Repeal	2-1-2014	461-160-0200	1-1-2014	Repeal	2-1-2014
461-145-0820	1-1-2014	Amend	2-1-2014	461-160-0580	1-1-2014	Amend	2-1-2014
461-145-0820(T)	1-1-2014	Repeal	2-1-2014	461-160-0620	1-1-2014	Amend	2-1-2014
461-145-0830	1-1-2014	Amend	2-1-2014	461-160-0620	2-1-2014	Amend	3-1-2014
461-145-0830(T)	1-1-2014	Repeal	2-1-2014	461-160-0630	1-1-2014	Amend	2-1-2014
461-145-0860	1-1-2014	Amend	2-1-2014	461-160-0630(T)	1-1-2014	Repeal	2-1-2014
461-145-0860(T)	1-1-2014	Repeal	2-1-2014	461-160-0700	1-1-2014	Repeal	2-1-2014
461-145-0870	1-1-2014	Repeal	2-1-2014	461-160-0780	1-1-2014	Amend	2-1-2014
461-145-0910	1-1-2014	Amend	2-1-2014	461-165-0030	1-1-2014	Amend	2-1-2014
461-145-0910(T)	1-1-2014	Repeal	2-1-2014	461-165-0030(T)	1-1-2014	Repeal	2-1-2014
461-145-0920	1-1-2014	Amend	2-1-2014	461-165-0070	1-1-2014	Amend	2-1-2014
461-145-0920(T)	1-1-2014	Repeal	2-1-2014	461-165-0120	1-1-2014	Amend	2-1-2014
461-145-0930	1-1-2014	Amend	2-1-2014	461-165-0120(T)	1-1-2014	Repeal	2-1-2014
461-145-0930(T)	1-1-2014	Repeal	2-1-2014	461-165-0180	3-1-2014	Amend(T)	3-1-2014
461-150-0020	1-1-2014	Amend	2-1-2014	461-170-0011	1-1-2014	Amend	2-1-2014
461-150-0020(T)	1-1-2014	Repeal	2-1-2014	461-170-0011(T)	1-1-2014	Repeal	2-1-2014
461-150-0055	1-1-2014	Repeal	2-1-2014	461-170-0130	1-1-2014	Amend	2-1-2014
461-150-0060	1-1-2014	Amend	2-1-2014	461-170-0130(T)	1-1-2014	Repeal	2-1-2014
461-150-0060(T)	1-1-2014	Repeal	2-1-2014	461-170-0200	1-1-2014	Amend	2-1-2014
461-150-0070	1-1-2014	Amend	2-1-2014	461-170-0200(T)	1-1-2014	Repeal	2-1-2014
461-150-0070(T)	1-1-2014	Repeal	2-1-2014	461-175-0200	1-1-2014	Amend	2-1-2014
461-150-0080	1-1-2014	Amend	2-1-2014	461-175-0200(T)	1-1-2014	Repeal	2-1-2014
461-150-0080(T)	1-1-2014	Repeal	2-1-2014	461-175-0203(T)	1-1-2014	Repeal	2-1-2014
461-150-0090	1-1-2014	Amend	2-1-2014	461-175-0206	1-1-2014	Amend	2-1-2014
461-150-0090(T)	1-1-2014	Repeal	2-1-2014	461-175-0210	1-1-2014	Amend	2-1-2014
461-155-0030	1-1-2014	Amend	2-1-2014	461-175-0210(T)	1-1-2014	Repeal	2-1-2014
461-155-0030(T)	1-1-2014	Repeal	2-1-2014	461-175-0270	1-1-2014	Amend	2-1-2014
461-155-0180	1-1-2014	Amend	2-1-2014	461-175-0270(T)	1-1-2014	Repeal	2-1-2014
461-155-0180	2-1-2014	Amend	3-1-2014	461-175-0305	1-1-2014	Amend	2-1-2014
461-155-0180(T)	1-1-2014	Repeal	2-1-2014	461-175-0305(T)	1-1-2014	Repeal	2-1-2014
461-155-0225	1-1-2014	Amend	2-1-2014	461-180-0010	1-1-2014	Amend	2-1-2014
461-155-0225(T)	1-1-2014	Repeal	2-1-2014	461-180-0010(T)	1-1-2014	Repeal	2-1-2014
461-155-0235	1-1-2014	Repeal	2-1-2014	461-180-0020	1-1-2014	Amend	2-1-2014
461-155-0250	1-1-2014	Amend	2-1-2014	461-180-0020(T)	1-1-2014	Repeal	2-1-2014
461-155-0270	1-1-2014	Amend	2-1-2014	461-180-0050	1-1-2014	Amend	2-1-2014
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461-180-0065(T)	1-1-2014	Repeal	2-1-2014	576-005-0025	2-11-2014	Amend(T)	3-1-2014
461-180-0085	1-1-2014	Amend	2-1-2014	576-005-0032	2-11-2014	Amend(T)	3-1-2014
461-180-0085(T)	1-1-2014	Repeal	2-1-2014	576-005-0041	2-11-2014	Amend(T)	3-1-2014
461-180-0090	1-1-2014	Amend	2-1-2014	576-010-0000	12-18-2013	Amend	2-1-2014
461-180-0090(T)	1-1-2014	Repeal	2-1-2014	579-040-0005	12-6-2013	Amend	1-1-2014
461-180-0097(T)	1-1-2014	Repeal	2-1-2014	579-040-0007	12-6-2013	Amend	1-1-2014
461-180-0100	1-1-2014	Amend	2-1-2014	579-040-0010	12-6-2013	Amend	1-1-2014
461-180-0100(T)	1-1-2014	Repeal	2-1-2014	579-040-0013	12-6-2013	Amend	1-1-2014
461-180-0105	1-1-2014	Amend	2-1-2014	579-040-0015	12-6-2013	Amend	1-1-2014
461-180-0105(T)	1-1-2014	Repeal	2-1-2014	579-040-0020	12-6-2013	Repeal	1-1-2014
461-180-0120	1-1-2014	Amend	2-1-2014	579-040-0030	12-6-2013	Amend	1-1-2014
461-180-0120(T)	1-1-2014	Repeal	2-1-2014	579-040-0035	12-6-2013	Amend	1-1-2014
461-180-0140	1-1-2014	Amend	2-1-2014	579-040-0045	12-6-2013	Amend	1-1-2014
461-180-0140(T)	1-1-2014	Repeal	2-1-2014	579-070-0010	12-6-2013	Amend	1-1-2014
461-185-0050	1-1-2014	Amend	2-1-2014	579-070-0030	12-6-2013	Amend	1-1-2014
461-195-0301	1-1-2014	Amend	2-1-2014	579-070-0035	12-6-2013	Amend	1-1-2014
461-195-0310	1-1-2014	Amend	2-1-2014	579-070-0041	12-6-2013	Amend	1-1-2014
461-195-0551	1-1-2014	Amend	2-1-2014	579-070-0042	12-6-2013	Amend	1-1-2014
462-120-0060	2-13-2014	Amend	3-1-2014	579-070-0045	12-6-2013	Amend	1-1-2014
462-200-0635	2-13-2014	Adopt	3-1-2014	580-021-0030	11-20-2013	Amend(T)	1-1-2014
471-030-0036	2-23-2014	Amend	2-1-2014	581-015-2000	12-18-2013	Amend	2-1-2014
471-030-0036	2-23-2014	Amend	2-1-2014	581-015-2245	12-18-2013	Amend	2-1-2014
471-030-0040	2-23-2014	Amend	2-1-2014	581-015-2540	12-18-2013	Amend	2-1-2014
471-030-0040	2-23-2014	Amend	2-1-2014	581-015-2550	12-18-2013	Amend	2-1-2014
471-030-0040(T)	2-23-2014	Repeal	2-1-2014	581-015-2555	12-18-2013	Amend	2-1-2014
471-030-0040(T)	2-23-2014	Repeal	2-1-2014	581-015-2930	12-18-2013	Adopt	2-1-2014
471-030-0045	2-23-2014	Amend	2-1-2014	581-017-0005	12-18-2013	Adopt	2-1-2014
471-030-0045	2-23-2014	Amend	2-1-2014	581-017-0010	12-18-2013	Adopt	2-1-2014
471-030-0045(T)	2-23-2014	Repeal	2-1-2014	581-017-0020	12-18-2013	Adopt	2-1-2014
471-030-0045(T)	2-23-2014	Repeal	2-1-2014	581-017-0100	12-18-2013	Adopt	2-1-2014
471-030-0052	2-23-2014	Amend	2-1-2014	581-017-0105	12-18-2013	Adopt	2-1-2014
471-030-0052	2-23-2014	Amend	2-1-2014	581-017-0110	12-18-2013	Adopt	2-1-2014
471-030-0052(T)	2-23-2014	Repeal	2-1-2014	581-017-0115	12-18-2013	Adopt	2-1-2014
471-030-0052(T)	2-23-2014	Repeal	2-1-2014	581-017-0300	11-22-2013	Adopt(T)	1-1-2014
471-030-0053	2-23-2014	Amend	2-1-2014	581-017-0305	11-22-2013	Adopt(T)	1-1-2014
471-030-0053	2-23-2014	Amend	2-1-2014	581-017-0308	11-22-2013	Adopt(T)	1-1-2014
471-030-0053(T)	2-23-2014	Repeal	2-1-2014	581-017-0311	11-22-2013	Adopt(T)	1-1-2014
471-030-0053(T)	2-23-2014	Repeal	2-1-2014	581-017-0314	11-22-2013	Adopt(T)	1-1-2014
471-030-0058	2-23-2014	Adopt	2-1-2014	581-017-0317	11-22-2013	Adopt(T)	1-1-2014
471-030-0058	2-23-2014	Adopt	2-1-2014	581-017-0320	11-22-2013	Adopt(T)	1-1-2014
471-030-0058(T)	2-23-2014	Repeal	2-1-2014	581-017-0323	11-22-2013	Adopt(T)	1-1-2014
471-030-0058(T)	2-23-2014	Repeal	2-1-2014	581-017-0326	11-22-2013	Adopt(T)	1-1-2014
471-030-0078	2-23-2014	Repeal	2-1-2014	581-017-0329	11-22-2013	Adopt(T)	1-1-2014
471-030-0078	2-23-2014	Repeal	2-1-2014	581-017-0332	11-22-2013	Adopt(T)	1-1-2014
471-030-0083	2-23-2014	Adopt	2-1-2014	581-018-0005	12-18-2013	Adopt	2-1-2014
471-030-0083	2-23-2014	Adopt	2-1-2014	581-018-0010	12-18-2013	Adopt	2-1-2014
471-030-0210	2-23-2014	Amend	2-1-2014	581-018-0020	12-18-2013	Adopt	2-1-2014
471-030-0210	2-23-2014	Amend	2-1-2014	581-018-0100	12-18-2013	Adopt	2-1-2014
471-031-0151	2-23-2014	Amend	2-1-2014	581-018-0105	12-18-2013	Adopt	2-1-2014
471-031-0151	2-23-2014	Amend	2-1-2014	581-018-0110	12-18-2013	Adopt	2-1-2014
471-040-0020	2-23-2014	Amend	2-1-2014	581-018-0115	12-18-2013	Adopt	2-1-2014
471-040-0020	2-23-2014	Amend	2-1-2014	581-018-0120	12-18-2013	Adopt	2-1-2014
574-050-0005	1-28-2014	Amend	3-1-2014	581-018-0125	12-18-2013	Adopt	2-1-2014
576-005-0005	2-11-2014	Amend(T)	3-1-2014	581-018-0200	12-18-2013	Adopt	2-1-2014
576-005-0010	2-11-2014	Amend(T)	3-1-2014	581-018-0205	12-18-2013	Adopt	2-1-2014

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581-018-0215	12-18-2013	Adopt	2-1-2014	635-004-0275	12-9-2013	Amend(T)	1-1-2014
581-018-0220	12-18-2013	Adopt	2-1-2014	635-004-0275	1-1-2014	Amend	2-1-2014
581-018-0225	12-18-2013	Adopt	2-1-2014	635-004-0275(T)	12-9-2013	Suspend	1-1-2014
581-018-0250	12-18-2013	Adopt	2-1-2014	635-004-0320	1-1-2014	Amend	2-1-2014
581-018-0255	12-18-2013	Adopt	2-1-2014	635-004-0350	1-1-2014	Amend	2-1-2014
581-018-0260	12-18-2013	Adopt	2-1-2014	635-004-0360	1-1-2014	Amend	2-1-2014
581-018-0265	12-18-2013	Adopt	2-1-2014	635-004-0505	1-1-2014	Amend(T)	1-1-2014
581-018-0270	12-18-2013	Adopt	2-1-2014	635-005-0465	12-1-2013	Amend(T)	1-1-2014
581-018-0275	12-18-2013	Adopt	2-1-2014	635-005-0705	12-9-2013	Amend(T)	1-1-2014
581-018-0380	11-22-2013	Adopt(T)	1-1-2014	635-006-0210	1-1-2014	Amend	2-1-2014
581-018-0385	11-22-2013	Adopt(T)	1-1-2014	635-006-0213	1-1-2014	Amend	2-1-2014
581-018-0390	11-22-2013	Adopt(T)	1-1-2014	635-006-0232	1-13-2014	Amend	2-1-2014
581-018-0395	11-22-2013	Adopt(T)	1-1-2014	635-011-0100	12-10-2013	Amend(T)	1-1-2014
581-018-0397	11-22-2013	Adopt(T)	1-1-2014	635-011-0100	1-1-2014	Amend	2-1-2014
581-018-0399	11-22-2013	Adopt(T)	1-1-2014	635-011-0104	12-1-2013	Amend(T)	1-1-2014
581-018-0400	11-22-2013	Adopt(T)	1-1-2014	635-011-0104	12-9-2013	Amend	1-1-2014
581-018-0405	11-22-2013	Adopt(T)	1-1-2014	635-011-0104(T)	12-9-2013	Repeal	1-1-2014
581-018-0410	11-22-2013	Adopt(T)	1-1-2014	635-013-0004	1-1-2014	Amend	2-1-2014
581-018-0415	11-22-2013	Adopt(T)	1-1-2014	635-014-0080	1-1-2014	Amend	2-1-2014
581-018-0420	11-22-2013	Adopt(T)	1-1-2014	635-014-0090	1-1-2014	Amend	2-1-2014
581-018-0424	11-22-2013	Adopt(T)	1-1-2014	635-016-0080	1-1-2014	Amend	2-1-2014
581-018-0430	12-18-2013	Adopt(T)	2-1-2014	635-016-0090	1-1-2014	Amend	2-1-2014
581-018-0433	12-18-2013	Adopt(T)	2-1-2014	635-017-0080	1-1-2014	Amend	2-1-2014
581-018-0436	12-18-2013	Adopt(T)	2-1-2014	635-017-0090	1-1-2014	Amend	2-1-2014
581-018-0439	12-18-2013	Adopt(T)	2-1-2014	635-017-0095	1-1-2014	Amend	2-1-2014
581-018-0442	12-18-2013	Adopt(T)	2-1-2014	635-018-0080	1-1-2014	Amend	2-1-2014
581-020-0359	12-18-2013	Amend	2-1-2014	635-018-0090	1-1-2014	Amend	2-1-2014
581-022-0606	12-18-2013	Amend	2-1-2014	635-019-0080	1-1-2014	Amend	2-1-2014
581-023-0015	12-18-2013	Amend	2-1-2014	635-019-0090	1-1-2014	Amend	2-1-2014
589-002-0120	12-16-2013	Amend(T)	2-1-2014	635-021-0080	1-1-2014	Amend	2-1-2014
603-052-0126	2-14-2014	Amend	3-1-2014	635-021-0090	1-1-2014	Amend	2-1-2014
603-052-0127	2-14-2014	Amend	3-1-2014	635-023-0080	1-1-2014	Amend	2-1-2014
603-052-0129	2-14-2014	Amend	3-1-2014	635-023-0090	1-1-2014	Amend	2-1-2014
603-052-0150	2-14-2014	Amend	3-1-2014	635-023-0090	3-1-2014	Amend(T)	3-1-2014
603-052-1221	2-14-2014	Amend	3-1-2014	635-023-0095	1-1-2014	Amend	2-1-2014
603-052-1241	1-15-2014	Adopt	2-1-2014	635-023-0095	1-1-2014	Amend(T)	1-1-2014
603-052-1320	2-14-2014	Amend	3-1-2014	635-023-0095	2-1-2014	Amend(T)	3-1-2014
629-060-0000	1-1-2014	Am. & Ren.	1-1-2014	635-023-0095(T)	1-1-2014	Suspend	1-1-2014
629-060-0005	1-1-2014	Am. & Ren.	1-1-2014	635-023-0095(T)	2-1-2014	Suspend	3-1-2014
629-061-0000	1-1-2014	Am. & Ren.	1-1-2014	635-023-0125	1-1-2014	Amend	2-1-2014
629-061-0005	1-1-2014	Am. & Ren.	1-1-2014	635-023-0125	3-1-2014	Amend(T)	3-1-2014
629-061-0015	1-1-2014	Am. & Ren.	1-1-2014	635-023-0128	1-1-2014	Amend	2-1-2014
629-061-0020	1-1-2014	Am. & Ren.	1-1-2014	635-023-0130	1-1-2014	Amend	2-1-2014
629-061-0025	1-1-2014	Repeal	1-1-2014	635-023-0134	1-1-2014	Amend	2-1-2014
629-061-0035	1-1-2014	Am. & Ren.	1-1-2014	635-023-0140	2-1-2014	Adopt(T)	3-1-2014
629-061-0040	1-1-2014	Repeal	1-1-2014	635-023-0140	2-10-2014	Adopt	3-1-2014
629-061-0045	1-1-2014	Repeal	1-1-2014	635-023-0140(T)	2-10-2014	Repeal	3-1-2014
629-061-0050	1-1-2014	Repeal	1-1-2014	635-039-0080	1-1-2014	Amend	2-1-2014
629-061-0060	1-1-2014	Am. & Ren.	1-1-2014	635-039-0090	1-1-2014	Amend	2-1-2014
629-061-0065	1-1-2014	Am. & Ren.	1-1-2014	635-041-0061	2-1-2014	Amend(T)	3-1-2014
629-061-0075	1-1-2014	Repeal	1-1-2014	635-041-0065	2-1-2014	Amend(T)	3-1-2014
629-165-0005	1-1-2014	Adopt	1-1-2014	635-042-0130	2-10-2014	Amend(T)	3-1-2014
629-165-0010	1-1-2014	Adopt	1-1-2014	635-042-0145	2-10-2014	Amend(T)	3-1-2014
629-165-0200	1-1-2014	Adopt	1-1-2014	635-042-0160	2-10-2014	Amend(T)	3-1-2014
629-165-0210	1-1-2014	Adopt	1-1-2014	635-042-0170	2-10-2014	Amend(T)	3-1-2014

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635-065-0001	12-20-2013	Amend	2-1-2014	734-026-0020	11-25-2013	Amend	1-1-2014
635-065-0011	12-20-2013	Amend	2-1-2014	734-026-0030	11-25-2013	Amend	1-1-2014
635-065-0015	12-20-2013	Amend	2-1-2014	734-051-8010	1-1-2014	Adopt(T)	2-1-2014
635-065-0090	12-20-2013	Amend	2-1-2014	734-051-8015	1-1-2014	Adopt(T)	2-1-2014
635-065-0401	12-20-2013	Amend	2-1-2014	734-051-8020	1-1-2014	Adopt(T)	2-1-2014
635-065-0501	12-20-2013	Amend	2-1-2014	734-051-8025	1-1-2014	Adopt(T)	2-1-2014
635-065-0705	12-20-2013	Amend	2-1-2014	734-051-8030	1-1-2014	Adopt(T)	2-1-2014
635-065-0740	12-20-2013	Amend	2-1-2014	734-055-0017	11-25-2013	Repeal	1-1-2014
635-065-0760	12-20-2013	Amend	2-1-2014	735-010-0250	12-20-2013	Adopt	2-1-2014
635-065-0765	12-20-2013	Amend	2-1-2014	735-018-0010	12-20-2013	Amend	2-1-2014
635-066-0000	12-20-2013	Amend	2-1-2014	735-018-0130	12-20-2013	Adopt	2-1-2014
635-066-0010	12-20-2013	Amend	2-1-2014	735-050-0120	11-25-2013	Amend	1-1-2014
635-067-0000	12-20-2013	Amend	2-1-2014	735-050-0120(T)	11-25-2013	Repeal	1-1-2014
635-067-0041	12-20-2013	Amend	2-1-2014	735-062-0007	1-1-2014	Amend	2-1-2014
635-069-0000	1-22-2014	Amend	3-1-2014	735-062-0010	1-1-2014	Amend	2-1-2014
635-070-0020	2-12-2014	Amend(T)	3-1-2014	735-062-0385	1-1-2014	Amend	2-1-2014
635-070-0020(T)	2-12-2014	Suspend	3-1-2014	735-064-0070	1-1-2014	Amend	2-1-2014
635-072-0000	12-20-2013	Amend	2-1-2014	735-070-0082	1-1-2014	Adopt	2-1-2014
635-073-0000	1-22-2014	Amend	3-1-2014	735-070-0085	11-25-2013	Amend	1-1-2014
635-110-0000	1-14-2014	Amend	2-1-2014	735-070-0085(T)	11-25-2013	Repeal	1-1-2014
635-110-0010	1-14-2014	Amend	2-1-2014	735-070-0185	1-1-2014	Amend	2-1-2014
635-110-0010(T)	1-14-2014	Repeal	2-1-2014	735-070-0190	1-1-2014	Amend	2-1-2014
635-110-0020	1-14-2014	Amend	2-1-2014	735-072-0035	1-1-2014	Amend	2-1-2014
635-110-0030	1-14-2014	Amend	2-1-2014	735-150-0045	1-1-2014	Amend	2-1-2014
656-030-0020	1-24-2014	Amend	3-1-2014	735-150-0105	1-1-2014	Amend	2-1-2014
656-030-0040	1-24-2014	Amend	3-1-2014	735-152-0037	1-1-2014	Amend	2-1-2014
656-040-0010	1-24-2014	Amend	3-1-2014	737-015-0010	3-1-2014	Amend	3-1-2014
660-006-0025	1-1-2014	Amend	2-1-2014	737-015-0020	3-1-2014	Amend	3-1-2014
660-006-0026	1-1-2014	Amend	2-1-2014	737-015-0030	3-1-2014	Amend	3-1-2014
660-006-0055	1-1-2014	Amend	2-1-2014	737-015-0035	3-1-2014	Adopt	3-1-2014
660-018-0020	1-1-2014	Amend	2-1-2014	737-015-0070	3-1-2014	Amend	3-1-2014
660-018-0040	1-1-2014	Amend	2-1-2014	737-015-0074	3-1-2014	Adopt	3-1-2014
660-033-0030	1-1-2014	Amend	2-1-2014	737-015-0076	3-1-2014	Adopt	3-1-2014
660-033-0120	1-1-2014	Amend	2-1-2014	737-015-0085	3-1-2014	Adopt	3-1-2014
660-033-0130	1-1-2014	Amend	2-1-2014	737-015-0090	3-1-2014	Amend	3-1-2014
660-033-0140	1-1-2014	Amend	2-1-2014	737-015-0100	3-1-2014	Amend	3-1-2014
661-010-0021	1-1-2014	Amend	2-1-2014	737-015-0105	3-1-2014	Adopt	3-1-2014
661-010-0025	1-1-2014	Amend	2-1-2014	737-015-0110	3-1-2014	Amend	3-1-2014
661-010-0030	1-1-2014	Amend	2-1-2014	737-015-0120	3-1-2014	Adopt	3-1-2014
661-010-0050	1-1-2014	Amend	2-1-2014	737-015-0130	3-1-2014	Adopt	3-1-2014
661-010-0067	1-1-2014	Amend	2-1-2014	740-200-0010	1-1-2014	Amend	2-1-2014
661-010-0071	1-1-2014	Amend	2-1-2014	740-200-0020	1-1-2014	Amend	2-1-2014
661-010-0073	1-1-2014	Amend	2-1-2014	740-200-0040	1-1-2014	Amend	2-1-2014
661-010-0075	1-1-2014	Amend	2-1-2014	741-040-0040	12-20-2013	Amend	2-1-2014
710-001-0000	2-11-2014	Adopt	3-1-2014	800-010-0020	2-1-2014	Amend	3-1-2014
710-001-0005	2-11-2014	Adopt	3-1-2014	800-010-0025	2-1-2014	Amend	3-1-2014
710-005-0005	2-11-2014	Adopt	3-1-2014	800-010-0040	2-1-2014	Amend	3-1-2014
731-035-0010	12-20-2013	Amend	2-1-2014	800-010-0041	2-1-2014	Amend	3-1-2014
731-035-0020	12-20-2013	Amend	2-1-2014	800-010-0050	2-1-2014	Amend	3-1-2014
731-035-0050	12-20-2013	Amend	2-1-2014	800-015-0015	2-1-2014	Amend	3-1-2014
731-035-0060	12-20-2013	Amend	2-1-2014	800-020-0025	2-1-2014	Amend	3-1-2014
731-035-0080	12-20-2013	Amend	2-1-2014	800-020-0065	2-1-2014	Amend	3-1-2014
731-147-0010	1-1-2014	Amend	2-1-2014	800-025-0020	2-1-2014	Amend	3-1-2014
731-147-0040	1-1-2014	Amend	2-1-2014	800-025-0040	2-1-2014	Amend	3-1-2014
731-149-0010	1-1-2014	Amend	2-1-2014	800-025-0060	2-1-2014	Amend	3-1-2014

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801-010-0050	3-1-2014	Amend	3-1-2014	812-022-0027	12-12-2013	Amend(T)	1-1-2014
801-010-0085	3-1-2014	Amend	3-1-2014	812-022-0027	2-6-2014	Amend	3-1-2014
804-003-0000	12-12-2013	Amend	1-1-2014	812-022-0027(T)	2-6-2014	Repeal	3-1-2014
804-022-0005	12-12-2013	Amend	1-1-2014	812-022-0028	2-6-2014	Amend	3-1-2014
804-022-0010	12-12-2013	Amend	1-1-2014	812-022-0028(T)	2-6-2014	Repeal	3-1-2014
804-025-0010	12-12-2013	Amend	1-1-2014	812-022-0029	2-6-2014	Adopt	3-1-2014
806-010-0035	1-1-2014	Amend	2-1-2014	812-022-0029(T)	2-6-2014	Repeal	3-1-2014
806-010-0045	1-1-2014	Amend	2-1-2014	812-022-0034	2-6-2014	Adopt	3-1-2014
808-002-0240	2-1-2014	Amend	3-1-2014	812-022-0034(T)	2-6-2014	Repeal	3-1-2014
811-015-0005	11-27-2013	Amend	1-1-2014	812-022-0035	2-6-2014	Adopt	3-1-2014
811-035-0015	1-29-2014	Amend	3-1-2014	812-022-0035(T)	2-6-2014	Repeal	3-1-2014
812-002-0120	1-1-2014	Amend	2-1-2014	812-025-0000	1-1-2014	Amend	2-1-2014
812-003-0130	1-1-2014	Repeal	2-1-2014	812-025-0005	1-1-2014	Amend	2-1-2014
812-003-0131	1-1-2014	Amend	2-1-2014	812-025-0010	1-1-2014	Amend	2-1-2014
812-003-0140	1-1-2014	Repeal	2-1-2014	812-030-0000	1-1-2014	Amend	2-1-2014
812-003-0141	1-1-2014	Repeal	2-1-2014	812-030-0240	1-1-2014	Amend	2-1-2014
812-003-0150	1-1-2014	Repeal	2-1-2014	812-032-0000	1-1-2014	Adopt	2-1-2014
812-003-0152	1-1-2014	Amend	2-1-2014	812-032-0100	1-1-2014	Adopt	2-1-2014
812-003-0153	1-1-2014	Amend	2-1-2014	812-032-0110	1-1-2014	Adopt	2-1-2014
812-003-0170	1-1-2014	Repeal	2-1-2014	812-032-0120	1-1-2014	Adopt	2-1-2014
812-003-0171	1-1-2014	Amend	2-1-2014	812-032-0123	1-1-2014	Adopt	2-1-2014
812-003-0175	1-1-2014	Amend	2-1-2014	812-032-0130	1-1-2014	Adopt	2-1-2014
812-003-0180	1-1-2014	Amend	2-1-2014	812-032-0135	1-1-2014	Adopt	2-1-2014
812-003-0220	1-1-2014	Repeal	2-1-2014	812-032-0140	1-1-2014	Adopt	2-1-2014
812-003-0221	1-1-2014	Amend	2-1-2014	812-032-0150	1-1-2014	Adopt	2-1-2014
812-003-0240	1-1-2014	Amend	2-1-2014	813-001-0007	12-18-2013	Amend	2-1-2014
812-003-0250	1-1-2014	Amend	2-1-2014	813-001-0007	12-18-2013	Amend	2-1-2014
812-003-0260	1-1-2014	Amend	2-1-2014	813-001-0007(T)	12-18-2013	Amend	2-1-2014
812-003-0290	1-1-2014	Amend	2-1-2014	813-001-0007(T)	12-18-2013	Repeal	2-1-2014
812-003-0310	1-1-2014	Amend	2-1-2014	813-005-0001	12-18-2013	Amend	2-1-2014
812-003-0320	1-1-2014	Amend	2-1-2014	813-005-0001(T)	12-18-2013	Repeal	2-1-2014
812-003-0390	1-1-2014	Amend	2-1-2014	813-005-0005	12-18-2013	Amend	2-1-2014
812-003-0400	1-1-2014	Amend	2-1-2014	813-005-0005(T)	12-18-2013	Repeal	2-1-2014
812-003-0430	1-1-2014	Amend	2-1-2014	813-005-0016	12-18-2013	Amend	2-1-2014
812-003-0440	1-1-2014	Amend	2-1-2014	813-005-0016(T)	12-18-2013	Repeal	2-1-2014
812-008-0030	1-1-2014	Amend	2-1-2014	813-005-0020	12-18-2013	Adopt	2-1-2014
812-008-0040	1-1-2014	Amend	2-1-2014	813-005-0020(T)	12-18-2013	Repeal	2-1-2014
812-012-0110	1-1-2014	Amend	2-1-2014	813-005-0030	12-18-2013	Adopt	2-1-2014
812-021-0005	1-1-2014	Amend	2-1-2014	813-005-0030(T)	12-18-2013	Repeal	2-1-2014
812-021-0021	1-1-2014	Amend	2-1-2014	813-005-0040	12-18-2013	Adopt	2-1-2014
812-021-0045	1-1-2014	Amend	2-1-2014	813-005-0040(T)	12-18-2013	Repeal	2-1-2014
812-021-0047	1-1-2014	Amend	2-1-2014	813-005-0050	12-18-2013	Adopt	2-1-2014
812-022-0010	2-6-2014	Amend	3-1-2014	813-005-0050(T)	12-18-2013	Repeal	2-1-2014
812-022-0010(T)	2-6-2014	Repeal	3-1-2014	813-005-0060	12-18-2013	Adopt	2-1-2014
812-022-0015	11-26-2013	Amend(T)	1-1-2014	813-005-0060(T)	12-18-2013	Repeal	2-1-2014
812-022-0015	2-6-2014	Amend	3-1-2014	813-005-0070	12-18-2013	Adopt	2-1-2014
812-022-0015(T)	2-6-2014	Repeal	3-1-2014	813-005-0070(T)	12-18-2013	Repeal	2-1-2014
812-022-0021	11-26-2013	Amend(T)	1-1-2014	813-006-0005	12-18-2013	Amend	2-1-2014
812-022-0021	2-6-2014	Amend	3-1-2014	813-006-0005(T)	12-18-2013	Repeal	2-1-2014
812-022-0021(T)	2-6-2014	Repeal	3-1-2014	813-006-0010	12-18-2013	Amend	2-1-2014
812-022-0025	12-12-2013	Amend(T)	1-1-2014	813-006-0010(T)	12-18-2013	Repeal	2-1-2014
812-022-0025	2-6-2014	Amend	3-1-2014	813-006-0015	12-18-2013	Amend	2-1-2014
812-022-0025(T)	2-6-2014	Repeal	3-1-2014	813-006-0015(T)	12-18-2013	Repeal	2-1-2014
812-022-0026	12-12-2013	Amend(T)	1-1-2014	813-006-0020	12-18-2013	Amend	2-1-2014
812-022-0026	2-6-2014	Amend	3-1-2014	813-006-0020(T)	12-18-2013	Repeal	2-1-2014

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813-006-0025(T)	12-18-2013	Repeal	2-1-2014	813-051-0040(T)	2-10-2014	Suspend	3-1-2014
813-006-0030	12-18-2013	Amend	2-1-2014	813-051-0050	1-27-2014	Amend(T)	3-1-2014
813-006-0030(T)	12-18-2013	Repeal	2-1-2014	813-051-0050(T)	2-10-2014	Suspend	3-1-2014
813-006-0035	12-18-2013	Repeal	2-1-2014	813-051-0060	1-27-2014	Amend(T)	3-1-2014
813-006-0040	12-18-2013	Adopt	2-1-2014	813-051-0060(T)	2-10-2014	Suspend	3-1-2014
813-006-0040(T)	12-18-2013	Repeal	2-1-2014	813-051-0070	1-27-2014	Amend(T)	3-1-2014
813-046-0000	1-27-2014	Amend(T)	3-1-2014	813-051-0070(T)	2-10-2014	Suspend	3-1-2014
813-046-0000(T)	2-10-2014	Suspend	3-1-2014	813-051-0080	1-27-2014	Amend(T)	3-1-2014
813-046-0011	1-27-2014	Amend(T)	3-1-2014	813-051-0080(T)	2-10-2014	Suspend	3-1-2014
813-046-0011(T)	2-10-2014	Suspend	3-1-2014	813-051-0090	1-27-2014	Amend(T)	3-1-2014
813-046-0021	1-27-2014	Amend(T)	3-1-2014	813-051-0090(T)	2-10-2014	Suspend	3-1-2014
813-046-0021(T)	2-10-2014	Suspend	3-1-2014	813-051-0100	1-27-2014	Suspend	3-1-2014
813-046-0030	1-27-2014	ReNUMBER	3-1-2014	813-051-0100(T)	2-10-2014	Suspend	3-1-2014
813-046-0040	1-27-2014	Amend(T)	3-1-2014	813-055-0001	12-18-2013	Amend	2-1-2014
813-046-0040(T)	2-10-2014	Suspend	3-1-2014	813-055-0001(T)	12-18-2013	Repeal	2-1-2014
813-046-0045	1-27-2014	Amend(T)	3-1-2014	813-055-0010	12-18-2013	Amend	2-1-2014
813-046-0045(T)	2-10-2014	Suspend	3-1-2014	813-055-0010(T)	12-18-2013	Repeal	2-1-2014
813-046-0050	1-27-2014	Amend(T)	3-1-2014	813-055-0020	12-18-2013	Amend	2-1-2014
813-046-0050(T)	2-10-2014	Suspend	3-1-2014	813-055-0020(T)	12-18-2013	Repeal	2-1-2014
813-046-0061	1-27-2014	Amend(T)	3-1-2014	813-055-0040	12-18-2013	Amend	2-1-2014
813-046-0061(T)	2-10-2014	Suspend	3-1-2014	813-055-0040(T)	12-18-2013	Repeal	2-1-2014
813-046-0065	1-27-2014	Amend(T)	3-1-2014	813-055-0050	12-18-2013	Amend	2-1-2014
813-046-0065(T)	2-10-2014	Suspend	3-1-2014	813-055-0050(T)	12-18-2013	Repeal	2-1-2014
813-046-0070	1-27-2014	Amend(T)	3-1-2014	813-055-0060	12-18-2013	Repeal	2-1-2014
813-046-0070(T)	2-10-2014	Suspend	3-1-2014	813-055-0065	12-18-2013	Adopt	2-1-2014
813-046-0081	1-27-2014	Amend(T)	3-1-2014	813-055-0065(T)	12-18-2013	Repeal	2-1-2014
813-046-0081(T)	2-10-2014	Suspend	3-1-2014	813-055-0075	12-18-2013	Amend	2-1-2014
813-046-0100	1-27-2014	Suspend	3-1-2014	813-055-0075(T)	12-18-2013	Repeal	2-1-2014
813-046-0100(T)	2-10-2014	Suspend	3-1-2014	813-055-0085	12-18-2013	Amend	2-1-2014
813-049-0001	1-27-2014	Amend(T)	3-1-2014	813-055-0085(T)	12-18-2013	Repeal	2-1-2014
813-049-0001(T)	2-10-2014	Suspend	3-1-2014	813-055-0095	12-18-2013	Adopt	2-1-2014
813-049-0005	1-27-2014	Amend(T)	3-1-2014	813-055-0095(T)	12-18-2013	Repeal	2-1-2014
813-049-0005(T)	2-10-2014	Suspend	3-1-2014	813-055-0100	12-18-2013	Repeal	2-1-2014
813-049-0007	1-27-2014	Adopt(T)	3-1-2014	813-055-0105	12-18-2013	Amend	2-1-2014
813-049-0007(T)	2-10-2014	Suspend	3-1-2014	813-055-0105(T)	12-18-2013	Repeal	2-1-2014
813-049-0010	1-27-2014	Amend(T)	3-1-2014	813-055-0110	12-18-2013	Repeal	2-1-2014
813-049-0010(T)	2-10-2014	Suspend	3-1-2014	813-055-0115	12-18-2013	Amend	2-1-2014
813-049-0020	1-27-2014	Amend(T)	3-1-2014	813-055-0115(T)	12-18-2013	Repeal	2-1-2014
813-049-0020(T)	2-10-2014	Suspend	3-1-2014	813-110-0005	12-18-2013	Amend	2-1-2014
813-049-0035	1-27-2014	Adopt(T)	3-1-2014	813-110-0005(T)	12-18-2013	Repeal	2-1-2014
813-049-0035(T)	2-10-2014	Suspend	3-1-2014	813-110-0010	12-18-2013	Amend	2-1-2014
813-049-0040	1-27-2014	Adopt(T)	3-1-2014	813-110-0010(T)	12-18-2013	Repeal	2-1-2014
813-049-0040(T)	2-10-2014	Suspend	3-1-2014	813-110-0012	12-18-2013	Repeal	2-1-2014
813-049-0050	1-27-2014	Adopt(T)	3-1-2014	813-110-0013	12-18-2013	Amend	2-1-2014
813-049-0050(T)	2-10-2014	Suspend	3-1-2014	813-110-0013(T)	12-18-2013	Repeal	2-1-2014
813-049-0060	1-27-2014	Adopt(T)	3-1-2014	813-110-0015	12-18-2013	Amend	2-1-2014
813-049-0060(T)	2-10-2014	Suspend	3-1-2014	813-110-0015(T)	12-18-2013	Repeal	2-1-2014
813-051-0000	1-27-2014	Amend(T)	3-1-2014	813-110-0020	12-18-2013	Amend	2-1-2014
813-051-0000(T)	2-10-2014	Suspend	3-1-2014	813-110-0020(T)	12-18-2013	Repeal	2-1-2014
813-051-0010	1-27-2014	Amend(T)	3-1-2014	813-110-0021	12-18-2013	Amend	2-1-2014
813-051-0010(T)	2-10-2014	Suspend	3-1-2014	813-110-0021(T)	12-18-2013	Repeal	2-1-2014
813-051-0020	1-27-2014	Amend(T)	3-1-2014	813-110-0022	12-18-2013	Amend	2-1-2014
813-051-0020(T)	2-10-2014	Suspend	3-1-2014	813-110-0022(T)	12-18-2013	Repeal	2-1-2014
813-051-0030	1-27-2014	Amend(T)	3-1-2014	813-110-0023	12-18-2013	Repeal	2-1-2014
813-051-0030(T)	2-10-2014	Suspend	3-1-2014	813-110-0025	12-18-2013	Amend	2-1-2014

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813-110-0026	12-18-2013	Adopt	2-1-2014	813-145-0025	1-27-2014	Adopt(T)	3-1-2014
813-110-0026(T)	12-18-2013	Repeal	2-1-2014	813-145-0025(T)	2-10-2014	Suspend	3-1-2014
813-110-0027	12-18-2013	Adopt	2-1-2014	813-145-0030	1-27-2014	Amend(T)	3-1-2014
813-110-0027(T)	12-18-2013	Repeal	2-1-2014	813-145-0030(T)	2-10-2014	Suspend	3-1-2014
813-110-0030	12-18-2013	Amend	2-1-2014	813-145-0040	1-27-2014	Amend(T)	3-1-2014
813-110-0030(T)	12-18-2013	Repeal	2-1-2014	813-145-0040(T)	2-10-2014	Suspend	3-1-2014
813-110-0032	12-18-2013	Adopt	2-1-2014	813-145-0050	1-27-2014	Amend(T)	3-1-2014
813-110-0032(T)	12-18-2013	Repeal	2-1-2014	813-145-0050(T)	2-10-2014	Suspend	3-1-2014
813-110-0033	12-18-2013	Repeal	2-1-2014	813-145-0060	1-27-2014	Amend(T)	3-1-2014
813-110-0034	12-18-2013	Adopt	2-1-2014	813-145-0060(T)	2-10-2014	Suspend	3-1-2014
813-110-0034(T)	12-18-2013	Repeal	2-1-2014	813-145-0070	1-27-2014	Amend(T)	3-1-2014
813-110-0035	12-18-2013	Amend	2-1-2014	813-145-0070(T)	2-10-2014	Suspend	3-1-2014
813-110-0035(T)	12-18-2013	Repeal	2-1-2014	813-145-0080	1-27-2014	Amend(T)	3-1-2014
813-110-0037	12-18-2013	Adopt	2-1-2014	813-145-0080(T)	2-10-2014	Suspend	3-1-2014
813-110-0037(T)	12-18-2013	Repeal	2-1-2014	813-145-0090	1-27-2014	Suspend	3-1-2014
813-110-0040	12-18-2013	Amend	2-1-2014	813-145-0090(T)	2-10-2014	Suspend	3-1-2014
813-110-0040(T)	12-18-2013	Repeal	2-1-2014	813-200-0001	1-27-2014	Amend(T)	3-1-2014
813-110-0045	12-18-2013	Adopt	2-1-2014	813-200-0001(T)	2-10-2014	Suspend	3-1-2014
813-110-0045(T)	12-18-2013	Repeal	2-1-2014	813-200-0005	1-27-2014	Amend(T)	3-1-2014
813-110-0050	12-18-2013	Repeal	2-1-2014	813-200-0005(T)	2-10-2014	Suspend	3-1-2014
813-130-0000	12-18-2013	Amend	2-1-2014	813-200-0007	1-27-2014	Adopt(T)	3-1-2014
813-130-0000(T)	12-18-2013	Repeal	2-1-2014	813-200-0007(T)	2-10-2014	Suspend	3-1-2014
813-130-0010	12-18-2013	Amend	2-1-2014	813-200-0010	1-27-2014	Amend(T)	3-1-2014
813-130-0010(T)	12-18-2013	Repeal	2-1-2014	813-200-0010(T)	2-10-2014	Suspend	3-1-2014
813-130-0020	12-18-2013	Amend	2-1-2014	813-200-0017	1-27-2014	Adopt(T)	3-1-2014
813-130-0020(T)	12-18-2013	Repeal	2-1-2014	813-200-0017(T)	2-10-2014	Suspend	3-1-2014
813-130-0030	12-18-2013	Amend	2-1-2014	813-200-0019	1-27-2014	Adopt(T)	3-1-2014
813-130-0030(T)	12-18-2013	Repeal	2-1-2014	813-200-0019(T)	2-10-2014	Suspend	3-1-2014
813-130-0040	12-18-2013	Amend	2-1-2014	813-200-0020	1-27-2014	Amend(T)	3-1-2014
813-130-0040(T)	12-18-2013	Repeal	2-1-2014	813-200-0020(T)	2-10-2014	Suspend	3-1-2014
813-130-0050	12-18-2013	Amend	2-1-2014	813-200-0030	1-27-2014	Amend(T)	3-1-2014
813-130-0050(T)	12-18-2013	Repeal	2-1-2014	813-200-0030(T)	2-10-2014	Suspend	3-1-2014
813-130-0060	12-18-2013	Amend	2-1-2014	813-200-0040	1-27-2014	Amend(T)	3-1-2014
813-130-0060(T)	12-18-2013	Repeal	2-1-2014	813-200-0040(T)	2-10-2014	Suspend	3-1-2014
813-130-0070	12-18-2013	Amend	2-1-2014	813-200-0050	1-27-2014	Amend(T)	3-1-2014
813-130-0070(T)	12-18-2013	Repeal	2-1-2014	813-200-0050(T)	2-10-2014	Suspend	3-1-2014
813-130-0080	12-18-2013	Amend	2-1-2014	813-200-0055	1-27-2014	Adopt(T)	3-1-2014
813-130-0080(T)	12-18-2013	Repeal	2-1-2014	813-200-0055(T)	2-10-2014	Suspend	3-1-2014
813-130-0090	12-18-2013	Amend	2-1-2014	813-200-0060	1-27-2014	Suspend	3-1-2014
813-130-0090(T)	12-18-2013	Repeal	2-1-2014	813-200-0060(T)	2-10-2014	Suspend	3-1-2014
813-130-0100	12-18-2013	Amend	2-1-2014	813-200-0070	1-27-2014	Adopt(T)	3-1-2014
813-130-0100(T)	12-18-2013	Repeal	2-1-2014	813-200-0070(T)	2-10-2014	Suspend	3-1-2014
813-130-0110	12-18-2013	Amend	2-1-2014	813-202-0001	1-27-2014	Adopt(T)	3-1-2014
813-130-0110(T)	12-18-2013	Repeal	2-1-2014	813-202-0001(T)	2-10-2014	Suspend	3-1-2014
813-130-0120	12-18-2013	Amend	2-1-2014	813-202-0005	1-27-2014	Amend(T)	3-1-2014
813-130-0120(T)	12-18-2013	Repeal	2-1-2014	813-202-0005(T)	2-10-2014	Suspend	3-1-2014
813-130-0130	12-18-2013	Repeal	2-1-2014	813-202-0008	1-27-2014	Adopt(T)	3-1-2014
813-130-0140	12-18-2013	Repeal	2-1-2014	813-202-0008(T)	2-10-2014	Suspend	3-1-2014
813-130-0150	12-18-2013	Amend	2-1-2014	813-202-0010	1-27-2014	Amend(T)	3-1-2014
813-130-0150(T)	12-18-2013	Repeal	2-1-2014	813-202-0010(T)	2-10-2014	Suspend	3-1-2014
813-145-0000	1-27-2014	Amend(T)	3-1-2014	813-202-0015	1-27-2014	Suspend	3-1-2014
813-145-0000(T)	2-10-2014	Suspend	3-1-2014	813-202-0015(T)	2-10-2014	Suspend	3-1-2014
813-145-0010	1-27-2014	Amend(T)	3-1-2014	813-202-0017	1-27-2014	Adopt(T)	3-1-2014
813-145-0010(T)	2-10-2014	Suspend	3-1-2014	813-202-0017(T)	2-10-2014	Suspend	3-1-2014
813-145-0020	1-27-2014	Amend(T)	3-1-2014	813-202-0019	1-27-2014	Adopt(T)	3-1-2014

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813-202-0020	1-27-2014	Amend(T)	3-1-2014	813-210-0015(T)	2-10-2014	Suspend	3-1-2014
813-202-0020(T)	2-10-2014	Suspend	3-1-2014	813-210-0022	1-27-2014	Adopt(T)	3-1-2014
813-202-0030	1-27-2014	Amend(T)	3-1-2014	813-210-0022(T)	2-10-2014	Suspend	3-1-2014
813-202-0030(T)	2-10-2014	Suspend	3-1-2014	813-210-0025	1-27-2014	Amend(T)	3-1-2014
813-202-0040	1-27-2014	Amend(T)	3-1-2014	813-210-0025(T)	2-10-2014	Suspend	3-1-2014
813-202-0040(T)	2-10-2014	Suspend	3-1-2014	813-210-0030	1-27-2014	Renumber	3-1-2014
813-202-0050	1-27-2014	Amend(T)	3-1-2014	813-210-0040	1-27-2014	Suspend	3-1-2014
813-202-0050(T)	2-10-2014	Suspend	3-1-2014	813-210-0040(T)	2-10-2014	Suspend	3-1-2014
813-202-0060	1-27-2014	Amend(T)	3-1-2014	813-210-0050	1-27-2014	Amend(T)	3-1-2014
813-202-0060(T)	2-10-2014	Suspend	3-1-2014	813-210-0050(T)	2-10-2014	Suspend	3-1-2014
813-202-0070	1-27-2014	Adopt(T)	3-1-2014	813-210-0052	1-27-2014	Amend(T)	3-1-2014
813-202-0070(T)	2-10-2014	Suspend	3-1-2014	813-210-0052(T)	2-10-2014	Suspend	3-1-2014
813-205-0000	12-18-2013	Amend	2-1-2014	813-210-0055	1-27-2014	Suspend	3-1-2014
813-205-0000(T)	12-18-2013	Repeal	2-1-2014	813-210-0055(T)	2-10-2014	Suspend	3-1-2014
813-205-0010	12-18-2013	Repeal	2-1-2014	813-210-0056	1-27-2014	Adopt(T)	3-1-2014
813-205-0020	12-18-2013	Amend	2-1-2014	813-210-0056(T)	2-10-2014	Suspend	3-1-2014
813-205-0020(T)	12-18-2013	Repeal	2-1-2014	813-210-0060	1-27-2014	Amend(T)	3-1-2014
813-205-0030	12-18-2013	Amend	2-1-2014	813-210-0060(T)	2-10-2014	Suspend	3-1-2014
813-205-0030(T)	12-18-2013	Repeal	2-1-2014	813-210-0065	1-27-2014	Suspend	3-1-2014
813-205-0040	12-18-2013	Amend	2-1-2014	813-210-0065(T)	2-10-2014	Suspend	3-1-2014
813-205-0040(T)	12-18-2013	Repeal	2-1-2014	813-210-0075	1-27-2014	Adopt(T)	3-1-2014
813-205-0050	12-18-2013	Amend	2-1-2014	813-210-0075(T)	2-10-2014	Suspend	3-1-2014
813-205-0050(T)	12-18-2013	Repeal	2-1-2014	813-210-0085	1-27-2014	Adopt(T)	3-1-2014
813-205-0051	12-18-2013	Amend	2-1-2014	813-210-0085(T)	2-10-2014	Suspend	3-1-2014
813-205-0051(T)	12-18-2013	Repeal	2-1-2014	813-220-0001	1-27-2014	Amend(T)	3-1-2014
813-205-0052	12-18-2013	Amend	2-1-2014	813-220-0001(T)	2-10-2014	Suspend	3-1-2014
813-205-0052(T)	12-18-2013	Repeal	2-1-2014	813-220-0005	1-27-2014	Amend(T)	3-1-2014
813-205-0060	12-18-2013	Amend	2-1-2014	813-220-0005(T)	2-10-2014	Suspend	3-1-2014
813-205-0060(T)	12-18-2013	Repeal	2-1-2014	813-220-0010	1-27-2014	Amend(T)	3-1-2014
813-205-0070	12-18-2013	Amend	2-1-2014	813-220-0010(T)	2-10-2014	Suspend	3-1-2014
813-205-0070(T)	12-18-2013	Repeal	2-1-2014	813-220-0015	1-27-2014	Amend(T)	3-1-2014
813-205-0080	12-18-2013	Amend	2-1-2014	813-220-0015(T)	2-10-2014	Suspend	3-1-2014
813-205-0080(T)	12-18-2013	Repeal	2-1-2014	813-220-0020	1-27-2014	Amend(T)	3-1-2014
813-205-0082	12-18-2013	Adopt	2-1-2014	813-220-0020(T)	2-10-2014	Suspend	3-1-2014
813-205-0082(T)	12-18-2013	Repeal	2-1-2014	813-220-0030	1-27-2014	Amend(T)	3-1-2014
813-205-0085	12-18-2013	Amend	2-1-2014	813-220-0030(T)	2-10-2014	Suspend	3-1-2014
813-205-0085(T)	12-18-2013	Repeal	2-1-2014	813-220-0050	1-27-2014	Amend(T)	3-1-2014
813-205-0100	12-18-2013	Amend	2-1-2014	813-220-0050(T)	2-10-2014	Suspend	3-1-2014
813-205-0100(T)	12-18-2013	Repeal	2-1-2014	813-220-0060	1-27-2014	Amend(T)	3-1-2014
813-205-0110	12-18-2013	Amend	2-1-2014	813-220-0060(T)	2-10-2014	Suspend	3-1-2014
813-205-0110(T)	12-18-2013	Repeal	2-1-2014	813-220-0070	1-27-2014	Suspend	3-1-2014
813-205-0120	12-18-2013	Amend	2-1-2014	813-220-0070(T)	2-10-2014	Suspend	3-1-2014
813-205-0120(T)	12-18-2013	Repeal	2-1-2014	813-220-0080	1-27-2014	Adopt(T)	3-1-2014
813-205-0130	12-18-2013	Amend	2-1-2014	813-220-0080(T)	2-10-2014	Suspend	3-1-2014
813-205-0130(T)	12-18-2013	Repeal	2-1-2014	813-240-0001	1-27-2014	Amend(T)	3-1-2014
813-205-0140	12-18-2013	Repeal	2-1-2014	813-240-0001(T)	2-10-2014	Suspend	3-1-2014
813-205-0145	12-18-2013	Adopt	2-1-2014	813-240-0005	1-27-2014	Amend(T)	3-1-2014
813-205-0145(T)	12-18-2013	Repeal	2-1-2014	813-240-0005(T)	2-10-2014	Suspend	3-1-2014
813-205-0150	12-18-2013	Adopt	2-1-2014	813-240-0010	1-27-2014	Amend(T)	3-1-2014
813-205-0150(T)	12-18-2013	Repeal	2-1-2014	813-240-0010(T)	2-10-2014	Suspend	3-1-2014
813-210-0001	1-27-2014	Amend(T)	3-1-2014	813-240-0015	1-27-2014	Amend(T)	3-1-2014
813-210-0001(T)	2-10-2014	Suspend	3-1-2014	813-240-0015(T)	2-10-2014	Suspend	3-1-2014
813-210-0009	1-27-2014	Amend(T)	3-1-2014	813-240-0020	1-27-2014	Amend(T)	3-1-2014
813-210-0009(T)	2-10-2014	Suspend	3-1-2014	813-240-0020(T)	2-10-2014	Suspend	3-1-2014
813-210-0010	1-27-2014	Renumber	3-1-2014	813-240-0030	1-27-2014	Renumber	3-1-2014

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813-240-0041	1-27-2014	Amend(T)	3-1-2014	820-010-0420	2-14-2014	Amend(T)	3-1-2014
813-240-0041(T)	2-10-2014	Suspend	3-1-2014	820-010-0442	12-5-2013	Amend(T)	1-1-2014
813-240-0050	1-27-2014	Amend(T)	3-1-2014	820-010-0442(T)	12-5-2013	Suspend	1-1-2014
813-240-0050(T)	2-10-2014	Suspend	3-1-2014	820-010-0442(T)	12-5-2013	Suspend	1-1-2014
813-240-0060	1-27-2014	Amend(T)	3-1-2014	820-010-0620	12-5-2013	Amend(T)	1-1-2014
813-240-0060(T)	2-10-2014	Suspend	3-1-2014	820-010-0620(T)	12-5-2013	Suspend	1-1-2014
813-240-0070	1-27-2014	Amend(T)	3-1-2014	820-010-0620(T)	12-5-2013	Suspend	1-1-2014
813-240-0070(T)	2-10-2014	Suspend	3-1-2014	820-010-0621	12-5-2013	Amend(T)	1-1-2014
813-240-0080	1-27-2014	Amend(T)	3-1-2014	820-010-0621(T)	12-5-2013	Suspend	1-1-2014
813-240-0080(T)	2-10-2014	Suspend	3-1-2014	820-010-0621(T)	12-5-2013	Suspend	1-1-2014
813-240-0090	1-27-2014	Suspend	3-1-2014	833-020-0051	1-8-2014	Amend	2-1-2014
813-240-0090(T)	2-10-2014	Suspend	3-1-2014	833-040-0021	1-8-2014	Amend	2-1-2014
813-250-0000	1-27-2014	Amend(T)	3-1-2014	833-060-0012	1-8-2014	Amend	2-1-2014
813-250-0000(T)	2-10-2014	Suspend	3-1-2014	836-007-0001	12-31-2013	Adopt(T)	2-1-2014
813-250-0005	1-27-2014	Adopt(T)	3-1-2014	836-010-0011	1-1-2014	Amend	2-1-2014
813-250-0005(T)	2-10-2014	Suspend	3-1-2014	836-010-0051	1-1-2014	Adopt	2-1-2014
813-250-0015	1-27-2014	Adopt(T)	3-1-2014	836-011-0000	2-14-2014	Amend	3-1-2014
813-250-0015(T)	2-10-2014	Suspend	3-1-2014	836-011-0050	2-14-2014	Adopt	3-1-2014
813-250-0020	1-27-2014	Amend(T)	3-1-2014	836-020-0770	1-1-2014	Amend	2-1-2014
813-250-0020(T)	2-10-2014	Suspend	3-1-2014	836-020-0775	1-1-2014	Amend	2-1-2014
813-250-0030	1-27-2014	Amend(T)	3-1-2014	836-020-0780	1-1-2014	Amend	2-1-2014
813-250-0030(T)	2-10-2014	Suspend	3-1-2014	836-020-0785	1-1-2014	Amend	2-1-2014
813-250-0040	1-27-2014	Amend(T)	3-1-2014	836-020-0806	1-1-2014	Amend	2-1-2014
813-250-0040(T)	2-10-2014	Suspend	3-1-2014	836-027-0005	1-1-2014	Amend	2-1-2014
813-250-0055	1-27-2014	Adopt(T)	3-1-2014	836-027-0005	1-8-2014	Amend	2-1-2014
813-250-0055(T)	2-10-2014	Suspend	3-1-2014	836-027-0010	1-1-2014	Amend	2-1-2014
813-250-0060	1-27-2014	Adopt(T)	3-1-2014	836-027-0010	1-8-2014	Amend	2-1-2014
813-250-0060(T)	2-10-2014	Suspend	3-1-2014	836-027-0030	1-1-2014	Amend	2-1-2014
813-250-0070	1-27-2014	Adopt(T)	3-1-2014	836-027-0030	1-8-2014	Amend	2-1-2014
813-250-0070(T)	2-10-2014	Suspend	3-1-2014	836-027-0035	1-1-2014	Amend	2-1-2014
813-300-0010	12-18-2013	Amend(T)	2-1-2014	836-027-0035	1-8-2014	Amend	2-1-2014
817-010-0014	1-1-2014	Amend	2-1-2014	836-027-0045	1-1-2014	Amend	2-1-2014
817-030-0028	1-1-2014	Adopt	2-1-2014	836-027-0045	1-8-2014	Amend	2-1-2014
817-030-0065	1-1-2014	Amend	2-1-2014	836-027-0050	1-1-2014	Amend	2-1-2014
820-001-0020	12-5-2013	Amend(T)	1-1-2014	836-027-0050	1-8-2014	Amend	2-1-2014
820-001-0020(T)	12-5-2013	Suspend	1-1-2014	836-027-0100	1-1-2014	Amend	2-1-2014
820-001-0020(T)	12-5-2013	Suspend	1-1-2014	836-027-0100	1-8-2014	Amend	2-1-2014
820-001-0025	12-5-2013	Amend(T)	1-1-2014	836-027-0125	1-1-2014	Adopt	2-1-2014
820-010-0010	12-5-2013	Amend(T)	1-1-2014	836-027-0125	1-8-2014	Adopt	2-1-2014
820-010-0010(T)	12-5-2013	Suspend	1-1-2014	836-027-0140	1-1-2014	Adopt	2-1-2014
820-010-0010(T)	12-5-2013	Suspend	1-1-2014	836-027-0140	1-8-2014	Adopt	2-1-2014
820-010-0225	2-14-2014	Amend(T)	3-1-2014	836-052-0142	12-5-2013	Amend(T)	1-1-2014
820-010-0226	2-14-2014	Amend(T)	3-1-2014	836-052-0676	1-1-2014	Amend	2-1-2014
820-010-0227	12-5-2013	Amend(T)	1-1-2014	836-052-0800	1-1-2014	Amend	2-1-2014
820-010-0227	2-14-2014	Amend(T)	3-1-2014	836-052-0830	1-1-2014	Repeal	2-1-2014
820-010-0227(T)	12-5-2013	Suspend	1-1-2014	836-052-0860	1-1-2014	Amend	2-1-2014
820-010-0227(T)	12-5-2013	Suspend	1-1-2014	836-053-0000	1-1-2014	Amend	2-1-2014
820-010-0228	12-5-2013	Amend(T)	1-1-2014	836-053-0001	1-1-2014	Amend	2-1-2014
820-010-0228	2-14-2014	Amend(T)	3-1-2014	836-053-0002	1-1-2014	Adopt	2-1-2014
820-010-0228(T)	12-5-2013	Suspend	1-1-2014	836-053-0003	1-1-2014	Amend	2-1-2014
820-010-0228(T)	12-5-2013	Suspend	1-1-2014	836-053-0005	1-1-2014	Amend	2-1-2014
820-010-0260(T)	12-5-2013	Suspend	1-1-2014	836-053-0007	1-1-2014	Amend	2-1-2014
820-010-0260(T)	12-5-2013	Suspend	1-1-2014	836-053-0008	1-1-2014	Adopt	2-1-2014
820-010-0305	12-5-2013	Amend(T)	1-1-2014	836-053-0009	1-1-2014	Adopt	2-1-2014
820-010-0305(T)	12-5-2013	Suspend	1-1-2014	836-053-0021	1-1-2014	Amend	2-1-2014
820-010-0305(T)	12-5-2013	Suspend	1-1-2014	836-053-0030	1-1-2014	Amend	2-1-2014

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836-053-0050	1-1-2014	Amend	2-1-2014	836-053-1330	1-1-2014	Amend	2-1-2014
836-053-0060	1-1-2014	Repeal	2-1-2014	836-053-1335	1-1-2014	Amend	2-1-2014
836-053-0063	1-1-2014	Adopt	2-1-2014	836-053-1340	1-1-2014	Amend	2-1-2014
836-053-0065	1-1-2014	Amend	2-1-2014	836-053-1342	1-1-2014	Amend	2-1-2014
836-053-0070	1-1-2014	Amend	2-1-2014	836-053-1345	1-1-2014	Amend	2-1-2014
836-053-0081	1-1-2014	Repeal	2-1-2014	836-053-1350	1-1-2014	Amend	2-1-2014
836-053-0210	1-1-2014	Repeal	2-1-2014	836-053-1355	1-1-2014	Amend	2-1-2014
836-053-0211	1-1-2014	Adopt	2-1-2014	836-053-1360	1-1-2014	Amend	2-1-2014
836-053-0220	1-1-2014	Repeal	2-1-2014	836-053-1365	1-1-2014	Amend	2-1-2014
836-053-0221	1-1-2014	Adopt	2-1-2014	836-053-1400	1-1-2014	Amend	2-1-2014
836-053-0250	1-1-2014	Repeal	2-1-2014	836-053-1401	1-1-2014	Repeal	2-1-2014
836-053-0410	1-1-2014	Amend	2-1-2014	836-053-1410	1-1-2014	Amend	2-1-2014
836-053-0415	1-1-2014	Amend	2-1-2014	836-053-1415	1-1-2014	Amend	2-1-2014
836-053-0430	1-1-2014	Repeal	2-1-2014	836-071-0405	1-1-2014	Adopt	2-1-2014
836-053-0431	1-1-2014	Adopt	2-1-2014	836-071-0410	1-1-2014	Adopt	2-1-2014
836-053-0431	2-4-2014	Amend(T)	3-1-2014	836-071-0415	1-1-2014	Adopt	2-1-2014
836-053-0440	1-1-2014	Repeal	2-1-2014	836-071-0420	1-1-2014	Adopt	2-1-2014
836-053-0460	1-1-2014	Repeal	2-1-2014	836-071-0425	1-1-2014	Adopt	2-1-2014
836-053-0465	1-1-2014	Amend	2-1-2014	836-071-0430	1-1-2014	Adopt	2-1-2014
836-053-0471	1-1-2014	Repeal	2-1-2014	836-075-0045	1-1-2014	Adopt	2-1-2014
836-053-0472	1-1-2014	Adopt	2-1-2014	836-080-0050	1-1-2014	Amend	2-1-2014
836-053-0473	1-1-2014	Adopt	2-1-2014	836-080-0055	1-1-2014	Amend	2-1-2014
836-053-0475	1-1-2014	Amend	2-1-2014	836-080-0080	1-1-2014	Amend	2-1-2014
836-053-0510	1-1-2014	Amend	2-1-2014	836-081-0005	1-1-2014	Amend	2-1-2014
836-053-0700	1-1-2014	Repeal	2-1-2014	836-082-0050	1-1-2014	Amend	2-1-2014
836-053-0710	1-1-2014	Repeal	2-1-2014	836-082-0055	1-1-2014	Amend	2-1-2014
836-053-0750	1-1-2014	Repeal	2-1-2014	836-085-0001	1-1-2014	Amend	2-1-2014
836-053-0760	1-1-2014	Repeal	2-1-2014	836-085-0005	1-1-2014	Amend	2-1-2014
836-053-0780	1-1-2014	Repeal	2-1-2014	836-085-0010	1-1-2014	Amend	2-1-2014
836-053-0785	1-1-2014	Repeal	2-1-2014	836-085-0025	1-1-2014	Amend	2-1-2014
836-053-0790	1-1-2014	Repeal	2-1-2014	836-085-0035	1-1-2014	Amend	2-1-2014
836-053-0800	1-1-2014	Repeal	2-1-2014	836-085-0045	1-1-2014	Amend	2-1-2014
836-053-0825	1-1-2014	Amend	2-1-2014	836-085-0050	1-1-2014	Amend	2-1-2014
836-053-0830	1-1-2014	Amend	2-1-2014	836-100-0011	1-1-2014	Repeal	2-1-2014
836-053-0835	1-1-2014	Adopt	2-1-2014	836-100-0016	1-1-2014	Repeal	2-1-2014
836-053-0851	1-1-2014	Amend	2-1-2014	836-100-0020	1-1-2014	Repeal	2-1-2014
836-053-0900	1-1-2014	Amend	2-1-2014	836-100-0025	1-1-2014	Repeal	2-1-2014
836-053-0910	1-1-2014	Amend	2-1-2014	836-100-0030	1-1-2014	Repeal	2-1-2014
836-053-1000	1-1-2014	Amend	2-1-2014	836-100-0035	1-1-2014	Repeal	2-1-2014
836-053-1020	1-1-2014	Amend	2-1-2014	836-100-0040	1-1-2014	Repeal	2-1-2014
836-053-1030	1-1-2014	Amend	2-1-2014	836-100-0045	1-1-2014	Repeal	2-1-2014
836-053-1035	1-1-2014	Amend	2-1-2014	836-100-0100	1-1-2014	Amend	2-1-2014
836-053-1040	1-1-2014	Repeal	2-1-2014	836-100-0105	1-1-2014	Amend	2-1-2014
836-053-1070	1-1-2014	Amend	2-1-2014	836-100-0110	1-1-2014	Amend	2-1-2014
836-053-1080	1-1-2014	Amend	2-1-2014	836-100-0115	1-1-2014	Amend	2-1-2014
836-053-1100	1-1-2014	Amend	2-1-2014	836-200-0400	1-2-2014	Adopt(T)	2-1-2014
836-053-1110	1-1-2014	Amend	2-1-2014	836-200-0405	1-2-2014	Adopt(T)	2-1-2014
836-053-1130	1-1-2014	Amend	2-1-2014	836-200-0410	1-2-2014	Adopt(T)	2-1-2014
836-053-1140	1-1-2014	Amend	2-1-2014	836-200-0415	1-2-2014	Adopt(T)	2-1-2014
836-053-1170	1-1-2014	Amend	2-1-2014	836-200-0420	1-2-2014	Adopt(T)	2-1-2014
836-053-1180	1-1-2014	Adopt	2-1-2014	837-085-0040	1-9-2014	Amend	2-1-2014
836-053-1190	1-1-2014	Amend	2-1-2014	837-085-0090	1-9-2014	Amend	2-1-2014
836-053-1200	1-1-2014	Amend	2-1-2014	837-085-0280	1-9-2014	Amend	2-1-2014
836-053-1315	1-1-2014	Amend	2-1-2014	839-001-0440	1-1-2014	Amend	2-1-2014
836-053-1320	1-1-2014	Amend	2-1-2014	839-001-0450	1-1-2014	Amend	2-1-2014

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839-003-0020	12-30-2013	Amend	2-1-2014	839-010-0310	12-30-2013	Adopt	2-1-2014
839-003-0031	12-30-2013	Amend	2-1-2014	839-015-0155	1-21-2014	Amend(T)	3-1-2014
839-003-0090	12-30-2013	Amend	2-1-2014	839-019-0004	1-1-2014	Amend	2-1-2014
839-003-0100	12-30-2013	Amend	2-1-2014	839-019-0010	1-1-2014	Amend	2-1-2014
839-003-0235	12-30-2013	Amend	2-1-2014	839-019-0100	1-1-2014	Amend	2-1-2014
839-003-0245	12-30-2013	Amend	2-1-2014	839-020-0004	1-1-2014	Amend	2-1-2014
839-005-0003	12-30-2013	Amend	2-1-2014	839-020-0025	1-1-2014	Amend	2-1-2014
839-005-0011	12-30-2013	Amend	2-1-2014	839-020-0040	1-1-2014	Amend	2-1-2014
839-005-0030	12-30-2013	Amend	2-1-2014	839-020-0050	1-1-2014	Amend	2-1-2014
839-005-0060	12-30-2013	Amend	2-1-2014	839-020-0070	1-1-2014	Amend	2-1-2014
839-005-0065	12-30-2013	Amend	2-1-2014	839-020-1010	1-1-2014	Amend	2-1-2014
839-005-0070	12-30-2013	Amend	2-1-2014	839-021-0006	1-1-2014	Amend	2-1-2014
839-005-0075	12-30-2013	Amend	2-1-2014	839-021-0067	1-1-2014	Amend	2-1-2014
839-005-0080	12-30-2013	Amend	2-1-2014	839-021-0070	1-1-2014	Amend	2-1-2014
839-005-0085	12-30-2013	Amend	2-1-2014	839-021-0072	1-1-2014	Amend	2-1-2014
839-005-0160	12-30-2013	Amend	2-1-2014	839-021-0087	1-1-2014	Amend	2-1-2014
839-005-0170	12-30-2013	Amend	2-1-2014	839-021-0097	1-1-2014	Amend	2-1-2014
839-005-0200	12-30-2013	Amend	2-1-2014	839-021-0102	1-1-2014	Amend	2-1-2014
839-005-0206	12-30-2013	Amend	2-1-2014	839-021-0104	1-1-2014	Amend	2-1-2014
839-005-0300	12-30-2013	Adopt	2-1-2014	839-021-0175	1-1-2014	Amend	2-1-2014
839-005-0305	12-30-2013	Adopt	2-1-2014	839-021-0220	1-1-2014	Amend	2-1-2014
839-005-0310	12-30-2013	Adopt	2-1-2014	839-021-0221	1-1-2014	Amend	2-1-2014
839-005-0315	12-30-2013	Adopt	2-1-2014	839-021-0246	1-1-2014	Amend	2-1-2014
839-005-0320	12-30-2013	Adopt	2-1-2014	839-021-0248	1-1-2014	Amend	2-1-2014
839-005-0325	12-30-2013	Adopt	2-1-2014	839-021-0255	1-1-2014	Amend	2-1-2014
839-005-0400	12-30-2013	Adopt	2-1-2014	839-021-0265	1-1-2014	Amend	2-1-2014
839-006-0205	12-30-2013	Amend	2-1-2014	839-021-0280	1-1-2014	Amend	2-1-2014
839-006-0212	12-30-2013	Amend	2-1-2014	839-021-0290	1-1-2014	Amend	2-1-2014
839-006-0270	12-30-2013	Amend	2-1-2014	839-021-0292	1-1-2014	Amend	2-1-2014
839-006-0290	12-30-2013	Amend	2-1-2014	839-021-0294	1-1-2014	Amend	2-1-2014
839-006-0291	12-30-2013	Adopt	2-1-2014	839-021-0297	1-1-2014	Amend	2-1-2014
839-006-0292	12-30-2013	Adopt	2-1-2014	839-021-0315	1-1-2014	Amend	2-1-2014
839-006-0295	12-30-2013	Amend	2-1-2014	839-021-0320	1-1-2014	Amend	2-1-2014
839-006-0305	12-30-2013	Amend	2-1-2014	839-021-0325	1-1-2014	Amend	2-1-2014
839-006-0307	12-30-2013	Am. & Ren.	2-1-2014	839-021-0330	1-1-2014	Amend	2-1-2014
839-006-0332	12-30-2013	Renumber	2-1-2014	839-021-0335	1-1-2014	Amend	2-1-2014
839-006-0345	12-30-2013	Adopt	2-1-2014	839-021-0340	1-1-2014	Amend	2-1-2014
839-006-0450	12-16-2013	Amend(T)	1-1-2014	839-021-0345	1-1-2014	Amend	2-1-2014
839-009-0210	12-31-2013	Amend	2-1-2014	839-021-0350	1-1-2014	Amend	2-1-2014
839-009-0230	12-31-2013	Amend	2-1-2014	839-021-0355	1-1-2014	Amend	2-1-2014
839-009-0240	12-31-2013	Amend	2-1-2014	839-021-0360	1-1-2014	Amend	2-1-2014
839-009-0250	12-31-2013	Amend	2-1-2014	839-021-0365	1-1-2014	Amend	2-1-2014
839-009-0270	12-31-2013	Amend	2-1-2014	839-021-0370	1-1-2014	Amend	2-1-2014
839-009-0280	12-31-2013	Amend	2-1-2014	839-021-0490	1-1-2014	Amend	2-1-2014
839-009-0325	12-31-2013	Amend	2-1-2014	839-022-0000	1-1-2014	Repeal	2-1-2014
839-009-0330	12-31-2013	Amend	2-1-2014	839-022-0010	1-1-2014	Repeal	2-1-2014
839-009-0340	12-31-2013	Amend	2-1-2014	839-022-0100	1-1-2014	Repeal	2-1-2014
839-009-0345	12-31-2013	Amend	2-1-2014	839-022-0105	1-1-2014	Repeal	2-1-2014
839-009-0362	12-31-2013	Amend	2-1-2014	839-022-0110	1-1-2014	Repeal	2-1-2014
839-009-0363	12-31-2013	Amend	2-1-2014	839-022-0115	1-1-2014	Repeal	2-1-2014
839-009-0380	12-31-2013	Amend	2-1-2014	839-022-0120	1-1-2014	Repeal	2-1-2014
839-009-0390	12-31-2013	Amend	2-1-2014	839-022-0125	1-1-2014	Repeal	2-1-2014
839-009-0430	12-31-2013	Amend	2-1-2014	839-022-0130	1-1-2014	Repeal	2-1-2014
839-010-0000	12-30-2013	Amend	2-1-2014	839-022-0135	1-1-2014	Repeal	2-1-2014
839-010-0300	12-30-2013	Adopt	2-1-2014	839-022-0140	1-1-2014	Repeal	2-1-2014

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839-022-0145	1-1-2014	Repeal	2-1-2014	848-040-0150	1-1-2014	Amend	1-1-2014
839-022-0150	1-1-2014	Repeal	2-1-2014	848-045-0010	1-1-2014	Amend	1-1-2014
839-022-0155	1-1-2014	Repeal	2-1-2014	851-021-0005	1-1-2014	Amend	1-1-2014
839-022-0160	1-1-2014	Repeal	2-1-2014	851-021-0010	1-1-2014	Amend	1-1-2014
839-022-0165	1-1-2014	Repeal	2-1-2014	851-021-0025	1-1-2014	Amend	1-1-2014
839-025-0004	1-1-2014	Amend	2-1-2014	851-021-0050	1-1-2014	Amend	1-1-2014
839-025-0010	1-1-2014	Amend	2-1-2014	851-021-0120	1-1-2014	Amend	1-1-2014
839-025-0013	1-1-2014	Amend	2-1-2014	851-050-0000	1-1-2014	Amend	1-1-2014
839-025-0020	1-1-2014	Amend	2-1-2014	851-050-0001	1-1-2014	Amend	1-1-2014
839-025-0035	1-1-2014	Amend	2-1-2014	851-050-0002	1-1-2014	Amend	1-1-2014
839-025-0043	1-1-2014	Amend	2-1-2014	851-054-0010	1-1-2014	Amend	1-1-2014
839-025-0085	1-1-2014	Amend	2-1-2014	851-054-0020	1-1-2014	Amend	1-1-2014
839-025-0090	1-1-2014	Amend	2-1-2014	851-054-0021	1-1-2014	Amend	1-1-2014
839-025-0095	1-1-2014	Amend	2-1-2014	851-054-0030	1-1-2014	Adopt	1-1-2014
839-025-0230	1-1-2014	Amend	2-1-2014	851-054-0035	1-1-2014	Adopt	1-1-2014
839-025-0530	1-1-2014	Amend	2-1-2014	851-054-0040	1-1-2014	Amend	1-1-2014
839-025-0700	1-1-2014	Amend	2-1-2014	851-056-0020	1-1-2014	Amend	1-1-2014
845-004-0001	1-1-2014	Amend	1-1-2014	851-056-0022	1-1-2014	Amend	1-1-2014
845-005-0311	1-1-2014	Amend	1-1-2014	851-061-0020	1-1-2014	Amend	1-1-2014
845-005-0431	3-1-2014	Amend	3-1-2014	851-061-0030	1-1-2014	Amend	1-1-2014
845-005-0440	3-1-2014	Amend	3-1-2014	851-061-0080	1-1-2014	Amend	1-1-2014
845-006-0335	1-1-2014	Amend	1-1-2014	851-061-0090	1-1-2014	Amend	1-1-2014
845-006-0392	1-1-2014	Amend	1-1-2014	851-062-0010	1-1-2014	Amend	1-1-2014
845-006-0396	1-1-2014	Amend	1-1-2014	851-062-0050	1-1-2014	Amend	1-1-2014
845-006-0452	3-1-2014	Amend	3-1-2014	851-062-0080	1-1-2014	Amend	1-1-2014
845-013-0001	1-1-2014	Amend	1-1-2014	851-062-0130	1-1-2014	Amend	1-1-2014
847-001-0024	1-14-2014	Adopt	2-1-2014	852-010-0080	1-3-2014	Amend	2-1-2014
847-008-0070	1-14-2014	Amend	2-1-2014	852-050-0005	1-3-2014	Amend	2-1-2014
847-010-0053	1-14-2014	Repeal	2-1-2014	852-050-0016	1-3-2014	Amend	2-1-2014
847-010-0060	1-14-2014	Amend	2-1-2014	855-007-0080	1-24-2014	Amend	3-1-2014
847-020-0110	1-14-2014	Amend	2-1-2014	855-011-0020	1-24-2014	Amend	3-1-2014
847-050-0020	1-14-2014	Amend	2-1-2014	855-019-0205	1-24-2014	Amend	3-1-2014
847-050-0023	1-14-2014	Amend	2-1-2014	855-019-0270	1-24-2014	Amend	3-1-2014
847-050-0025	1-14-2014	Amend	2-1-2014	855-019-0280	1-24-2014	Amend	3-1-2014
847-050-0026	1-14-2014	Repeal	2-1-2014	855-041-1001	1-24-2014	Adopt	3-1-2014
847-070-0019	1-14-2014	Amend	2-1-2014	855-041-1030	1-24-2014	Amend	3-1-2014
847-070-0036	1-14-2014	Repeal	2-1-2014	855-041-1105	1-24-2014	Amend	3-1-2014
847-070-0037	1-14-2014	Amend	2-1-2014	855-041-2300	1-24-2014	Adopt	3-1-2014
847-080-0002	1-14-2014	Amend	2-1-2014	855-041-2300(T)	1-24-2014	Repeal	3-1-2014
848-001-0005	1-1-2014	Amend	1-1-2014	855-041-2310	1-24-2014	Adopt	3-1-2014
848-005-0020	1-1-2014	Amend	1-1-2014	855-041-2310(T)	1-24-2014	Repeal	3-1-2014
848-005-0030	1-1-2014	Amend	1-1-2014	855-041-2320	1-24-2014	Adopt	3-1-2014
848-010-0010	1-1-2014	Amend	1-1-2014	855-041-2320(T)	1-24-2014	Repeal	3-1-2014
848-010-0015	1-1-2014	Amend	1-1-2014	855-041-2330	1-24-2014	Adopt	3-1-2014
848-010-0020	1-1-2014	Amend	1-1-2014	855-041-2330(T)	1-24-2014	Repeal	3-1-2014
848-010-0026	1-1-2014	Amend	1-1-2014	855-041-4200	1-3-2014	Amend	2-1-2014
848-010-0033	1-1-2014	Amend	1-1-2014	855-080-0021	12-20-2013	Amend(T)	2-1-2014
848-010-0035	1-1-2014	Amend	1-1-2014	855-110-0005	1-3-2014	Amend	2-1-2014
848-010-0044	1-1-2014	Amend	1-1-2014	855-110-0007	1-3-2014	Amend	2-1-2014
848-015-0030	1-1-2014	Amend	1-1-2014	856-010-0003	1-23-2014	Amend	3-1-2014
848-020-0000	1-1-2014	Amend	1-1-2014	856-010-0006	1-23-2014	Adopt	3-1-2014
848-020-0060	1-1-2014	Amend	1-1-2014	860-001-0310	1-9-2014	Amend	2-1-2014
848-040-0105	1-1-2014	Amend	1-1-2014	860-023-0055	1-22-2014	Amend	3-1-2014
848-040-0110	1-1-2014	Amend	1-1-2014	860-032-0012	1-22-2014	Amend	3-1-2014
848-040-0117	1-1-2014	Amend	1-1-2014	860-033-0001	12-20-2013	Amend	2-1-2014
848-040-0147	1-1-2014	Amend	1-1-2014	860-033-0001(T)	12-20-2013	Repeal	2-1-2014

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860-033-0005	12-20-2013	Amend	2-1-2014	875-010-0016	1-17-2014	Amend	3-1-2014
860-033-0005(T)	12-20-2013	Repeal	2-1-2014	875-010-0021	1-17-2014	Amend	3-1-2014
860-033-0006	12-20-2013	Amend	2-1-2014	875-010-0045	1-17-2014	Amend	3-1-2014
860-033-0006(T)	12-20-2013	Repeal	2-1-2014	875-010-0050	1-17-2014	Amend	3-1-2014
860-033-0007	12-20-2013	Amend	2-1-2014	875-010-0090	1-17-2014	Amend	3-1-2014
860-033-0007(T)	12-20-2013	Repeal	2-1-2014	875-015-0020	1-17-2014	Amend	3-1-2014
860-033-0010	12-20-2013	Amend	2-1-2014	875-015-0030	1-17-2014	Amend	3-1-2014
860-033-0010(T)	12-20-2013	Repeal	2-1-2014	875-030-0010	1-17-2014	Amend	3-1-2014
860-033-0030	12-20-2013	Amend	2-1-2014	875-030-0020	1-17-2014	Amend	3-1-2014
860-033-0030(T)	12-20-2013	Repeal	2-1-2014	875-030-0030	1-17-2014	Amend	3-1-2014
860-033-0035	12-20-2013	Amend	2-1-2014	875-030-0040	1-17-2014	Amend	3-1-2014
860-033-0035(T)	12-20-2013	Repeal	2-1-2014	875-030-0050	1-17-2014	Amend	3-1-2014
860-033-0040	12-20-2013	Amend	2-1-2014	918-008-0000	4-1-2014	Amend	3-1-2014
860-033-0040(T)	12-20-2013	Repeal	2-1-2014	918-020-0090	1-1-2014	Amend	2-1-2014
860-033-0045	12-20-2013	Amend	2-1-2014	918-020-0370	1-1-2014	Amend	2-1-2014
860-033-0045(T)	12-20-2013	Repeal	2-1-2014	918-020-0370(T)	1-1-2014	Repeal	2-1-2014
860-033-0046	12-20-2013	Amend	2-1-2014	918-098-1010	1-1-2014	Amend	2-1-2014
860-033-0046(T)	12-20-2013	Repeal	2-1-2014	918-282-0450	2-12-2014	Adopt(T)	3-1-2014
860-033-0050	12-20-2013	Amend	2-1-2014	918-282-0455	2-12-2014	Adopt(T)	3-1-2014
860-033-0050(T)	12-20-2013	Repeal	2-1-2014	918-282-0460	2-12-2014	Adopt(T)	3-1-2014
860-033-0055	12-20-2013	Repeal	2-1-2014	943-014-0050	2-18-2014	Repeal	3-1-2014
860-033-0100	12-20-2013	Amend	2-1-2014	943-014-0400	2-18-2014	Adopt	3-1-2014
860-033-0100(T)	12-20-2013	Repeal	2-1-2014	943-014-0410	2-18-2014	Adopt	3-1-2014
860-033-0110	12-20-2013	Adopt	2-1-2014	943-014-0415	2-18-2014	Adopt	3-1-2014
860-033-0110(T)	12-20-2013	Repeal	2-1-2014	943-014-0420	2-18-2014	Adopt	3-1-2014
860-033-0530	12-20-2013	Amend	2-1-2014	943-014-0430	2-18-2014	Adopt	3-1-2014
860-033-0530(T)	12-20-2013	Repeal	2-1-2014	943-014-0435	2-18-2014	Adopt	3-1-2014
860-033-0535	12-20-2013	Amend	2-1-2014	943-014-0440	2-18-2014	Adopt	3-1-2014
860-033-0535(T)	12-20-2013	Repeal	2-1-2014	943-014-0445	2-18-2014	Adopt	3-1-2014
860-033-0536	12-20-2013	Amend	2-1-2014	943-014-0450	2-18-2014	Adopt	3-1-2014
860-033-0536(T)	12-20-2013	Repeal	2-1-2014	943-014-0455	2-18-2014	Adopt	3-1-2014
860-033-0537	12-20-2013	Amend	2-1-2014	943-014-0460	2-18-2014	Adopt	3-1-2014
860-033-0537(T)	12-20-2013	Repeal	2-1-2014	943-014-0465	2-18-2014	Adopt	3-1-2014
860-033-0540	12-20-2013	Amend	2-1-2014	945-030-0045	1-16-2014	Adopt	3-1-2014
860-033-0540(T)	12-20-2013	Repeal	2-1-2014	945-040-0180	11-18-2013	Adopt(T)	1-1-2014
860-034-0390	1-22-2014	Amend	3-1-2014	945-040-0180	12-23-2013	Adopt(T)	2-1-2014
875-005-0005	1-17-2014	Amend	3-1-2014	945-040-0180(T)	12-23-2013	Suspend	2-1-2014
875-010-0000	1-17-2014	Amend	3-1-2014				