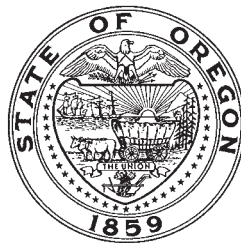


OREGON BULLETIN

Supplements the 2014 *Oregon Administrative Rules Compilation*

Volume 53, No. 5
May 1, 2014

For March 16, 2014–April 15, 2014



Published by
KATE BROWN
Secretary of State
Copyright 2014 Oregon Secretary of State

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.

© January 1, 2014 Oregon Secretary of State. All rights reserved. Reproduction in whole or in part without written permission is prohibited.

TABLE OF CONTENTS

	<i>Page</i>
Information About Administrative Rules	2
Table of Contents	3
Other Notices	4–10
Notices of Proposed Rulemaking Hearings/Notices	
The citations and statements required by ORS 183.335(2)(b)(A)–(D) have been filed with and are available from the Secretary of State.	
Board of Architect Examiners, Chapter 806	11
Board of Chiropractic Examiners, Chapter 811	11
Board of Massage Therapists, Chapter 334	11
Board of Parole and Post-Prison Supervision, Chapter 255	11, 12
Board of Pharmacy, Chapter 855	12
Department of Agriculture, Chapter 603	12
Department of Community Colleges and Workforce Development, Chapter 589	12, 13
Department of Consumer and Business Services, Insurance Division, Chapter 836	13
Oregon Occupational Safety and Health Division, Chapter 437	13
Workers' Compensation Board, Chapter 438	13, 14
Workers' Compensation Division, Chapter 436	14
Department of Energy, Chapter 330	14, 15
Department of Fish and Wildlife, Chapter 635	15, 16
Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, Chapter 411	16
Child Welfare Programs, Chapter 413	17
Self-Sufficiency Programs, Chapter 461	17–19
Department of Justice, Chapter 137	19, 20
Department of Oregon State Police, Office of State Fire Marshal, Chapter 837	20
Department of State Lands, Chapter 141	20
Department of Transportation, Driver and Motor Vehicle Services Division, Chapter 735	20, 21
Highway Division, Chapter 734	21
Land Conservation and Development Department, Chapter 660	21
Occupational Therapy Licensing Board, Chapter 339	21
Oregon Board of Naturopathic Medicine, Chapter 850	21, 22
Oregon Business Development Department, Chapter 123	22
Oregon Department of Education, Chapter 581	22, 23
Oregon Department of Education, Early Learning Division, Chapter 414	23, 24
Oregon Health Authority, Addictions and Mental Health Division: Mental Health Services, Chapter 309	24
Division of Medical Assistance Programs, Chapter 410	24–26
Oregon Educators Benefit Board, Chapter 111	26
Public Health Division, Chapter 333	26, 27
Oregon Housing and Community Services Department, Chapter 813	27
Oregon Liquor Control Commission, Chapter 845	27, 28
Oregon Public Employees Retirement System, Chapter 459	28, 29
Oregon State Marine Board, Chapter 250	29
Oregon University System, Oregon State University, Chapter 576	29, 30
Southern Oregon University, Chapter 573	30
Parks and Recreation Department, Chapter 736	30
Secretary of State, Archives Division, Chapter 166	30
Teacher Standards and Practices Commission, Chapter 584	30
Administrative Rules	
The citations and statements required by ORS 183.335(2)(b)(A)–(D) have been filed with and are available from the Secretary of State.	
Board of Parole and Post-Prison Supervision, Chapter 255	31
Board of Pharmacy, Chapter 855	31, 32
Board of Psychologist Examiners, Chapter 858	32, 33
Bureau of Labor and Industries, Chapter 839	33–46
Construction Contractors Board, Chapter 812	46, 47
Department of Administrative Services, Chapter 125	47
Department of Agriculture, Oregon Mint Commission, Chapter 642	48
Department of Community Colleges and Workforce Development, Chapter 589	48, 49
Department of Consumer and Business Services, Building Codes Division, Chapter 918	49–54
Division of Finance and Corporate Securities, Chapter 441	54
Insurance Division, Chapter 836	54–56
Workers' Compensation Division, Chapter 436	56–58
Department of Energy, Chapter 330	58–60
Department of Environmental Quality, Chapter 340	60–63
Department of Fish and Wildlife, Chapter 635	63–70
Department of Geology and Mineral Industries, Chapter 632	71–86
Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, Chapter 411	86–117
Child Welfare Programs, Chapter 413	117, 118
Self-Sufficiency Programs, Chapter 461	118–132
Department of Justice, Chapter 137	132–137
Department of Public Safety Standards and Training, Chapter 259	137–145
Department of Transportation, Driver and Motor Vehicle Services Division, Chapter 735	145–147
Landscape Contractors Board, Chapter 808	147, 148
Oregon Board of Naturopathic Medicine, Chapter 850	148–151
Oregon Business Development Department, Chapter 123	151–159
Oregon Department of Education, Chapter 581	159–161
Oregon Health Authority, Addictions and Mental Health Division: Mental Health Services, Chapter 309	161, 162
Division of Medical Assistance Programs, Chapter 410	162–202
Public Health Division, Chapter 333	202–207
Oregon Health Insurance Exchange, Chapter 945	207
Oregon Health Licensing Agency, Chapter 331	207, 208
Oregon Liquor Control Commission, Chapter 845	208
Oregon Medical Board, Chapter 847	208–211
Oregon Patient Safety Commission, Chapter 325	211
Oregon Public Employees Retirement System, Chapter 459	211–214
Oregon State Lottery, Chapter 177	214, 215
Oregon State Marine Board, Chapter 250	215, 216
Oregon State Treasury, Chapter 170	216–218
Oregon University System, Chapter 580	218, 219
Oregon University System, Oregon State University, Chapter 576	219, 220
Real Estate Agency, Chapter 863	220–237
Teacher Standards and Practices Commission, Chapter 584	237
Water Resources Department, Chapter 690	237, 238
OAR Revision Cumulative Index	239–280

OTHER NOTICES

MEDIATION CONFIDENTIALITY RULES DEVELOPED BY THE ATTORNEY GENERAL PURSUANT TO ORS 36.224

INSTRUCTIONS FOR ADOPTION OF MEDIATION CONFIDENTIALITY RULES

ORS 36.220 through 36.238 authorize state agency participation in a confidential mediation. For most agencies, the confidentiality and inadmissibility provisions of this law are available only by adopting rules developed by the Attorney General pursuant to ORS 36.224. The Attorney General has developed two mediation confidentiality rules: A rule for the mediation of workplace interpersonal disputes and a rule covering most other mediations. Agencies may adopt either rule or both rules.

1. Agencies may adopt the "Confidentiality and Inadmissibility of Mediation Communications (5/1/2014)" rule for mediations in which the agency is a party, or is mediating a dispute as to which the agency has regulatory authority.

2. Agencies may adopt the "Confidentiality and Inadmissibility of Workplace Interpersonal Mediation Communications (5/1/2014)" rule for the mediation of workplace interpersonal disputes.

3. Modify the Rules only as Permitted. When adopting the mediation confidentiality rules, an agency may not modify the rules except where indicated by blanks or italicized text in brackets in the rules. In the case of the "Confidentiality and Inadmissibility of Mediation Communications (5/1/2014)" rule, the permitted changes allow the agency to add additional exceptions to mediation confidentiality and additional limitations on the types of mediation to which the rule applies.

4. Rulemaking Action. After editing the rule as permitted, the agency must provide the Governor with a copy of the rule at the time that the agency gives notice of intended rulemaking action under ORS 183.335. The Governor may notify the agency that the Governor disapproves of the proposed rules at any time before the agency files the rules with the Secretary of State under ORS 183.355.

5. The agency must follow the rulemaking procedures in ORS 183.325 to 183.355. The agency may adopt the rules as temporary rules, if the agency satisfies the requirements of ORS 183.335(5).

6. Agencies who adopted a previous version of these rules, are encouraged to amend their current rule by replacing it with the appropriate 5/1/2014 version.

7. Additional guidance for the adoption of these rules is available from your contact attorney and on the web at <http://www.doj.state.or.us/adr/pages/rules.aspx>

CONFIDENTIALITY AND INADMISSIBILITY OF MEDIATION COMMUNICATIONS (5/1/2014)

OAR _____, Confidentiality and Inadmissibility of Mediation Communications

(1) The words and phrases used in this rule have the same meaning as given to them in ORS 36.110 and 36.234.

(2) Nothing in this rule affects any confidentiality created by other law. Nothing in this rule relieves a public body from complying with the Public Meetings Law, ORS 192.610 to 192.690. Whether or not they are confidential under this or other rules of the agency, mediation communications are exempt from disclosure under the Public Records Law to the extent provided in ORS 192.410 to 192.505.

(3) This rule applies only to mediations in which the agency is a party or is mediating a dispute as to which the agency has regulatory authority. This rule does not apply when the agency is acting as the "mediator" in a matter in which the agency also is a party as defined in ORS 36.234.

(4) To the extent mediation communications would otherwise be compromise negotiations under ORS 40.190 (OEC Rule 408), those mediation communications are not admissible as provided in ORS 40.190 (OEC Rule 408), notwithstanding any provisions to the contrary in section (9) of this rule.

(5) **Mediations Excluded.** Sections (6)-(10) of this rule do not apply to:

(a) Mediation of workplace interpersonal disputes involving the interpersonal relationships between this agency's employees, officials or employees and officials, unless a formal grievance under a labor contract, a tort claim notice or a lawsuit has been filed; or

(b) Mediation in which the person acting as the mediator will also act as the hearings officer in a contested case involving some or all of the same matters; or

(c) Mediation in which the only parties are public bodies; or

(d) Mediation in which two or more public bodies and a private entity are parties if the laws, rule or policies governing mediation confidentiality for at least one of the public bodies provide that mediation communications in the mediation are not confidential; or

(e) Mediation involving 15 or more parties if the agency has designated that another mediation confidentiality rule adopted by the agency may apply to that mediation; [or]

(f) ___[List additional exclusions, if any]___.

(6) **Disclosures by Mediator.** A mediator may not disclose or be compelled to disclose mediation communications in a mediation and, if disclosed, such communications may not be introduced into evidence in any subsequent administrative, judicial or arbitration proceeding unless:

(a) all the parties to the mediation and the mediator agree in writing to the disclosure; or

(b) the mediation communication may be disclosed or introduced into evidence in a subsequent proceeding as provided in subsections (c)-(d), (j)-(l), (o)-(p) and (r)-(s) of section (9) of this rule; [or]

(c) ___[List additional exceptions, if any]___.

(7) **Confidentiality and Inadmissibility of Mediation Communications.** Except as provided in sections (8)-(9) of this rule, mediation communications are confidential and may not be disclosed to any other person, are not admissible in any subsequent administrative, judicial or arbitration proceeding and may not be disclosed during testimony in, or during any discovery conducted as part of a subsequent proceeding, or introduced as evidence by the parties or the mediator in any subsequent proceeding.

(8) **Written Agreement.** Section (7) of this rule does not apply to a mediation unless the parties to the mediation agree in writing that the mediation communications in the mediation will be confidential and/or nondiscoverable and inadmissible. If the mediator is the employee of and acting on behalf of a state agency, the mediator or an authorized agency representative must also sign the agreement. The parties' agreement to participate in a confidential mediation must refer to this mediation confidentiality rule.

(9) **Exceptions to Confidentiality and Inadmissibility.**

(a) Any statements, memoranda, work products, documents and other materials, otherwise subject to discovery that were not prepared specifically for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding.

(b) Any mediation communications that are public records, as defined in ORS 192.410(4), and were not specifically prepared for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential or privileged under state or federal law.

(c) A mediation communication is not confidential and may be disclosed by any person receiving the communication to the extent that person reasonably believes that disclosing the communication is necessary to prevent the commission of a crime that is likely to result in death or bodily injury to any person. A mediation communication is not confidential and may be disclosed in a subsequent proceeding to the extent its disclosure may further the investigation or prosecution of a felony crime involving physical violence to a person.

(d) Any mediation communication related to the conduct of a licensed professional that is made to or in the presence of a person who, as a condition of his or her professional license, is obligated to report such communication by law or court rule is not confidential and may be disclosed to the extent necessary to make such a report.

(e) The parties to the mediation may agree in writing that all or part of the mediation communications are not confidential or that all or part of the mediation communications may be disclosed and may be introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential, privileged or otherwise prohibited from disclosure under state or federal law.

(f) A party to the mediation may disclose confidential mediation communications to a person if the party's communication with that person is privileged under ORS chapter 40 or other provision of law. A party to the mediation may disclose confidential mediation com-

OTHER NOTICES

munications to a person for the purpose of obtaining advice concerning the subject matter of the mediation, if all the parties agree.

(g) An employee of the agency may disclose confidential mediation communications to another agency employee so long as the disclosure is necessary to conduct authorized activities of the agency. An employee receiving a confidential mediation communication under this subsection is bound by the same confidentiality requirements as apply to the parties to the mediation.

(h) A written mediation communication may be disclosed or introduced as evidence in a subsequent proceeding at the discretion of the party who prepared the communication so long as the communication is not otherwise confidential under state or federal law and does not contain confidential information from the mediator or another party who does not agree to the disclosure.

(i) In any proceeding to enforce, modify or set aside a mediation agreement, a party to the mediation may disclose mediation communications and such communications may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of mediation communications or agreements to persons other than the parties to the agreement.

(j) In an action for damages or other relief between a party to the mediation and a mediator or mediation program, mediation communications are not confidential and may be disclosed and may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of the mediation communications or agreements.

(k) When a mediation is conducted as part of the negotiation of a collective bargaining agreement, the following mediation communications are not confidential and such communications may be introduced into evidence in a subsequent administrative, judicial or arbitration proceeding:

(A) a request for mediation, or

(B) a communication from the Employment Relations Board Conciliation Service establishing the time and place of mediation, or

(C) a final offer submitted by the parties to the mediator pursuant to ORS 243.712, or

(D) a strike notice submitted to the Employment Relations Board.

(l) To the extent a mediation communication contains information the substance of which is required to be disclosed by Oregon statute, other than ORS 192.410 to 192.505, that portion of the communication may be disclosed as required by statute.

(m) Written mediation communications prepared by or for the agency or its attorney are not confidential and may be disclosed and may be introduced as evidence in any subsequent administrative, judicial or arbitration proceeding to the extent the communication does not contain confidential information from the mediator or another party, except for those written mediation communications that are:

(A) attorney-client privileged communications so long as they have been disclosed to no one other than the mediator in the course of the mediation or to persons as to whom disclosure of the communication would not waive the privilege, or

(B) attorney work product prepared in anticipation of litigation or for trial, or

(C) prepared exclusively for the mediator or in a caucus session and not given to another party in the mediation other than a state agency, or

(D) prepared in response to the written request of the mediator for specific documents or information and given to another party in the mediation, or

(E) settlement concepts or proposals, shared with the mediator or other parties.

(n) A mediation communication made to the agency may be disclosed and may be admitted into evidence to the extent the [Agency director/administrator/board] determines that disclosure of the communication is necessary to prevent or mitigate a serious danger to the public's health or safety, and the communication is not otherwise confidential or privileged under state or federal law.

(o) The terms of any mediation agreement are not confidential and may be introduced as evidence in a subsequent proceeding, except to the extent the terms of the agreement are exempt from disclosure

under ORS 192.410 to 192.505, a court has ordered the terms to be confidential under ORS 17.095 or state or federal law requires the terms to be confidential.

(p) In any mediation in a case that that has been filed in court or when a public body's role in a mediation is solely to make mediation available to the parties the mediator may report the disposition of the mediation to that public body or court at the conclusion of the mediation so long as the report does not disclose specific confidential mediation communications. The agency conducting the mediation or making the mediation available or the mediator may use or disclose confidential mediation communications for research, training or educational purposes, subject to the provisions of ORS 36.232.

(q) A written agreement executed pursuant to Section (8) of this rule is not confidential and may be introduced into evidence in a subsequent proceeding.

(r) Any mediation communication relating to child abuse that is made to a person who is required to report child abuse under the provisions of ORS 419B.010 is not confidential to the extent that the person is required to report the communication under the provisions of ORS 419B.010.

(s) Any mediation communication relating to elder abuse that is made to a person who is required to report elder abuse under the provisions of ORS 124.050 to 124.095 is not confidential to the extent that the person is required to report the communication under the provisions of ORS 124.050 to 124.095.

(t) ___[List additional exceptions, if any]___ .

(10) When a mediation is subject to section (7) of this rule, the agency will provide to all parties to the mediation and the mediator a copy of this rule or a citation to the rule and an explanation of where a copy of the rule may be obtained. Violation of this provision does not waive confidentiality or inadmissibility.

Stat. Authority: ORS 36.224

Stat. Implemented: ORS 36.224, 36.228, 36.230, 36.232

CONFIDENTIALITY AND INADMISSIBILITY OF WORKPLACE INTERPERSONAL MEDIATION COMMUNICATIONS (5/1/2014)

OAR _____. Confidentiality and Inadmissibility of Workplace Interpersonal Dispute Mediation Communications

(1) This rule applies to workplace interpersonal disputes, which are disputes involving the interpersonal relationships between this agency's employees, officials or employees and officials. This rule does not apply to disputes involving the negotiation of labor contracts or matters about which a tort claim notice or a lawsuit has been filed.

(2) The words and phrases used in this rule have the same meaning as given to them in ORS 36.110 and 36.234.

(3) Nothing in this rule affects any confidentiality created by other law.

(4) To the extent mediation communications would otherwise be compromise negotiations under ORS 40.190 (OEC Rule 408), those mediation communications are not admissible as provided in ORS 40.190 (OEC Rule 408), notwithstanding any provisions to the contrary in section (9) of this rule.

(5) **Disclosures by Mediator.** A mediator may not disclose or be compelled to disclose mediation communications in a mediation and, if disclosed, such communications may not be introduced into evidence in any subsequent administrative, judicial or arbitration proceeding unless:

(a) all the parties to the mediation and the mediator agree in writing to the disclosure; or

(b) the mediation communication may be disclosed or introduced into evidence in a subsequent proceeding as provided in subsections (c) or (h)-(l) of section (7) of this rule; [or]

(c) ___[List additional exceptions, if any]___ .

(6) **Confidentiality and Inadmissibility of Mediation Communications.** Except as provided in section (7) of this rule, mediation communications in mediations involving workplace interpersonal disputes are confidential and may not be disclosed to any other person, are not admissible in any subsequent administrative, judicial or arbitration proceeding and may not be disclosed during testimony in, or during any discovery conducted as part of a subsequent proceeding, or introduced into evidence by the parties or the mediator in any subsequent proceeding so long as:

OTHER NOTICES

- (a) The parties to the mediation and the agency have agreed in writing to the confidentiality of the mediation; and
- (b) The person agreeing to the confidentiality of the mediation on behalf of the agency:
- (A) is neither a party to the dispute nor the mediator; and
- (B) is designated by the agency to authorize confidentiality for the mediation; and
- (C) is at the same or higher level in the agency than any of the parties to the mediation or who is a person with responsibility for human resources or personnel matters in the agency, unless the agency head or member of the governing board is one of the persons involved in the interpersonal dispute, in which case the Governor or the Governor's designee.
- (7) **Exceptions to Confidentiality and Inadmissibility.**
- (a) Any statements, memoranda, work products, documents and other materials, otherwise subject to discovery that were not prepared specifically for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding.
- (b) Any mediation communications that are public records, as defined in ORS 192.410(4), and were not specifically prepared for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential or privileged under state or federal law.
- (c) A mediation communication is not confidential and may be disclosed by any person receiving the communication to the extent that person reasonably believes that disclosing the communication is necessary to prevent the commission of a crime that is likely to result in death or bodily injury to any person. A mediation communication is not confidential and may be disclosed in a subsequent proceeding to the extent its disclosure may further the investigation or prosecution of a felony crime involving physical violence to a person.
- (d) The parties to the mediation may agree in writing that all or part of the mediation communications are not confidential or that all or part of the mediation communications may be disclosed and may be introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential, privileged or otherwise prohibited from disclosure under state or federal law.
- (e) A party to the mediation may disclose confidential mediation communications to a person if the party's communication with that person is privileged under ORS chapter 40 or other provision of law. A party to the mediation may disclose confidential mediation communications to a person for the purpose of obtaining advice concerning the subject matter of the mediation, if all the parties agree.
- (f) A written mediation communication may be disclosed or introduced as evidence in a subsequent proceeding at the discretion of the party who prepared the communication so long as the communication is not otherwise confidential under state or federal law and does not contain confidential information from the mediator or another party who does not agree to the disclosure.
- (g) In any proceeding to enforce, modify or set aside a mediation agreement, a party to the mediation may disclose mediation communications and such communications may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of mediation communications or agreements to persons other than the parties to the agreement.
- (h) In an action for damages or other relief between a party to the mediation and a mediator or mediation program, mediation communications are not confidential and may be disclosed and may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of the mediation communications or agreements
- (i) To the extent a mediation communication contains information the substance of which is required to be disclosed by Oregon statute, other than ORS 192.410 to 192.505, that portion of the communication may be disclosed as required by statute.
- (j) The mediator may report the disposition of a mediation to the agency at the conclusion of the mediation so long as the report does not disclose specific confidential mediation communications. The agency or the mediator may use or disclose confidential mediation

communications for research, training or educational purposes, subject to the provisions of ORS 36.232.

(k) Any mediation communication relating to child abuse that is made to a person who is required to report child abuse under the provisions of ORS 419B.010 is not confidential to the extent that the person is required to report the communication under the provisions of ORS 419B.010.

(l) Any mediation communication relating to elder abuse that is made to a person who is required to report elder abuse under the provisions of ORS 124.050 to 124.095 is not confidential to the extent that the person is required to report the communication under the provisions of ORS 124.050 to 124.095.

(m) [List additional exceptions, if any] .

(8) The terms of any agreement arising out of the mediation of a workplace interpersonal dispute are confidential so long as the parties and the agency so agree in writing. Any term of an agreement that requires an expenditure of public funds, other than expenditures of \$1,000 or less for employee training, employee counseling or purchases of equipment that remain the property of the agency, may not be made confidential.

(9) When a mediation is subject to section (6) of this rule, the agency will provide to all parties to the mediation and to the mediator a copy of this rule or an explanation of where a copy of the rule may be obtained. Violation of this provision does not waive confidentiality or inadmissibility.

Stat. Authority: ORS 36.224

Stat. Implemented: ORS 36.230(4)

REQUEST FOR COMMENT PROPOSED CONSENT JUDGMENT FOR PROSPECTIVE PURCHASE AGREEMENT, TRAMMELL CROW PORTLAND DEVELOPMENT, INC., MULTNOMAH COUNTY, OREGON

COMMENTS DUE: 5 p.m. Friday, May 30, 2014

PROJECT LOCATION: Colwood National Golf Course, 7313 NE Columbia Blvd., Portland, Oregon

PROPOSAL: The Oregon Department of Environmental Quality seeks comments on its proposed consent judgment for a prospective purchaser agreement with Trammell Crow Portland Development, Inc., or a related entity, concerning its acquisition of real property located at 7313 NE Columbia Blvd., Portland, Oregon. The property proposed for acquisition is an approximately 47.21 acre site located north of Cornfoot Road consisting of parcels 1, 3, 4 and 5. Parcel 2 generally consisting of the McBride Slough and all upland area northeast of McBride Slough, will be conveyed to the Port of Portland and is not included in the prospective purchaser agreement.

The applicant proposes to develop the property for general industrial uses consistent with City of Portland zoning requirements. The property has been in use as a golf course, known as the Colwood National Golf Course, since about 1930. Prior to development as a golf course, the property was in agricultural use.

Most of the northern portion of the property drains to a pond, which may overflow to McBride Slough. Historically, a small portion of the property may also have drained to the Columbia Slough along the southern border. Previous sediment samples collected in the McBride Slough were above risk-based screening levels for pesticides and metals. The sampling did not determine the source of the contaminants, but it is possible that golf course maintenance activities have contributed to contamination in McBride Slough and similarly may have contributed to contamination in the Columbia Slough to the south.

Trammell Crow Portland Development, Inc. has agreed to make a \$60,000 contribution to the Columbia Slough sediment investigation and remediation cleanup fund; prepare and comply with a contaminated media management plan for construction activities on the property; and conduct appropriate building/infrastructure redevelopment and disposal per county, state and federal guidelines for septic systems wells and asbestos containing materials.

This prospective purchaser agreement provides substantial public benefits through contribution to cleanup of the Columbia Slough,

OTHER NOTICES

assurances of redevelopment in accordance with applicable requirements, and conveyance of parcel 2 to the Port of Portland.

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

The proposed consent judgment will provide Trammell Crow Portland Development, Inc. with a release from liability for claims by the State of Oregon under ORS 465.200 to 465.545 and 465.990, 466.640, and 468B.310 regarding existing hazardous substance releases at or from the property. The proposed consent judgment will also provide Trammell Crow Portland Development, Inc. with third party liability protection. Trammell Crow Portland Development, Inc. waives any rights that could be claimed under ORS 465.325(1)(b) and ORS 465.325(4)(a)(B).

HOW TO COMMENT: Send comments to Oregon Department of Environmental Quality Project Manager Sarah Miller at 2020 SW 4th Ave. Suite #400, Portland, OR 97201 or miller.sarah@deq.state.or.us. For more information contact the project manager at 503-229-5040.

Find information about requesting a review of Oregon Department of Environmental Quality 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>

For Environmental Cleanup Site Information Sites: To access site summary information and other documents in the Oregon Department of Environmental Quality Environmental Cleanup Site Information database, go to <http://www.deq.state.or.us/lq/ECSI/ecsi.htm>, select "Search complete ECSI database", then enter ECSI#5890 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled ECSI # 5890 in the Site ID/Info column. Alternatively, you may go directly to the database website for this page at <http://www.deq.state.or.us/Webdocs/Forms/Output/FPController.aspx?SourceIdType=11&SourceId=5890&Screen=Load>

If you do not have web access and want to review the project file contact the Oregon Department of Environmental Quality project manager.

THE NEXT STEP: Oregon Department of Environmental Quality will consider all public comments received by the date and time stated above before making a final decision regarding the proposed remedial actions taken at the site. A public notice of Oregon Department of Environmental Quality's final decision will be issued in this publication.

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

REQUEST FOR COMMENTS PROPOSED CLEANUP APPROVAL FOR THE FORMER COLUMBIA AMERICAN PLATING SITE IN PORTLAND

COMMENTS DUE: 5 p.m., May 30, 2014

PROJECT LOCATION: 3003 NW 35th Avenue in Portland, OR
PROPOSAL: The Department of Environmental Quality proposes to issue a Certificate of Completion for the former Columbia American Plating site located at 3003 NW 35th Avenue in Portland. DEQ has determined that residual contamination at the site is not an ongoing source of significant contamination to the Willamette River and does not present a risk to human health and the environment exceeding the acceptable levels defined in ORS 465.315. DEQ also

proposes to remove the site from the Confirmed Release List and Inventory of Hazardous Substance Sites.

HIGHLIGHTS: The site is located approximately 3,000 feet south of a portion of the Willamette River within the area designated by EPA as the Portland Harbor Superfund Study Area. The site operated as a plating facility from 1975 to 1987 as the Kirsten Corporation, and by Columbia American Plating from 1987 to 2003, when it was closed under order by the City of Portland Bureau of Fire and Rescue due to public health and safety concerns. Electroplating operations used a variety of hazardous materials, including acids, bases, various metals and metallic solutions (e.g., zinc, nickel, copper, chromium, cadmium), solvents, and oxidizers. The site was abandoned in 2003, leaving numerous containers of waste materials, process chemicals and uncontrolled stormwater discharges.

The United States Environmental Protection Agency completed a removal action at the site from May 2003 to April 2004. A total of 1460 containers, most containing liquids, were sampled and characterized to determine disposal options. A total of 77,507 gallons of hazardous liquids and 560 cubic yards of hazardous and non-hazardous debris were removed from the site.

In December 2008, 3003 NW 35th LLC and DEQ entered a Consent Judgment that required site investigation and source control measures as needed, and completion of a source control evaluation. Source control measures completed by 3003 NW 35th LLC include removal of legacy sediment from the on-site and adjacent City of Portland storm drain lines and upgrades to the on-site stormwater system. 3003 NW 35th LLC prepared and submitted a source control evaluation report upon completion of four stormwater sampling events following implementation of the source control measures. DEQ reviewed the report and prepared a source control decision for EPA review dated February 3, 2014. DEQ revised the source control decision to address EPA comments and it was accepted as final by EPA in March 2014. As summarized in the source control decision, DEQ concludes that the site is not a significant ongoing source of contaminants to the Willamette River and that environmental conditions at the site do not pose an unacceptable risk to human health and the environment.

HOW TO COMMENT: Send comments by 5 p.m., May 30, 2014, to DEQ Project Manager Mark Pugh, at 2020 SW 4th Ave, Suite 400, Portland, OR 97201; pugh.mark@deq.state.or.us or 503-229-6899 (fax).

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>

For ECSI Site: 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/ecsi.htm>, select "Search complete ECSI database" then enter 29 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 29 in the Site ID/Info column. Alternatively, you may go directly to the database website for this page at Web Documents for Columbia American Plating Co.

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 former Columbia American Plating 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.

REQUEST FOR COMMENTS PROPOSED CLEANUP ACTION FOR ST. JOHN'S LANDFILL

COMMENTS DUE: 5 p.m. Friday, May 30, 2014

PROJECT LOCATION: 9363 N Columbia Blvd., Portland

OTHER NOTICES

PROPOSAL: Following Oregon Revised Statute ORS 465.320 and Oregon Administrative Rules OAR 340-122-100, the Department of Environmental Quality (DEQ) requests public comment on its cleanup proposal regarding sediment in the Columbia Slough off-shore from the St. John's Landfill located at 9363 N Columbia Blvd in North Portland. The St. John's Landfill is a 240-acre closed landfill in the floodplain of the Columbia River. The landfill is surrounded by the Columbia Slough and the Smith and Bybee Lakes Wetlands Natural Area. The proposed cleanup action for contaminated sediment consists of in-place treatment with a thin layer of activated carbon.

HIGHLIGHTS: The St John's Landfill operated from 1932 until its closure in 1991 and was filled mainly with municipal and industrial solid waste. Originally owned and operated by the City of Portland, the landfill is now owned by Metro. After closure Metro installed an impermeable, flexible membrane cover over the surface of the landfill to prevent infiltration of rain water into the waste with the goal of decreasing the movement of leachate from the waste to the surrounding surface water and groundwater.

A Consent Order for a Remedial Investigation and Feasibility Study was signed by Metro and DEQ in October 2003. The purpose of the order and investigation was to determine the extent of hazardous substances released from the landfill and propose an appropriate cleanup remedy. Groundwater releases around the landfill have been monitored since the 1970s. Impacts to sediment in the sloughs are not significantly elevated relative to background levels and are difficult to separate from upstream sources. The results of the investigation indicate that risks to people by contaminants near the landfill are limited to the consumption of fish from the surrounding sloughs. Ecological risks are primarily limited to sediment dwelling organisms in small areas of contaminated sediment. The Feasibility Study evaluated a range of cleanup alternatives which DEQ considered in selecting the proposed cleanup action.

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

For more information contact the project manager at 229-6802.

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, the DEQ "Staff Report", and other documents in the DEQ Environmental Cleanup Site Information database, go to <http://www.deq.state.or.us/lq/ECSI/ecsi.htm>, select "Search complete ECSI database", then enter 164 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 164 in the Site ID/Info column. Alternatively, you may go directly to the database website for this page at <http://www.deq.state.or.us/Webdocs/Forms/Output/FPCController.ashx?SourceId=164&SourceIdType=11>.

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

THE NEXT STEP: DEQ will consider all public comments. A final decision concerning the proposed cleanup action will be made after consideration of public 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 COMMENT
PROPOSED CONSENT JUDGMENT FOR
SETTLEMENT OF CLEANUP COSTS BETWEEN THE
OREGON DEPARTMENT OF ENVIRONMENTAL
QUALITY AND MARGERY MCAYEAL
MCAYEAL'S WARDROBE CLEANERS, EUGENE,
LANE COUNTY, OREGON**

COMMENTS DUE: May 30, 2014

PROJECT LOCATION: 1060 Olive Street, Eugene, Oregon

PROPOSAL: DEQ is opening a 30-day public comment period beginning May 1, 2014 on a proposed settlement between the Oregon Department of Environmental Quality (DEQ) and Margery McAyeal, former owner of McAyeal's Wardrobe Cleaners in downtown Eugene. The settlement would be in the form of a consent judgment and would require Mrs. McAyeal to pay DEQ a specified amount for cleanup costs DEQ has incurred at the property and for additional cleanup activities to be completed by DEQ.

The proposed consent judgment will also provide McAyeal with a release from liability for claims by the State of Oregon under ORS 465.200 to 465.545 and 465.990, 466.640, and 468B.310, regarding existing hazardous substance releases at or from the property. The proposed consent judgment will also provide Mrs. McAyeal with third party liability protection.

HIGHLIGHTS: McAyeal's Wardrobe Cleaners operated at 1060 Olive Street in Eugene from 1972 to 2010. Lane County foreclosed on the property in 2012 after taxes went unpaid. Spills and releases of dry cleaning solvents, including tetrachloroethylene (PCE), occurred at the site and have contaminated soil and groundwater. Investigations for construction of the city library in the 1990s revealed groundwater contamination from the McAyeal property. The library is located immediately north of the now-shuttered cleaners building. Groundwater pumped from beneath the library to keep the basement parking garage from flooding is contaminated with PCE and related solvent chemicals and is currently treated before being discharged to the city storm drain under a water quality permit.

Environmental sampling conducted by McAyeal's insurer between 2009-2012 identified elevated concentrations of PCE in soil and groundwater beneath the former cleaners building. This contamination is a source of the contamination affecting the groundwater at the Library. The soil contamination at the former cleaners exceeds DEQ's risk based concentrations for vapor intrusion.

DEQ has not selected a cleanup plan for the property, but an evaluation of cleanup alternatives will be completed in 2014. The settlement will allow DEQ to conduct cleanup activities and help facilitate returning the property to productive use in a way that is protective of human health and the environment.

HOW TO COMMENT: Send comments to DEQ Project Manager Don Hanson at 165 E. 7th Ave., Suite 100, or hanson.don@deq.state.or.us. For more information contact the project manager at 541-687-7349.

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

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

To access site summary information and the proposed consent judgment in DEQ's Environmental Cleanup Site Information (ECSI) database on the Internet, go to www.deq.state.or.us/lq/ECSI/ecsiquery.asp, then enter ECSI#2490 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled ECSI #2490 in the Site ID/Info column. Alternatively, you may go directly to the database website for this page at www.deq.state.or.us/Webdocs/Forms/Output/FPCController.ashx?SourceId=2490&SourceIdType=11. If you do not have web access and want to review the project file contact Don Hanson.

THE NEXT STEP: DEQ will consider all public comments received by the date and time stated above before making a final decision regarding the proposed settlement. A public notice of DEQ's final decision will be issued in this publication.

ACCESSIBILITY INFORMATION: DEQ is committed to accommodating people with disabilities. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, contact DEQ Communications & Outreach 503-229-5696 or toll free in Oregon at 800-452-4011; fax to 503-229-6762; or e-mail to deqinfo@deq.state.or.us. People with hearing impairments may call DEQ's TTY number, 800-735-2900 or 711.

OTHER NOTICES

REQUEST FOR COMMENTS PROPOSED CLOSURE FOR STATION PLACE REDEVELOPMENT SITE, LOT 4

COMMENTS DUE: 5 p.m., Friday, May 30, 2014

PROJECT LOCATION: 1150 NW 9th Ave., Portland, OR

PROPOSAL: As required by ORS 465.320, the Oregon Department of Environmental Quality invites public comment on its proposal to issue a conditional no further action determination for Lot 4 of the Station Place Redevelopment site, formerly Union Station-Horse Barn.

HIGHLIGHTS: Elevated petroleum hydrocarbons and metals have been detected in soil and groundwater associated with former railroad operations, and releases from an adjacent historical gas manufacturing facility. A record of decision issued for the Station Place site in 2003, including Lot 4, requires capping of the site. Capping was completed in 2014 consistent with DEQ's record of decision, and a closure report approved. Prior to issuance of the no further action determination, an easement will be recorded with the property deed outlining requirements for ongoing inspection and maintenance of the cap.

HOW TO COMMENT: Send comments to DEQ Project Manager Dan Hafley at 2020 SW Fourth Avenue, Suite 400, Portland, OR or hafley.dan@deq.state.or.us. For more information contact the project manager 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 site summary information and other documents in the DEQ Environmental Cleanup Site Information database, go to <http://www.deq.state.or.us/lq/ECSI/ecsi.htm>, select "Search complete ECSI database", then enter 2407 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 2407 in the Site ID/Info column. Alternatively, you may go directly to the database website for this page at <http://www.deq.state.or.us/lq/ecsi/ecsilist.asp?SiteID=2407>.

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

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

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.

PROPOSED ISSUANCE OF A NO FURTHER ACTION DETERMINATION AND REMOVAL FROM THE CONFIRMED RELEASE LIST FOR THE FORMER HANNA CAR WASH FACILITY IN MILWAUKIE

COMMENTS DUE: 5 p.m., Friday, May 30, 2014

PROJECT LOCATION: 9850 SE Main Street, Milwaukie, OR

Proposal: The Oregon Department of Environmental Quality (DEQ) seeks comments on its proposal to issue a no further action determination for the former Hanna Car Wash International – North Parcel facility (Hanna North). In addition DEQ is seeking comments on removing the facility from the Confirmed Release List.

HIGHLIGHTS: The Hanna North site was previously home to Hanna Car Wash International, a manufacturer of parts used for automated car wash facilities from approximately the early 1960's to February 2001. The former car wash parts operation included the subject property and another facility directly south (Hanna Car Wash International, South Parcel, ECSI #3133). DEQ issued a No Further Action (NFA) determination for the Hanna South Parcel in October 2001.

In October 1991 DEQ added the Hanna North site to the Environmental Cleanup Site Information database (ECSI) as site number #1114, based on information provided in reports that year. In June of 1997 DEQ added the site to the Confirmed Release List (CRL)

based on detailed soil and shallow groundwater data from drum storage and manufacturing operational areas.

Between 1991 and summer of 2013, several assessments, site investigations and remedial actions were completed on the Hanna North property to assess releases of metals and petroleum hydrocarbons during past industrial activities. In 2000 several soil removal actions were implemented on the property to remove environmental contamination. The 2000 remedial work included demolition of a former structure that housed plating, galvanizing and paint operations and removal of residual wastes from that area. Additional groundwater sampling and an investigation of a former aluminum foundry in the main building were completed in 2012 and 2013. A detailed description of site work is provided in DEQ's Closure Memorandum for the site that can be accessed as described below.

Based on the results of the completed remedial actions and follow-up investigations DEQ concludes that the site does not pose an unacceptable risk to human health or the environment and that no further remedial action is required. Based on the investigation findings, DEQ is also proposing that the site be removed from the CRL.

HOW TO COMMENT: Send comments by 5 p.m., Friday, May 30, 2014 to DEQ Project Manager Chuck Harman at DEQ's Northwest Region Office at 2020 SW Fourth Ave., Suite 400, Portland, OR 97201, harman.charles@deq.state.or.us, or fax to 503-229-6899

To review the project file, call Dawn Weinberger at 503-229-6729 for an appointment.

To access site summary information and other documents in DEQ's Environmental Cleanup Site Information database, go to www.deq.state.or.us/lq/ECSI/ecsi.htm, select "Search complete ECSI database" then enter '1114' in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled '1114' in the Site ID/Info column.

THE NEXT STEP: The DEQ project manager will review all comments received and determine if a no further action determination and CRL delisting are appropriate. If DEQ receives no comments that warrant delaying a no further action decision, DEQ will issue a final letter confirming the decision.

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

People with hearing impairments may call 711.

REQUEST FOR COMMENTS PROPOSED NO FURTHER ACTION DETERMINATION FOR THE ANDERSON PORTLAND PROPERTIES – TAX LOT 200 SITE

COMMENTS DUE: 5 p.m., Friday May 30, 2014

PROJECT LOCATION: The intersection of NW St. Helens Road and NW Yeon Avenue, Portland.

PROPOSAL: The Department of Environmental Quality proposes to issue a No Further Action Determination for the Anderson Portland Properties – Tax Lot 200 site. DEQ has determined that residual contamination at the site is not an ongoing source of significant contamination to the Willamette River and does not present a risk to human health and the environment exceeding the acceptable levels defined in ORS 465.315.

HIGHLIGHTS: The site is located approximately 2,000 feet southwest of a portion of the Willamette River within the area designated by EPA as the Portland Harbor Superfund Study Area. Although the site is undeveloped, soil was contaminated with PCBs, which site records indicate were likely from equipment that was stored on this site by one or more adjacent property owners.

In 2011, approximately 640 tons of PCB-contaminated soil was excavated and disposed of at permitted landfills. The excavated area was backfilled with imported soil and seeded. Based on soil, stormwater and catch basin sediment sampling, DEQ proposes to issue a No Further Action determination for this site.

OTHER NOTICES

HOW TO COMMENT: Send comments by 5 p.m., May 31, 2014, to DEQ Project Manager Bob Schwarz, at 400 E. Scenic Drive, Suite 307, The Dalles, OR 97058; schwarz.bob@deq.state.or.us or 541-298-7330 (fax).

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>

For ECSI Site: 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/ecsi.htm>, select "Search complete ECSI database" then enter 5529 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 5529 in the Site ID/Info column.

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 No Further Action determination for this 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.

REQUEST FOR COMMENTS PROPOSED NO FURTHER ACTION DETERMINATION FOR THE FORMER UNOCAL BULK PLANT IN MERRILL

COMMENTS DUE: 5 p.m., Friday, May 30, 2014

Project location: West side of Merrill Road, just north of the UPRR tracks, Merrill

PROPOSAL: The Department of Environmental Quality proposes to issue a No Further Action Determination for the former Unocal Bulk Plant in Merrill. DEQ has determined that residual contamination at the site does not present a risk to human health and the environment exceeding the acceptable levels defined in ORS 465.315. Highlights: Unocal purchased the site in 1929 and operated it as a fuel bulk plant from approximately 1929 until 1979. Unocal sold the property in 1980. In 1995, it was purchased by the current owner, who uses the site as an equipment and storage yard for an excavation and construction business. The site currently has a warehouse, office, garage, and water supply well pump house. Former structures included three 20,000-gallon aboveground storage tanks and one 12,000-gallon aboveground tank, two loading racks and a railroad spur. These were removed in the 1970s.

DEQ's decision to issue a No Further Action determination is based on soil and groundwater sampling conducted between 2007 and 2013.

HOW TO COMMENT: Send comments by 5 p.m., May 31, 2014, to DEQ Project Manager Bob Schwarz, at 400 E. Scenic Drive, Suite 307, The Dalles, OR 97058; schwarz.bob@deq.state.or.us or 541-298-7330 (fax).

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>

For ECSI Site: 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/ecsi.htm>, select "Search complete ECSI database" then enter 2702 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 2702 in the Site ID/Info column.

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 No Further Action determination for this 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.

REQUEST FOR COMMENTS PROPOSED NO FURTHER ACTION DETERMINATION, OBERTO/SMOKECRAFT, ALBANY, OR

COMMENTS DUE: May 30, 2014

PROJECT LOCATION: The former Oberto/Smokecraft facility located at 850 30th Ave. SW, in Albany, Or.

PROPOSAL: DEQ is proposing that no further action is required at the site to human health and the environment.

HIGHLIGHTS: Historical food processing operations at the site resulted in a release of chlorinated solvents to the groundwater sometime prior to 1993. Subsequent investigations showed a groundwater contaminant plume beneath the central portion of the site consisting mostly of tetrachloroethene and breakdown products. In order to enhance biodegradation of naturally occurring contaminants by naturally occurring bacteria, Oberto injected cheese whey and emulsified vegetable oil into the aquifer between 2004 and 2011. Concentrations of solvents in the groundwater at the site decreased as a result of the treatment activities.

Conditions at the site are protective of human health. While low level groundwater contamination remains in place, the contaminants are limited to the area beneath the site and the plume is getting smaller with time. The site is connected to the municipal water supply.

Since conditions on site and off site are protective of human health and since there is no ecological risk, DEQ has determined that no further action is required. On May 1, 2014, running through May 30, 2014, DEQ will provide public notice and opportunity to comment on the determination.

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

THE NEXT STEP: DEQ will review and consider all comments received during the comment period. Once all comments have been considered and addressed, DEQ will issue a *letter of no further action* to the property owner and change the status of the site in the ECSI database.

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.*

.....
Board of Architect Examiners
Chapter 806

Rule Caption: Inactive Status and Reinstatement

Date: 5-21-14 **Time:** 9:30 a.m. **Location:** 205 Liberty St. NE, Suite A
Salem OR 97301

Hearing Officer: James Denno

Stat. Auth.: ORS 671.125

Stats. Implemented: ORS 671.125

Proposed Amendments: 806-010-0060

Last Date for Comment: 5-21-14, 4:30 p.m.

Summary: Revises rules for Inactive Status and Reinstatement or architect registration to clarify requirements.

Rules Coordinator: Jim Denno

Address: Oregon Board of Architect Examiners, 205 Liberty St. NE, Suite A, Salem, OR 97301

Telephone: (503) 763-0662

.....
Board of Chiropractic Examiners
Chapter 811

Rule Caption: Draft 4 Proposed amendments to clarify minimum requirements for clinical record keeping and documentation

Date: 5-22-14 **Time:** 2 p.m. **Location:** University of Western States
Hampton Hall
2900 NE 132nd Ave.
Portland, OR 97230

Hearing Officer: Daniel Cote, Board Chair

Stat. Auth.: ORS 684

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

Proposed Amendments: 811-015-0005

Last Date for Comment: 5-22-14, 2 p.m.

Summary: Draft 4 Proposed amendments to clarify minimum requirements for clinical record keeping and documentation

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: OAR 811-010-0110 Proposed amendments to clarify chiropractic assistant scope of practice (taking vitals).

Date: 5-22-14 **Time:** 2 p.m. **Location:** Univ. of Western States
Hampton Hall
2900 NE 132nd Ave.
Portland, OR 97230

Hearing Officer: Daniel Cote DC, Board Chair

Stat. Auth.: ORS 684

Stats. Implemented: ORS 684.150; 684.155(1)(b)

Proposed Amendments: 811-010-0110

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

Summary: OAR 811-010-0110 — Proposed amendments to clarify chiropractic assistant scope of practice (taking vitals).

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: Court of Appeals determined dry needling is not within chiropractic scope; 811-015-0036 is invalid.

Stat. Auth.: ORS 684

Other Auth.: Court of Appeals Opinion 260 Or App 676 (2014)

Stats. Implemented: ORS 684.150, 684.155

Proposed Repeals: 811-015-0036

Last Date for Comment: 5-22-14, 2 p.m.

Summary: The Board of Chiropractic adopted the rule in June 2011 allowing doctors of chiropractic - once certified by the OBCE - to practice dry needling; the Oregon Court of Appeals found dry needling outside the chiropractic scope and determined the rule invalid in January 2014.

Rules Coordinator: Kelly J. Beringer

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

Telephone: (503) 373-1573

.....

Board of Massage Therapists
Chapter 334

Rule Caption: Clarify verbiage in existing rule; and modify late fees.

Date: 5-15-14 **Time:** 9 a.m. **Location:** 748 Hawthorne Ave. NE
Salem, OR 97301

Hearing Officer: Kate Coffey

Stat. Auth.: ORS 687.001, 687.041, 687.051, 687.121 & 687.071

Other Auth.: ORS 183 & 182.456-182.472

Stats. Implemented: ORS 687.011, 687.121, 687.031, 687.041, 687.051 & 687.071

Proposed Amendments: 334-010-0018, 334-001-0060, 334-010-0015, 334-010-0017, 334-010-0033

Last Date for Comment: 5-15-14, Close of Business

Summary: Amend maximum amount for late fees; clarify definitions and modify lapsed and inactive license renewal requirements.

Rules Coordinator: Ekaette Udosenata

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

Telephone: (503) 365-8657

.....

Board of Parole and Post-Prison Supervision
Chapter 255

Rule Caption: These revisions provide clarification to the current rules and Board practices.

Stat. Auth.: ORS 144.335

Stats. Implemented: ORS 144.335

NOTICES OF PROPOSED RULEMAKING

Proposed Amendments: 255-080-0008, 255-080-0011

Last Date for Comment: 5-27-14, 9:30 a.m.

Summary: This revision makes an important clarification to the rules governing administrative review of Board decisions. Those seeking review should know the limitations on filing, and what the Board will do with incoming requests. The change will give fair notice to those seeking review, and will lead to more consistent responses from the Board.

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 Pharmacy
Chapter 855

Rule Caption: Amends rules in Division 19 and 80 relating to FPGEC and Schedule I Controlled Substances

Date:	Time:	Location:
5-22-14	9:30 a.m.	800 NE Oregon St. Conference Rm. 1A Portland, OR 97232

Hearing Officer: Courtney Wilson

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 475.035, 475.059, 475.065, 689.151, 689.255

Proposed Amendments: 855-019-0150, 855-080-0021

Last Date for Comment: 5-22-14, 4:30 p.m.

Summary: Foreign Pharmacy Graduate rules are amended to remove the minimum score requirements for the Test of English as a Foreign Language (TOEFL) and Internet Based Test (iBT). These amendments require Foreign Pharmacy Graduates applying for licensure in Oregon to provide the original Foreign Pharmacy Graduate Equivalency Committee (FPGEC) Certificate issued by the National Association of Boards of Pharmacy, Foreign Pharmacy Examination Committee. Note: TOEFL and iBT are required for FPGEC Certification.

This filing reestablishes as Schedule I items, gamma-butyrolactone and other cannabinoid receptor agonists that are not listed in OARs 855-080-0022 through 0026 (Schedule II through V) or that are not an FDA approved drug. In addition certain exceptions are reestablished as well as Schedule I compounds in structural classes 2a-2k.

Rules Coordinator: Karen MacLean

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

Telephone: (971) 673-0001

.....
Department of Agriculture
Chapter 603

Rule Caption: Harmonizes Malheur County Bean Control Area with Idaho's and adds requirements for non-Phaseolus beans.

Date:	Time:	Location:
5-20-14	9 a.m.	ODA, Ontario Office 309 NE Third Ave. Ontario, OR

Hearing Officer: Paul Blom

Stat. Auth.: ORS 561 & 570

Stats. Implemented: ORS 561.190, 561.510-561.600, 570.305, 570.405 & 570.410-570.415

Proposed Amendments: 603-052-0385

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

Summary: The proposed amendments to OAR 603-052-0385 would harmonize the regulatory language in Oregon's Malheur County Bean Control Area with Idaho's IDAPA 02.06.06 for trial ground plantings, mitigation of regulated diseases, and scientific names of the regulated diseases. The proposed amendments also add requirements for inspection of non-Phaseolus beans grown in Malheur County and for mitigation of infected non-Phaseolus beans should

a regulated disease be found. Two microorganisms that infect Phaseolus and non-Phaseolus beans have been added to the list of regulated diseases. Finally, the proposed amendments add the ability to obtain a Special Permit to allow for movement of regulated commodities intra- and interstate not otherwise eligible for movement under the Control Area and add a requirement for biennial review of the rule.

Rules Coordinator: Sue Gooch

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

Telephone: (503) 986-4583

.....
Department of Community Colleges and
Workforce Development
Chapter 589

Rule Caption: Amend General Education Development (GED) policies and fees to reflect the new GED test series

Date:	Time:	Location:
5-28-14	9 a.m.	CCWD, Conf. Rm. 2 Public Service Bldg. 255 Capitol St. NE Salem OR 97301

Hearing Officer: Linda Hutchins

Stat. Auth.: ORS 326.051 & 351.768

Stats. Implemented: ORS 326.550 & 341.425

Proposed Amendments: 589-007-0400, 589-007-0500

Last Date for Comment: 5-28-14, Close of Business

Summary: The current rules are written to support the 2002 GED test series, which no longer exist. It is necessary to make changes to the current rules to reflect the new 2014 GED test series. As of January 2, 2014, GED Testing Service (GEDTS) launched the new 2014 GED test series that assesses the knowledge and skills needed for the workplace and for higher education. The new 2014 test series is made up of four subtests, offered as computer based only, and has a new test fee. Additional changes that have occurred with the new test series affect state administration. The State will no longer provide administrative oversight of GED examiners; this will be done locally by the hiring entities. Further, potential new test centers will now only need to apply to GEDTS as opposed to applying to both GEDTS and the State. Lastly, GED records are now housed online through a third party vendor for easy access by GED candidates and companies wanting to verify GED credentials. The amendment of current rules will support the new GED test series and the new fee structure.

Rules Coordinator: Linda Hutchins

Address: Department of Community Colleges and Workforce Development, Public Service Bldg., 255 Capitol St. NE, Salem, OR 97310

Telephone: (503) 947-2456

.....
Rule Caption: Eliminate the adverse impact process for new publicly funded postsecondary programs

Date:	Time:	Location:
5-28-14	9 a.m.	CCWD 3rd Flr. Public Service Bldg. 255 Capitol St. NE Salem, OR 97301

Hearing Officer: Linda Hutchins

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 341.425, 341.465

Proposed Amendments: 589-006-0050, 589-006-0100, 589-006-0150, 589-006-0200, 589-006-0300, 589-006-0350, 589-006-0400

Last Date for Comment: 5-28-14, Close of Business

Summary: HB 3079 and HB 3341 eliminate the adverse impact process for new publicly funded postsecondary programs and locations. This rule amendment helps community colleges develop and deliver new programs without having to go through a time consuming and rigorous process of consulting with other public and pri-

NOTICES OF PROPOSED RULEMAKING

vate colleges. Changes to the Community College Course Approval section will impact OAR 589-006-0050, and OAR 589-006-0150. Housekeeping to correct grammar, punctuation and definitions have been applied throughout Division 6, Chapter 589.

Rules Coordinator: Linda Hutchins

Address: Department of Community Colleges and Workforce Development, Public Service Bldg., 255 Capitol St. NE, Salem, OR 97310

Telephone: (503) 947-2456

Department of Consumer and Business Services, Insurance Division Chapter 836

Rule Caption: Establishing Procedures, Fee and Application for Pharmacy Benefit Managers' Registration and Renewal

Date:	Time:	Location:
5-27-14	1:30 p.m.	Labor & Industries Bldg., CR E 350 Winter St. NE Salem, OR

Hearing Officer: Jeannette Holman

Stat. Auth.: ORS 731.244 & 735.532

Other Auth.: ORS 735.530-735.552

Stats. Implemented: ORS 735.530-735.552

Proposed Adoptions: 836-200-0400, 836-200-0405, 836-200-0410, 836-200-0415, 836-200-0420

Last Date for Comment: 5-30-14, Close of Business

Summary: These proposed are necessary to implement new registration requirements imposed on pharmacy benefit managers that result from legislation passed by the 2013 Legislative Assembly. Beginning January 1, 2014, individuals or business entities that contract with pharmacies on behalf of an insurer, a third-party administrator or the Oregon Prescription Drug Program (established in ORS 414.312) to process claims, pay pharmacies or negotiate rebates for prescription drugs or medical supplies, must register annually with the Department of Consumer and Business Services. These permanent rules replace temporary rules that established the initial procedures for registration and renewal of registration necessary to allow pharmacy benefit managers to comply with the requirements of the new law.

Rules Coordinator: Victor Garcia

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

Telephone: (503) 947-7260

Rule Caption: Actions by Director for Restitution or Other Equitable Relief

Date:	Time:	Location:
5-22-14	10 a.m.	Labor & Industries Bldg. Conference Rm. E 350 Winter St. NE Salem OR

Hearing Officer: Jeannette Holman

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 731.256

Proposed Adoptions: 836-007-0001

Last Date for Comment: 5-30-14, Close of Business

Summary: These rules clarify when and how the director may exercise the discretionary authority to seek restitution or other equitable relief on a consumer's behalf who has suffered damages as a result of an insurer's violation of the Insurance Code or applicable federal law or the insurer's breach of an insurance contract or policy that the insurer has with the consumer.

These rules will apply on and after the effective date of the rules. The department adopted temporary rules effective January 1, 2014 and these permanent rules propose to replace the temporary rules with only a minor change to the definition of "actual damages" to remove the term "monetary" from the definition.

Rules Coordinator: Victor Garcia

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

Telephone: (503) 947-7260

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

Rule Caption: Adopt Hazard Communication updates to Division 4, Agriculture.

Date:	Time:	Location:
6-13-14	11 a.m.	Pine Grove Grange 2900 Van Horn Dr. Hood River, OR 97031
6-18-14	10 a.m.	Linn County Old Armory Bldg. Main Floor, Miller Rm. B 104 4th Avenue SW Albany, OR 97321

Hearing Officer: Sue Joye

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

Stats. Implemented: ORS 654.001-654.295

Proposed Amendments: 437-004-0100, 437-004-0150, 437-004-0720, 437-004-0725, 437-004-0950, 437-004-1430, 437-004-1440, 437-004-1450, 437-004-1460, 437-004-1470, 437-004-1680, 437-004-9800, 437-004-9850

Last Date for Comment: 6-30-14, Close of Business

Summary: This proposed rulemaking will improve safety and simplify compliance for agricultural workplaces by focusing on the rule requirements that pertain to users of hazardous chemicals (as opposed to those for manufacturers, importers, and distributors) and by incorporating the definitions and terminology from the globally harmonized system of chemical classification and labeling (GHS) into Oregon OSHA's Division 4, Agriculture, OAR 437-004-9800 Hazard Communication Standard (HCS) for agricultural employers. Revisions to the Division 4 HCS will establish a uniform "downstream flow of information" about chemical hazards in all the Oregon OSHA rules.

Several related rules, including the Division 4 "universal" definitions, and standards for flammable liquids, fire prevention, pipe labeling, and the storage of hazardous chemicals, are also being revised to simplify and clarify rule requirements and to be consistent with the GHS-modified HCS.

Please visit our website: www.orosha.org

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

Rules Coordinator: Sue C. Joye

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

Telephone: (503) 947-7449

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

Rule Caption: Provide for filing/service of any other thing Board makes available for filing by website portal.

Date:	Time:	Location:
5-30-14	10 a.m.	2601 25th St. SE, Suite 150 Salem, OR 97302-1280

Hearing Officer: Debra L. Young

Stat. Auth.: ORS 656.726(5)

Stats. Implemented: ORS 656.726(5)

Proposed Amendments: 438-005-0046

Last Date for Comment: 5-30-14, 5 p.m.

Summary: As part of its comprehensive review of OAR Chapter 438 rules, the Board invited public comment, which ultimately resulted in the appointment of an Advisory Committee on Technology. After other recommendations, the Technology Committee suggested that the Board make it a priority in the future to provide for electronic fil-

NOTICES OF PROPOSED RULEMAKING

ing of settlement documents. After considering this suggestion, the Board proposes to amend OAR 438-005-0046(1) and (2) to provide for website portal filing/service of “any other thing” that it makes available for filing by website portal. The Board proposes such an approach to permit website portal filing/service of additional things as the website portal system is expanded in the future, without the need to amend OAR 438-005-0046(1), (2) to explicitly list each new thing added to the website portal.

Rules Coordinator: Karen Burton

Address: Department of Consumer and Business Services, Workers’ Compensation Board, 2601 25th St. SE, Suite 150, Salem, OR 97302

Telephone: (503) 934-0123

.....

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

Date:	Time:	Location:
5-22-14	9 a.m.	Labor & Industries Bldg., Rm. B 350 Winter St. NE Salem, OR

Hearing Officer: Fred Bruyns

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.264

Proposed Amendments: Rulew in 436-160, 436-160-0004, 436-160-0410

Last Date for Comment: 5-27-14, Close of Business

Summary: The agency proposes to amend OAR 436-160, Electronic Data Interchange (EDI); Medical Bill Data:

To adopt, by reference, the updated IAIABC EDI Implementation Guide for Medical Bill Payment Records, Release 2.0, dated Feb 1, 2014 (to supersede the Guide, also Release 2.0, dated 2/1/2013);

To make technical corrections, including:

Deletion of DN0586, RENDERING LINE PROVIDER FEIN, from Appendix “A”; this data element does not appear in the IAIABC v2.0 file, Medical Bill Data Reporting – Health Care Claim (ASC X12 837/005010) section;

Correction of business and technical conditions in Appendix B, affecting DN0513, DN0514, DN0515, DN0592, DN0595, and DN0599;

Amendment of DN0521 (HI01-2 in the HI Segment - Non-Institutional Diagnosis Codes–Situational Segment) from mandatory (M) to mandatory conditional (MC);

Amendment of DN0522 (HI02-2 through HI12-2 in the HI Segment–Institutional Bill Other Diagnosis - Situational Segment) from Applicable/Available (AR) to MC;

Amendment of DN0544 (CAS05 through CAS08 in the Loop ID 2320 - Bill Level Adjustments and Amounts - Situational Loop) from AR to MC;

Amendment of DN0557 (SV107-2 through SV107-4 in Loop ID 2400 - Service Line Information - Situational Loop) from AR to MC; amendment of two duplicate listings of DN0557 in Appendix B from SV107-1 to SV107-2 and -3, and addition of SV107-4;

Amendment of DN0592 (NM109 in Loop ID 2420 - Rendering Line Provider Information - Situational Loop) from AR to MC; and

Amendment of DN0647 (NM109 in Loop ID 2310B - Rendering Bill Provider Information - Situational Loop) from AR to MC.

Rules Coordinator: Fred Bruyns

Address: Department of Consumer and Business Services, Workers’ Compensation Division, PO Box 14480, Salem, OR 97309-0405

Telephone: (503) 947-7717

.....

Rule Caption: Repeal of requirement to use International Classification of Disease Tenth Revision (ICD-10) codes

Date:	Time:	Location:
5-22-14	9 a.m.	Labor & Industries Bldg., Rm. B 350 Winter St. NE Salem, OR

Hearing Officer: Fred Bruyns

Stat. Auth.: ORS 656.252, 656.254, 656.726(4)

Stats. Implemented: ORS 656.252, 656.254

Proposed Amendments: Rules in 436-009, 436-009-0010, 436-009-0020

Last Date for Comment: 5-27-14, Close of Business

Summary: The agency proposes to repeal the requirement that medical providers use ICD-10 codes on billings for services delivered on or after Oct. 1, 2014.

Rules Coordinator: Fred Bruyns

Address: Department of Consumer and Business Services, Workers’ Compensation Division, PO Box 14480, Salem, OR 97309-0405

Telephone: (503) 947-7717

.....

Department of Energy Chapter 330

Rule Caption: Establishes home energy performance score system criteria, approval process, reporting requirements and assessor training.

Date:	Time:	Location:
5-29-14	9 a.m.	625 Marion Street NE Salem, OR 97301

Hearing Officer: Elizabeth Ross

Stat. Auth.: ORS 469.040, 469.703, 2013 OL Ch. 383 (HB 2801)

Stats. Implemented: ORS 469.703

Proposed Adoptions: 330-063-0015, 330-063-0025

Proposed Amendments: 330-063-0000, 330-063-0010, 330-063-0020, 330-063-0030, 330-063-0040

Last Date for Comment: 5-29-14, 5 p.m.

Summary: The draft rules implement Section 12 of House Bill 2801, passed by the 2013 Oregon Legislative Assembly, which required the Oregon Department of Energy to adopt by rule a home energy performance score system for use in Oregon, training requirements for home energy assessors certified by the Construction Contractors Board, and requirements, if any, for home energy assessors to report home energy performance score data to the department. The department proposes to implement these rules as amendments to existing Division 63 rules related to voluntary energy performance scores for residential and commercial buildings.

In the draft rules, the existing rule language for energy performance scores for residential buildings is replaced with new residential-related rule language pursuant to HB 2801. The amendments include new language describing: required elements of home energy performance score systems, a process for home energy performance score systems to be reviewed by a technical panel and approved for use in Oregon by the department’s director, three home energy performance score systems that are grandfathered for use in Oregon until July 1, 2016, minimum training requirements for individuals seeking certification as home energy assessors by the Construction Contractors Board, and a requirement for home energy assessors to report home energy performance score data to the department unless the department is able to obtain the data through other means.

Additionally, the existing rule language related to energy performance scores for commercial buildings is rearranged and updated in the draft rules in order to consolidate the commercial-related requirements into one rule section, clarify certain language, and use terminology consistent with the proposed new residential-related language.

The draft rules will become effective July 1, 2014. Text of the proposed rules and hearing details can be found on the department website: <http://www.oregon.gov/energy/pages/rulemaking-eps.aspx>.

Rules Coordinator: Elizabeth Ross

NOTICES OF PROPOSED RULEMAKING

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

Telephone: (503) 373-8534

.....

Department of Fish and Wildlife Chapter 635

Rule Caption: Amend rules related to the Coastal Multi-Species Conservation and Management Plan

Date:	Time:	Location:
6-5-14	8 a.m.	4034 Fairview Industrial Dr. SE Salem, OR 97302

Hearing Officer: Oregon Fish and Wildlife Commission
Stat. Auth.: ORS 496.138, 496.146, 496.162, 506.036, 506.119 & 506.129

Stats. Implemented: ORS 496.162, 506.109 & 506.129

Proposed Adoptions: Rules in 635-500

Proposed Amendments: Rules in 635-500

Proposed Repeals: Rules in 635-500

Last Date for Comment: 6-5-14, 8 a.m.

Summary: The rules relating to implementation of the Coastal Multi-Species Conservation and Management Plan may be adopted, amended, or repealed as determined necessary by the Oregon Fish and Wildlife Commission. Housekeeping and technical corrections to the regulations relating to hatcheries and harvest opportunities; predators; regulatory programs; water quality; and adaptive management may occur as determined necessary to ensure rule consistency.

NOTE: Commission hearing dates for June are June 5 and 6, 2014, beginning at 8:00 a.m. Exhibits for the Fish Division are expected to be completed on June 5, 2014. However, should additional time be needed, the Commission reserves the right to carry over Fish Division exhibits on June 6, 2014.

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 Commercial Coastal Pelagic Species Fisheries

Date:	Time:	Location:
6-5-14	8 a.m.	4034 Fairview Industrial Dr. SE Salem, OR 97302

Hearing Officer: Oregon Fish and Wildlife Commission
Stat. Auth.: ORS 496.138, 496.162, 506.036, 506.109, 506.119 & 506.129

Stats. Implemented: ORS 496.162, 506.109 & 506.129

Proposed Adoptions: Rules in 635-004

Proposed Amendments: Rules in 635-004

Proposed Repeals: Rules in 635-004

Last Date for Comment: 6-5-14, 8 a.m.

Summary: Amendments to Oregon's regulations for Coastal Pelagic Species fisheries will bring the State concurrent with federally adopted regulations. Coastal Pelagic Species include Pacific sardine, Pacific mackerel, market squid, jack mackerel, northern anchovy and krill. Modifications establish Pacific sardine and Pacific mackerel seasons and/or quotas for the period of July 1, 2014 to June 30, 2015. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

NOTE: Commission hearing dates for June are June 5 and 6, 2014, beginning at 8:00 a.m. Exhibits for the Fish Division are expected to be completed on June 5, 2014. However, should additional time be needed, the Commission reserves the right to carry over Fish Division exhibits on June 6, 2014.

Rules Coordinator: Therese Kucera

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

Telephone: (503) 947-6033

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

Date:	Time:	Location:
6-5-14	8 a.m.	4034 Fairview Industrial Dr. SE Salem, OR 97302

Hearing Officer: Oregon Fish and Wildlife Commission
Stat. Auth.: ORS 496.138, 496.146, 506.036, 506.119, 506.129 & 506.750 et Seq.

Other Auth.: Magnuson-Stevens Sustainable Fisheries Act.

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

Proposed Adoptions: Rules in 635-003, 635-013

Proposed Amendments: Rules in 635-003, 635-013

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

Last Date for Comment: 6-5-14, 8 a.m.

Summary: Amend rules related to commercial and sport salmon fishing in the Pacific Ocean within Oregon state jurisdiction. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

NOTE: Commission hearing dates for June are June 5 and 6, 2014 beginning at 8:00 a.m. Exhibits for the Fish Division are expected to be completed on June 5, 2014. However, should additional time be needed, the Commission reserves the right to carry over Fish Division exhibits on June 6, 2014.

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 relating to Habitat Conservation Stamp Program

Date:	Time:	Location:
6-5-14	8 a.m.	4034 Fairview Industrial Dr. SE Salem, OR 97302
6-6-14	8 a.m.	4034 Fairview Industrial Dr. SE Salem, OR 97302

Hearing Officer: Oregon Fish and Wildlife Commission
Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.303, 496.571 & 497.071

Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.303, 496.571 & 497.071,

Proposed Amendments: Rules in 635-095, 635-008

Last Date for Comment: 6-5-14, 8 a.m.

Summary: Amend rules regarding the requirements for submission of artwork, amount paid to contest winner, parking permit and other program provisions.

NOTE: Commission hearing dates for June are June 5 and 6, 2014 beginning at 8:00 a.m. Exhibits for the Wildlife Division are expected to be completed on June 5, 2014. However, should additional time be needed, the Commission reserves the right to carry over Wildlife Division exhibits on June 6, 2014

Rules Coordinator: Therese Kucera

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

Telephone: (503) 947-6033

.....

Rule Caption: Modify 2014–2016 Furbearer Trapping and Hunting Regulations

Date:	Time:	Location:
6-5-14	8 a.m.	4034 Fairview Industrial Dr. SE Salem, OR 97302
6-6-14	8 a.m.	4034 Fairview Industrial Dr. SE Salem, OR 97302

Hearing Officer: Oregon Fish and Wildlife Commission
Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Proposed Amendments: Rules in 635-008, 635-043, 635-045, 635-048, 635-050, 635-200

Last Date for Comment: 6-5-14, 8 a.m.

NOTICES OF PROPOSED RULEMAKING

Summary: Amend rules regarding seasons and bag limits for the 2014-2015 and 2015-2016 furbearer harvest and pursuit seasons and general furbearer trapping and hunting regulations.

NOTE: Commission hearing dates for June are June 5 and 6, 2014 beginning at 8:00 a.m. Exhibits for the Wildlife Division are expected to be completed on June 5, 2014. However, should additional time be needed, the Commission reserves the right to carry over Wildlife Division exhibits on June 6, 2014

Rules Coordinator: Therese Kucera

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

Telephone: (503) 947-6033

.....

Rule Caption: 2015 changes to game mammal hunting regulations; 2014 controlled hunt tag numbers and location access

Date:	Time:	Location:
6-5-14	8 a.m.	4034 Fairview Industrial Dr. SE Salem, OR 97302
6-6-14	8 a.m.	4034 Fairview Industrial Dr. SE Salem, OR 97302

Hearing Officer: Oregon Fish and Wildlife Commission

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

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

Proposed Amendments: Rules in 635-002, 635-008, 635-043, 635-045, 635-049, 635-060, 635-065, 635-066, 635-067, 635-068, 635-069, 635-070, 635-071, 635-072, 635-073, 635-075, 635-078, 635-080

Last Date for Comment: 6-5-14, 8 a.m.

Summary: Establish 2014 controlled hunt tag numbers and /or season regulations for the hunting of pronghorn antelope, bighorn sheep, Rocky Mountain goat, deer and elk.

Propose 2015 hunting regulations for game mammals, including season dates, bag limits, open areas, location of cooperative travel management areas, and controlled hunting regulations. Propose quotas for 2015 cougar seasons and spring bear limited, first-come first-serve and controlled hunt tag numbers for 2015. These proposals will be presented in principle to the Oregon Fish and Wildlife Commission in June 2014 and again for adoption in October 2014.

Establish access for certain Fish and Wildlife oriented public use locations.

NOTE: Commission hearing dates for June are June 5 and 6, 2014 beginning at 8:00 a.m. Exhibits for the Wildlife Division are expected to be completed on June 5, 2014. However, should additional time be needed, the Commission reserves the right to carry over Wildlife Division exhibits on June 6, 2014.

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: Lay Representation in Contested Cases

Date:	Time:	Location:
5-19-14	3:30 p.m.	Human Services Bldg., Rm. 137C 500 Summer St. NE Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 183.452 & 409.010

Proposed Amendments: 411-001-0510

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

Summary: The Department of Human Services (Department) is proposing to amend OAR 411-001-0510 about lay representation in contested cases to comply with ORS 183.452 by improving its description of the current use of lay representatives by the Depart-

ment as approved by the Oregon Department of Justice. The revised rule will indicate that it covers public assistance benefits, SNAP, intentional program violations, medical assistance, provider enrollment, provider overpayments, audits, and audit sanctions.

Rules Coordinator: Kimberly Colkitt-Hallman

Address: Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, 500 Summer St. NE, E48, Salem, OR 97301

Telephone: (503) 945-6398

.....

Rule Caption: K-State Plan

Date:	Time:	Location:
5-16-14	3:30 p.m.	Human Services Bldg., Rm. 160 500 Summer St. NE Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 410.070

Other Auth.: 42 CFR 435.726

Stats. Implemented: ORS 409.050, 410.040, 410.090, 410.210-410.300 & 441.520

Proposed Adoptions: 411-035-0000 – 411-035-0095

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

Summary: The Department of Human Services is proposing to adopt new rules under 411-035-0000 to 411-035-0095 in regards to the Community First Choice Option (K-State Plan Option). The K-State Plan is a Medicaid State plan option under the Affordable Care Act that would bring additional revenue into the Department. The Department's budget will receive an enhanced 6% federal match for home and community based services. These rules ensure individuals served through the K-State Plan are able to maximize independence, empowerment, and dignity.

Rules Coordinator: Kimberly Colkitt-Hallman

Address: Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, 500 Summer St. NE, E48, Salem, OR 97301

Telephone: (503) 945-6398

.....

Rule Caption: Medicaid Home Delivered Meals

Date:	Time:	Location:
5-19-14	9:30 a.m.	Human Resources Bldg., Rm. 160 500 Summer St. NE Salem, OR

Hearing Officer: Staff

Stat. Auth.: ORS 410.070, 411.060 & 411.070

Stats. Implemented: ORS 410.070

Proposed Adoptions: 411-040-0010, 411-040-0020, 411-040-0030, 411-040-0035, 411-040-0036, 411-040-0037, 411-040-0040, 411-040-0050, 411-040-0060

Proposed Amendments: 411-040-0000

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

Summary: The Department of Human Services (Department) is proposing to update the rules in OAR 411-040 for Home Delivered Meals to: Include more detailed information around client eligibility and responsibilities, provider qualifications and responsibilities, meal requirements, service requirements, staff/volunteer requirements, provider payment, local office responsibility and oversight, and impact on client liability; and

Incorporate pieces of the Older Americans Act Nutrition Standards.

Rules Coordinator: Kimberly Colkitt-Hallman

Address: Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, 500 Summer St. NE, E48, Salem, OR 97301

Telephone: (503) 945-6398

NOTICES OF PROPOSED RULEMAKING

Department of Human Services, Child Welfare Programs Chapter 413

Rule Caption: Changing OARs affecting Child Welfare programs

Date: 5-21-14
Time: 8:30 a.m.
Location: 500 Summer St. NE, Rm. 257
Salem, OR 97301

Hearing Officer: Kris Skaro

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 419B.192

Proposed Amendments: 413-010-0310, 413-070-0063, 413-070-0505, 413-070-0620, 413-070-0655, 413-070-0905, 413-120-0010, 413-120-0195, 413-120-0510, 413-120-0710

Last Date for Comment: 5-23-14, 5 p.m.

Summary: The Office of Child Welfare Programs proposes to change the definition of “relative” as it applies to the order in which the Department considers potential adoptive resources and substitute care resources for placement of children and young adults in its custody. The proposed changes are intended to clarify where in the order of preference fall birth relatives of children or parents who were adopted and prior foster parents of children who came back into care after having returned home. “Relative” is defined in ten rules in OAR chapter 413, all of which are proposed to be amended to adopt a consistent definition.

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

Rules Coordinator: Kris Skaro

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

Telephone: (503) 945-6067

.....

Rule Caption: Changing OARs affecting Child Welfare programs

Date: 5-23-14
Time: 8:30 a.m.
Location: 500 Summer St. NE, Rm. 257
Salem, OR 97301

Hearing Officer: Kris Skaro

Stat. Auth.: ORS 409.050, 411.404, 418.005; Oregon Laws 2013, Chapter 14, Section 10 (HB 2089)

Other Auth.: Social Security Act section 1902(a)(10) (42 USC 1396a), 42 CFR 435.145, 42 CFR 435.150, 42 CFR 435.222

Stats. Implemented: ORS 409.010, 411.404, 418.005; Oregon Laws 2013, Chapter 365 (HB 2091)

Proposed Adoptions: 413-100-0432, 413-100-0435, 413-100-0451, 413-100-0457

Proposed Amendments: 413-100-0400, 413-100-0410, 413-100-0420, 413-100-0430, 413-100-0445, 413-100-0455, 413-100-0460, 413-100-0530

Proposed Repeals: 413-100-0440, 413-100-0450, 413-100-0470, 413-100-0480, 413-100-0490, 413-100-0500, 413-100-0510, 413-100-0520, 413-100-0540, 413-100-0550, 413-100-0560, 413-100-0600, 413-100-0610, 413-100-0400(T), 413-100-0410(T), 413-100-0420(T), 413-100-0430(T), 413-100-0435(T), 413-100-0445(T), 413-100-0455(T), 413-100-0457(T), 413-100-0460(T), 413-100-0530(T)

Last Date for Comment: 5-27-14, 5 p.m.

Summary: These rules about medical eligibility for Child Welfare children are being changed to permanently adopt, amend, and repeal temporary rule changes effective January 1, 2014 and February 4, 2014; to ensure compliance with federal standards, Oregon’s Medicaid State Plan, and Oregon’s 1115 Demonstration Waiver; and to clarify the rules. The Department applies these rules to determine eligibility for: medical assistance under Title XIX of the Social Security Act for children and young adults in substitute care or under an adoption assistance or guardianship assistance agreement; General Assistance medical for children and young adults not eligible for Title XIX Medicaid; the Former Foster Care Youth Medical Program; and children entering Oregon under an interstate compact agreement. In addition, the rules are rewritten and reorganized to increase

clarity, and several rule titles are revised to more accurately reflect the content of the rules.

Written comments may be submitted until May 27th, 2014 at 5:00 p.m. Written comments may be submitted via e-mail to Kris.A.Skaro@state.or.us, faxed to 503-373-7032, or mailed to Kris Skaro, 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: Kris Skaro

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

Telephone: (503) 945-6067

.....

Department of Human Services, Self-Sufficiency Programs Chapter 461

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

Date: 5-23-14
Time: 10:30 a.m.
Location: 500 Summer St. NE, Rm. 257
Salem, OR

Hearing Officer: Kris Skaro

Stat. Auth.: ORS 418.005, 411.060, 411.070, 411.402 & 411.404

Stats. Implemented: ORS 411.400, 411.402, 411.404, 414.025, 414.231 & 414.706

Proposed Amendments: 461-101-0010, 461-115-0030, 461-115-0430, 461-120-0030, 461-120-0050, 461-120-0125, 461-120-0210, 461-120-0315, 461-120-0510, 461-135-0010, 461-135-0875, 461-135-0990, 461-155-0360

Proposed Repeals: 461-110-0340, 461-135-0150

Last Date for Comment: 5-27-14, 5 p.m.

Summary: The Department of Human Services proposes to remove references to “SAC” from OAR chapter 461. SAC refers to medical coverage for children in substitute or adoptive care. The remaining references to SAC in OAR chapter 461 are obsolete. Eligibility for coverage for out-of-state children placed in an Oregon facility is now primarily determined by the Oregon Health Authority’s Office of Client and Community Services (OCCS) for medical programs under rules moved from OAR chapter 461 to OCCS rules in OAR chapter 410 effective 10/1/13 (such as OAR 410-200-0015, 410-200-0405, 410-200-0510). Additional eligibility for medical coverage for Oregon children in substitute care and in the custody of the Department are set out in Child Welfare rules in OAR chapter 413-100-0410 to 413-100-0460.

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

Rules Coordinator: Kris Skaro

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

Telephone: (503) 945-6067

.....

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

Date: 5-23-14
Time: 9:30 a.m.
Location: 500 Summer St. NE Rm. 257
Salem, OR 97301

Hearing Officer: Kris Skaro

Stat. Auth.: ORS 181.537, 409.050, 410.075, 411.060, 411.070, 411.116, 411.404, 411.704, 411.706, 411.816, 412.006, 412.009, 412.014, 412.049, 412.064, 412.124, 413.042, 414.025, 414.042, 414.231, 414.712, 414.826, 414.831, 414.839, 416.340, 416.350, 2013 Or Laws 14 Section 10, 2013 Or Laws 722

Other Auth.: 42 USC 1396p, 42 U.S.C. 1396p(d)(4)(C), 42 U.S.C. 1396r-5(d)(3), 20 CFR 416.1123, 20 CFR 416.1202, 42 CFR 433.36, 45 CFR 98, Oregon State Plan Amendment Transmittal 13-21,

NOTICES OF PROPOSED RULEMAKING

approved January 3, 2014 by CMS, retroactive to October 1, 2013, Oregon Health Authority & Oregon Department of Human Services Interagency Agreement, Article V Paragraph D of June 15, 2011, State Medicaid Director Letter #14-001 issued by The Center for Medicare & Medicaid Services (<http://www.medicaid.gov/Federal-Policy-Guidance/Downloads/SMD-14-001.pdf>)

Stats. Implemented: ORS 93.969, 125.495, 181.537, 183.452, 409.010, 409.050, 409.610, 410.070, 410.075, 411.010, 411.060, 411.070, 411.081, 411.087, 411.116, 411.117, 411.121, 411.122, 411.135, 411.404, 411.620, 411.630, 411.704, 411.706, 411.708, 411.795, 411.816, 412.001, 412.006, 412.009, 412.014, 412.049, 412.064, 412.124, 414.025, 414.042, 414.231, 414.712, 414.826, 414.831, 414.839, 416.310, 416.340, 416.350, 657A.340, 2013 OL Ch. 14 Sec. 10 & 2013 OL Ch. 722, HB 4165 (2012)

Proposed Amendments: 461-001-0000, 461-025-0301, 461-110-0210, 461-110-0350, 461-110-0410, 461-110-0530, 461-115-0016, 461-115-0050, 461-115-0230, 461-120-0010, 461-135-0832, 461-135-0835, 461-140-0020, 461-140-0040, 461-145-0340, 461-145-0380, 461-145-0540, 461-160-0550, 461-160-0551, 461-160-0620, 461-165-0180, 461-170-0010, 461-180-0090, 461-190-0211

Proposed Repeals: 461-110-0350(T), 461-165-0180(T), 461-190-0211(T)

Last Date for Comment: 5-27-14, 5 p.m.

Summary: OAR 461-001-0000 about definitions for Chapter 461 is being amended to change the definition of “lodger” to support the proposed amendment to OAR 461-145-0340 which follows federal policy by including income from lodgers who pay only for the room, counting room rental income based on the number of rooms and other expenses, and by treating this income as unearned income. This rule is also being amended to change the definition of “Initial month” to clarify that for current long-term care clients (as distinct from new applicants), the initial month for purposes of determining the divisor should be the date the individual applied for long-term care rather than public assistance in Oregon in general.

OAR 461-025-0301 about lay representation in contested case hearings is being amended to comply with ORS 183.452 by improving its description of the current use of lay representatives by the Department as approved by the Oregon Department of Justice. The revised rule will indicate that it covers public assistance services; medical benefits; SNAP terminations, reductions, suspensions and denials; intentional program violations; provider enrollment, provider overpayments, audits, and audit sanctions; and estate administration hardship waivers.

OAR 461-110-0210 is being amended to expand the definition of who is considered in the household group by clarifying that a person who is absent by choice, including but not limited to caring for an emergent need of an individual related to an illness, injury or death or anticipated to return within 90 days, is still considered part of the household group. This rule is also being amended to remove its reference to “SAC”, to medical coverage for children in substitute or adoptive care which is obsolete. Eligibility for coverage for out-of-state children placed in an Oregon facility is now primarily determined by the Oregon Health Authority’s Office of Client and Community Services (OCCS) for medical programs under rules that were moved from OAR chapter 461 to OCCS rules in OAR chapter 410 effective 10/1/13 (such as OAR 410-200-0015, 410-200-0405, 410-200-0510). Additional eligibility for medical coverage for Oregon children in substitute care and in the custody of the Department are set out in Child Welfare rules in OAR chapter 413-100-0410 to 413-100-0460.

OAR 461-110-0350 about the filing group for the Employment Related Day Care (ERDC) program is being amended to make permanent a temporary rule change from January 8, 2014, aligning this rule with changes to OAR 461-001-0000 that revised the definition of “spouse”. The prior definition of “spouse” included exceptions for the ERDC program that were removed in order to align with other program rules and to clarify who must be considered as a “spouse”.

OAR 461-110-0410 about filing groups is being amended to clarify how to determine filing groups in the OSIPM program. Filing groups consist of the individuals whose circumstances are considered in the eligibility determination process.

OAR 461-110-0530 about financial groups is being amended to clarify how to determine financial groups in the OSIPM program. Generally, financial groups consist of the individuals whose income and resources the Department considers in determining eligibility.

OAR 461-115-0016 about the application process and reservation list for the Employment Related Day Care (ERDC) program is being amended to make permanent a temporary rule change effective January 1, 2014, adding additional exemptions under which families would not be placed on the reservation list. Under this amendment; new ERDC applicants who have an open Child Welfare case or open CPS assessment will meet an exception to the ERDC reservation list, if the child care subsidy is part of a safety plan needed to prevent child removal, allow a child to return home, or allow for placement of the child with a relative or with an adult whom the child or the family of the child has an established relationship. The amendment to this rule will align with Oregon’s differential response and the federal guidelines for at risk children.

OAR 461-115-0050 about when an application must be filed is being amended to indicate that the Department does not determine eligibility for the Oregon Supplemental Income Program Medical (OSIPM) or the Qualified Medicare Beneficiary (QMB) programs using the application that was used to determine eligibility for other Department programs the individual is currently receiving. The rule is also being amended to update terminology to clarify the scope of the rule.

OAR 461-115-0230 about interviews is being amended to set out the Department’s policy that interviews are required in the OSIPM and QMB programs at application and redetermination.

OAR 461-120-0010 about residency requirements is being amended to remove references to EXT (Extended Medical), HKC (Healthy Kids Connect), MAA (Medical Assistance Assumed), MAF (Medical Assistance to Families), OHP (Oregon Health Plan) and SAC (Substitute or Adoptive Care). The eligibility requirements for these programs are now under OAR 410-200, except that eligibility for medical coverage for children in substitute care and in the custody of the Department is also covered in OAR 413.

OAR 461-135-0832 about definitions used in estate administration rules is being amended to add applicable statutory citations; add a definition of “Department” to clarify that it includes the Department of Human Services, the Oregon Health Authority, or both; replace the definition of “blind child” with “child with visual impairment”; replace the definition of “disabled child” with “child with disability”; add a definition of “domestic partner” that complies with ORS 106.310; change the definition of “estate” to identify assets that are subject to estate recovery claims for medical assistance only, and replaced reference to “assistance” with “medical assistance,” so as to implement proposed amendments to OAR 461-135-0835; remove the superfluous use of the word “surviving”; add definitions for “general assistance” and “medical assistance”; add a definition for “probate estate” to implement proposed amendments to OAR 461-135-0835 listing the types of assets that are subject to an estate recovery claim for non-medical assistance programs; and add definition for “Medicare cost sharing” to implement proposed amendments to OAR 461-135-0835.

OAR 461-135-0835 regarding estate claims is being amended to implement a change to Oregon’s State Plan regarding estate recovery of Medicaid, a legislative change to estate recovery of the state’s monthly contribution for Medicare Part D prescription drug coverage, clarify estate recovery under each program subject to estate recovery, and include in the rule various existing policies regarding estate recovery. These amendments designate the Estate Administration Unit to administer estate recovery programs for the Oregon Health Authority and the Department of Human Services; implement a change in the Oregon State Plan limiting estate recovery of med-

NOTICES OF PROPOSED RULEMAKING

ical assistance benefits paid on or after October 1, 2103; clarify what is included in a claim for the several estate recovery programs mandated by statute; clarify when estate recovery claims are deferred or not enforced for the several estate recovery programs mandated by statute; clarify what assets or interest in assets of a deceased recipient are subject to estate recovery claims for the several estate recovery programs mandated by statute; implement a statutory change regarding estate recovery of the state's monthly contribution to the federal government for Medicare Part D prescription coverage for individuals receiving Medicare and medical assistance; implement existing policy regarding recovery of overpayments from the estates of deceased recipients for medical assistance, GA, and OSIP; implement existing policy regarding recognition of same sex married couples and same sex registered domestic partners for estate recovery and the GA and OSIP programs, and implement existing policy regarding recognition of same sex married couples for estate recovery of medical assistance; implement existing policy regarding the set aside of transfers of assets for inadequate consideration by recipients; and implement existing policy regarding the maximum distribution from "special needs trusts", and that distributions from the trusts are still payable if the deceased recipient is survived by a spouse, minor child, child with a disability or a child with a visual impairment.

OAR 461-140-0020 about availability of resources is being amended to address how to treat non-liquid resources in the OSIPM and QMB medical programs, correcting an inadvertent error made during a previous amendment.

OAR 461-140-0040 about availability of income is being amended to align with federal policy about disregarding a portion of certain income sources withheld to repay a previous overpayment of that same source of income, if double-counting will occur.

OAR 461-145-0340 about lodger income is being amended to revise how lodger income is treated in the GA, GAM, OSIP, OSIPM, and QMB programs.

OAR 461-145-0380 about pension and retirement plans is being amended to align with federal policy regarding the exclusion of pension and retirement plans owned by the non-applying spouse of individuals in standard living situations.

OAR 461-145-0540 about trusts is being amended to add more requirements for certain pooled trusts to not be considered in determining eligibility for the OSIPM and QMB programs: the trust is to pay the state of Oregon upon any termination of the sub-trust and not only on the beneficiary's death; the trustee is to be properly licensed in Oregon as a professional trustee; the non-profit association is to be properly registered as a non-profit entity in Oregon; the trust is to be properly registered with the Charitable Activities section of the Oregon Department of Justice; the master trust agreement is to identify the state of Oregon as a "qualified beneficiary"; the trust will make account records available to the Department; and any and all funds retained by the non-profit association must be retained in trust.

OAR 461-160-0550 and 461-160-0551 about income deductions in the OSIP and OSIPM programs are being amended to clarify how to calculate adjusted income for married individuals. The proposed changes will clarify that a married applicant/recipient must be income-eligible as an individual, and that there is no need to proceed with further calculations if that is not the case.

OAR 461-160-0620 about income deductions and liability for OSIPM clients in long-term care is being amended to reflect the federal changes in the amounts used when calculating the maintenance needs allowance and the dependent income allowance deducted from the income of an institutionalized spouse that are effective July 1, 2014.

OAR 461-165-0180 (eligibility of child care providers) is being amended to increase child care provider standards, including making permanent temporary rule changes effective March 1 and April 1, 2014. 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. This amendment also indicates that halfway houses are not eligible locations for subsidized child care; modifies the scope and specifies the implementation of the new training requirements for care providers who are License Exempt or Registered Family Child Care Providers 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; and requires providers registered or licensed by the Child Care Division to 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.

OAR 461-170-0010 about client reports concerning changes in circumstances is being amended to clarify that when multiple changes in circumstances are reported at the same time, all actions must be taken at the time of reporting and given the same effective date.

OAR 461-180-0090 about effective dates for initial month medical benefits is being amended to remove an obsolete reference to Healthy KidsConnect (HKC) medical. Starting January 1, 2014, HKC clients were moved into the MAGI CHIP program.

OAR 461-190-0211 about case plan activities and standards for support services is being amended to make permanent a temporary rule change effective March 5, 2014, allowing the department to issue support services to an individual who has become over-income for the Temporary Assistance for Needy Families (TANF) program due to earnings in a TANF/Job Opportunity and Basic Skills (JOBS) program on-the-job training activity. Under this rule amendment, the Department may issue support services to such individuals for no more than three months, unless circumstances unique to the situation are identified and warrant the Department to approve a limited number of additional months, and only while the individual continues to participate in the on-the-job training activity.

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

Rules Coordinator: Kris Skaro

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

Telephone: (503) 945-6067

.....

Department of Justice Chapter 137

Rule Caption: Child support calculations; spousal only closure; lay representatives; modifications; multiple case distribution

Stat. Auth.: ORS 25.020, 25.270-25.290, 180.345, 416.455

Stats. Implemented: ORS 18.645, 25.020, 25.080, 25.270-25.290, 25.321-25.343, 25.381, 25.387, 25.414, 25.610, 107.135, 180.452, 416.425

Proposed Amendments: 137-050-0710, 137-050-0735, 137-050-0740, 137-050-0745, 137-050-0755, 137-055-2045, 137-055-2170, 137-055-3240, 137-055-6024

Proposed Repeals: 137-055-2170(T), 137-055-3420(T)

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

Summary: Unexpired temporary rules OAR 137-055-2170 and 137-055-3420 are being repealed and replaced with permanent rule making.

OAR 137-050-0710 is being amended to reflect the changes pursuant to proposed 137-050-0740 and 137-050-0755.

OAR 137-050-0735 is being amended to update the maximum allowable child care costs for 2014 as provided in 461-155-0150.

OAR 137-050-0740 is being amended to emphasize the dollar for dollar reduction in support for Social Security or Veterans Benefits.

OAR 137-050-0745 is being amended to update the self-support reserve from \$1,117 to \$1,135 based on change in the federal poverty guideline.

OAR 137-050-0755 is being amended to clarify mathematically how the minimum order rule is applied.

NOTICES OF PROPOSED RULEMAKING

OAR 137-055-2045 is being amended to clarify when a spousal only case may be closed.

OAR 137-055-2170 is being amended to include every potential type of hearing at which a case manager might appear and to define roles and responsibilities of lay representatives.

OAR 137-055-3420 is being amended to clarify that a child support order is not in substantial compliance with the guidelines if it has been more than 35 months since the order took effect.

OAR 137-055-6024 is being amended to clarify distribution of certain payments when an obligor has multiple cases.

Please submit written comments by 5:00 p.m. Wednesday, May 14th, 2014, to Lori Woltring, Policy Analyst, Division of Child Support, 1162 Court St NE Salem, Oregon 97301. Questions may be directed to that address or you may call (503) 947-4367

Rules Coordinator: Carol Riches

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

Telephone: (503) 947-4700

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

Rule Caption: Update code editions, clarification of language, and housekeeping changes.

Stat. Auth.: ORS 476, 480

Stats. Implemented: ORS 480.111-480.165

Proposed Amendments: 837-012-0305, 837-012-0310, 837-012-0315, 837-012-0320, 837-012-0325, 837-012-0330, 837-012-0350, 837-012-0360, 837-012-0500, 837-012-0505, 837-012-0510, 837-012-0515, 837-012-0520, 837-012-0525, 837-012-0530, 837-012-0535, 837-012-0540, 837-012-0545, 837-012-0550, 837-012-0555, 837-012-0560, 837-012-0565, 837-012-0610, 837-012-0615, 837-012-0620, 837-012-0625, 837-012-0630, 837-012-0635, 837-012-0640, 837-012-0645, 837-012-0650, 837-012-0655, 837-012-0660, 837-012-0665, 837-012-0670, 837-012-0675, 837-012-0700, 837-012-0720, 837-012-0730, 837-012-0740, 837-012-0750, 837-012-0760, 837-012-0770, 837-012-0780, 837-012-0790, 837-012-0800, 837-012-0810, 837-012-0820, 837-012-0830, 837-012-0835, 837-012-0840, 837-012-0850, 837-012-0855, 837-012-0860, 837-012-0865, 837-012-0870, 837-012-0875, 837-012-0880, 837-012-0890, 837-012-0900, 837-012-0910, 837-012-0920, 837-012-0940, 837-012-0950, 837-012-0960, 837-012-0970, 837-012-1000, 837-012-1010, 837-012-1020, 837-012-1030, 837-012-1040, 837-012-1050, 837-012-1060, 837-012-1070, 837-012-1080, 837-012-1090, 837-012-1100, 837-012-1110, 837-012-1120, 837-012-1130, 837-012-1140, 837-012-1150, 837-012-1160

Proposed Repeals: 837-012-0930

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

Summary: These rules are being changed to update the adopted fire codes and standards editions, clarify existing language, and formatting updates.

Rules Coordinator: Valerie Abrahamson

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

Telephone: (503) 934-8211

Department of State Lands Chapter 141

Rule Caption: Amend existing special use rules to include geothermal resources installations.

Date:	Time:	Location:
5-20-14	5 p.m.	DSL Eastern Region Office 1645 NE Forbes Rd., Suite 112 Bend, Oregon 97701

Hearing Officer: Christopher Castelli or Shawn Zumwalt

Stat. Auth.: ORS 183 regarding administrative procedures & rules of state agencies; ORS 273 regarding the creation & general

powers of the Land Board; ORS 274 regarding submerged & submersible land.

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

Stats. Implemented: ORS 273 & 274

Proposed Amendments: 141-125-0100 – 141-125-0220

Proposed Repeals: 141-075-0010 – 141-075-0575

Last Date for Comment: 6-13-14, 5 p.m.

Summary: With the recent renewed interest in Oregon's geothermal resources, several companies wanting to explore for and develop geothermal resources on state-owned land have contacted the Department.

In reviewing the geothermal rules, both the Department and applicants have found them to be difficult to understand and unduly complicated. Additionally, many of the terms and conditions provided in the rules are inconsistent with those currently used by the Department in other leasing programs.

On June 8, 2010, the State Land Board authorized the Department to initiate rulemaking to amend the administrative rules governing the exploration for and development of geothermal resources. These rules have not been amended since their adoption by the Land Board on October 11, 1974.

During the initial phase of rulemaking, staff made the recommendation to incorporate geothermal resources into the Department's Special Use Rules (Division 125) rather than updating the existing geothermal rules. These rules already govern the exploration for and development of other types of renewable energy, including wind turbines and wind farms, solar energy installations and biomass generating facilities. The administrative procedures and policies are current in Division 125 (these rules were last amended in 2008). As stated above, the geothermal rules were last revised in 1974, and will require a major re-write in order to be consistent with the Department's current administrative policies and procedures. It is expected that the Department will save money and staff time by incorporating geothermal resources into Division 125.

Upon completion of the rulemaking effort, the Department will repeal the administrative rules governing the exploration for and development of geothermal resources (OAR 141-075-0010 through 141-075-0575). The content of these rules will be added to the special use rules to include the exploration for and development of geothermal resources (OAR 141-125).

Rules Coordinator: Tiana Teeters

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

Telephone: (503) 986-5239

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

Rule Caption: Implements 2013 Legislation Relating to Odometer Readings

Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.200, 803.102, 803.120 & 2013 OL Ch. 659

Stats. Implemented: ORS 803.102, 803.120 & 2013 OL Ch. 659

Proposed Adoptions: 735-028-0005

Proposed Amendments: 735-028-0000, 735-028-0040

Proposed Repeals: 735-028-0000(T), 735-028-0005(T), 735-028-0040(T)

Last Date for Comment: 5-21-14, Close of Business

Summary: Federal and state laws require a person transferring interest in a vehicle that is newer than 10 years to disclose the vehicle's mileage to the transferee at the time of the transfer. Vehicles 10 years old or older are exempt from this requirement.

Chapter 659, Oregon Laws 2013 amended ORS 803.200, ORS 803.102 and 803.120 to require DMV to:

1. Prescribe the manner and form in which a person may voluntarily provide an odometer reading to DMV for a vehicle 10 years old or older;

NOTICES OF PROPOSED RULEMAKING

2. Capture odometer readings provided to DMV for vehicles 10 years old or older; and

3. Retain the most recent version of odometer records in electronic form.

As proposed, OAR 735-028-0005 prescribes the manner and form in which a person may provide an odometer reading to DMV for a vehicle 10 years old or older. The amendment of 735-028-0000 and 735-028-0040 update terms and definitions to clarify the difference between an odometer disclosure required by federal and state law and a voluntary odometer reading.

In January 2014, DMV filed a temporary rulemaking because there was not enough time to complete the permanent rulemaking process to coincide with the April 1, 2014 implementation of the law. DMV now intends to permanently adopt and amend these rules. Other non-substantive changes are made for clarity and readability.

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

Rules Coordinator: Lauri Kunze

Address: Department of Transportation, Driver and Motor Vehicle Services Division, 355 Capitol St. NE, MS 51, Salem, OR 97301

Telephone: (503) 986-3171

.....

Department of Transportation, Highway Division Chapter 734

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

Stat. Auth.: ORS 184.616, 184.619, 374-310-374.314, 374.335, 374.345, 374.350 & 374.355

Stats. Implemented: 2013 OL Ch. 476

Proposed Adoptions: 734-051-1065, 734-051-3015

Proposed Amendments: 734-051-1030, 734-051-1040, 734-051-1070, 734-051-2010, 734-051-2020, 734-051-3010, 734-051-3020, 734-051-3040, 734-051-3050, 734-051-3060, 734-051-3070, 734-051-4020, 734-051-5060, 734-051-5120, 734-051-7010

Proposed Repeals: 734-051-8010, 734-051-8015, 734-051-8020, 734-051-8025, 734-051-8030

Last Date for Comment: 5-21-14

Summary: The 2013 Oregon legislature substantially changed the authorizing legislation for how the Oregon Department of Transportation issues permits for access to state highways. OAR 734-051-5120 and 7010 were rewritten in their entirety to comply with the new statutes and OAR 735-051-3015 was added to address new areas of law pertaining to existing approaches that the department may deem to have provided written permission. In addition, the proposed rules include revisions that correct errors, update references, and improve clarity of meaning.

The department adopted temporary rules in December 2013 to implement SB 408. The proposed rules will replace the temporary rules. Adoption of the proposed permanent rules is necessary to bring the agency's processes into compliance with the legislation.

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

Rules Coordinator: Lauri Kunze

Address: Department of Transportation, Highway Division, 355 Capitol St. NE, MS 51, Salem, OR 97301

Telephone: (503) 986-3171

.....

Land Conservation and Development Department Chapter 660

Rule Caption: Minor and technical amendments to the Transportation Planning Rules

Date: 5-22-14

Time: 8:30 a.m.

Location:

DLCD, Basement Hearing Rm.
635 Capitol St.
Salem, OR 97301

Hearing Officer: LCDC

Stat. Auth.: ORS 197.040

Stats. Implemented: ORS 195.025, 197.040, 197.180, 197.610 & 2013 OL Ch. 574

Proposed Amendments: Rules in 660-012

Last Date for Comment: 5-22-14, 8:30 a.m.

Summary: Minor and technical amendments to the Transportation Planning Rules at OAR chapter 660, division 12, in order to:

(1) Specify that rule requirements related to Metropolitan Planning Organizations (MPOs) do not apply to the Walla Walla Valley MPO because this area is primarily within the State of Washington and only includes one small urban area in Oregon.

(2) Clarify that regional transportation system plans are to be adopted by local governments within a metropolitan area, rather than metropolitan planning organizations, by consistently using clearly defined terms throughout the division.

(3) Correct an administrative rule filing error by the department in June 2006 that inadvertently resulted in the elimination of a section of rule that was previously adopted by LCDC and was not intended to be removed and had not been repealed by LCDC.

(4) Update reference to population forecasts to ensure consistency with Oregon Laws 2013 Chapter 574.

Rules Coordinator: Casaria Taylor

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

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

.....

Occupational Therapy Licensing Board Chapter 339

Rule Caption: Establish practice standards using telehealth; mental health in OT; allowing CE in cultural competency.

Stat. Auth.: ORS 675.320

Other Auth.: Board meeting: 2/24/14; January 2014 Newsletter

Stats. Implemented: ORS 675.320

Proposed Adoptions: 339-010-0006, 339-010-0007, 339-020-0025

Last Date for Comment: 6-1-14, 12 p.m.

Summary: The first rule the Oregon Occupational Therapy Licensing Board sets standards of practice for using telehealth.

The second rule promotes cultural competency by allowing it to count toward CE.

The third rule sets forth the practice of OT in regards to mental health.

Rules Coordinator: Felicia Holgate

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

Telephone: (971) 673-0198

.....

Oregon Board of Naturopathic Medicine Chapter 850

Rule Caption: Removes Inactive status for Natural Childbirth certificate holders

Stat. Auth.: ORS 685.125

Stats. Implemented: ORS 685.100 & 685.135

Proposed Amendments: 850-030-0035, 850-035-0230

Last Date for Comment: 6-2-14, 1 p.m.

Summary: Removes the fee and inactive status for rules until further approval.

Rules Coordinator: Anne Walsh

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

Telephone: (971) 673-0193

.....

Rule Caption: Add clarifying language to the formulary classifications used by Naturopathic physicians and Pharmacists

Stat. Auth.: ORS 685.125

Other Auth.: ORS 385.145

Stats. Implemented: ORS 685.145

Proposed Amendments: 850-060-0226

NOTICES OF PROPOSED RULEMAKING

Last Date for Comment: 6-2-14, 1 p.m.

Summary: Adds to 850-060-0226(26)(e) “(A) Interferons; (B) Dimethyl Funarate”. No other amendments at this time.

Rules Coordinator: Anne Walsh

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

Telephone: (971) 673-0193

Oregon Business Development Department Chapter 123

Rule Caption: These rules relate to the Water Fund.

Stat. Auth.: ORS 285B.563 & 285A.075

Stats. Implemented: ORS.285B.560–285B.599

Proposed Amendments: 123-043-0041

Last Date for Comment: 5-23-14, Close of Business

Summary: On January 1, 2014 amended rules were filed for the Water Fund resulting from SB 181 in the 2013 Regular Legislative Session. The amendments in this filing should have been included in the January filing. Maximum loan amounts have been changed from \$50,000 to \$60,000. Interest shall be at 50 rather than 75 percent of the annual interest rate for other loans made within this division.

Rules Coordinator: Mindee Sublette

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

Telephone: (503) 986-0036

Oregon Department of Education Chapter 581

Rule Caption: Modifies interdistrict student transfer rule to implement legislation

Date:	Time:	Location:
5-29-14	9 a.m.	255 Capitol St. NE Salem OR

Hearing Officer: Emily Nazarov

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 339.133

Proposed Amendments: 581-021-0019

Last Date for Comment: 5-30-14, Close of Business

Summary: Prohibits districts from considering race, religion, sex, sexual orientation, ethnicity, national origin, disability, health, whether a student has an individualized education program, the terms of an individualized education program, income level, residence, proficiency in the English language, athletic ability, or academic records when giving consent to interdistrict transfer;

Clarifies which district is responsible for setting the length of consent and consenting to renewals;

Updates interdistrict transfer agreement requirements to comply with state law; and

Transfers responsibility for FAPE to receiving district.

Rules Coordinator: Cindy Hunt

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

Telephone: (503) 947-5651

Rule Caption: Allows Department of Education to distribute additional funding to Long Term Care and Treatment Program.

Date:	Time:	Location:
5-29-14	9 a.m.	255 Capitol St. NE Salem OR

Hearing Officer: Emily Nazarov

Stat. Auth.: ORS 326.051 & 343.961

Stats. Implemented: ORS 343.243 & 343.961

Proposed Amendments: 581-015-2572

Last Date for Comment: 5-30-14, Close of Business

Summary: Currently OAR 581-015-2572(c) states: “If the total state funding available for all LTCT programs is less than the total state funding needed to fully fund each LTCT contract, the amount of state

funding in each contract determined under paragraph (b) of this subsection will be prorated.” This language creates a conflict when there is additional funding allocated by the legislature. The current language does not specifically allow the department to allocate additional funds and does not indicate the manner in which additional funds should be allocated. Therefore, it is recommended that the language be amended to read “If the total state funding available for all LTCT programs is more or less than the total state funding needed to fully fund each LTCT contract, ...” This will give the department the ability to address surplus funds in a like manner.

Rules Coordinator: Cindy Hunt

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

Telephone: (503) 947-5651

Rule Caption: Updates administration of state assessments to reflect Smarter Balanced mathematics and English language arts assessments

Date:	Time:	Location:
5-29-14	9 a.m.	255 Capitol St. NE Salem OR

Hearing Officer: Emily Nazarov

Stat. Auth.: ORS 326.051 & 329.075

Stats. Implemented: ORS 329.075 & 329.485

Proposed Amendments: 581-022-0610

Last Date for Comment: 5-30-14, Close of Business

Summary: Updates OAR 581-022-0610: Administration of State Assessments to reflect implementation of the Smarter Balanced mathematics and English language arts (ELA) assessments as well as the Kindergarten Assessment. Adopts accessibility terminology and definitions used by the Smarter Balanced Assessment Consortium and applies to the Oregon Statewide Assessment System.

Rules Coordinator: Cindy Hunt

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

Telephone: (503) 947-5651

Rule Caption: Oregon STEM Lab School Grant

Date:	Time:	Location:
5-29-14	9 a.m.	255 Capitol St. NE Salem OR

Hearing Officer: Emily Nazarov

Stat. Auth.: ORS 327.800

Stats. Implemented: ORS 327.820

Proposed Adoptions: 581-017-0335, 581-017-0338, 581-017-0341, 581-017-0344, 581-017-0347

Last Date for Comment: 5-30-14, Close of Business

Summary: Implements grant within the strategic investments under HB 3232 to support STEM, STEAM, and CTE focused organizations to close the achievement gap and raise student achievement.

Rules Coordinator: Cindy Hunt

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

Telephone: (503) 947-5651

Rule Caption: Eastern Promise Replication Grant

Date:	Time:	Location:
5-29-14	9 a.m.	255 Capitol St. NE Salem OR

Hearing Officer: Emily Nazarov

Stat. Auth.: ORS 327.800

Stats. Implemented: ORS 327.820

Proposed Adoptions: 581-017-0350, 581-017-0353, 581-017-0356, 581-017-0359, 581-017-0362

Last Date for Comment: 5-30-14, 5 p.m.

Summary: Established new grant programs to promote collaboration among education institutions to replicate Eastern Promise, an

NOTICES OF PROPOSED RULEMAKING

evidence-based model and best practice that is likely to improve student outcomes. Implements provisions of HB 3232.

Rules Coordinator: Cindy Hunt

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

Telephone: (503) 947-5651

.....

Rule Caption: Support for Small/Rural Districts

Date:	Time:	Location:
5-29-14	9 a.m.	255 Capitol St. NE Salem OR

Hearing Officer: Emily Nazarov

Stat. Auth.: ORS 342.950

Stats. Implemented: ORS 342.950

Proposed Adoptions: 581-018-0327, 581-018-0330, 581-018-0333, 581-018-0336

Last Date for Comment: 5-30-14, 5 p.m.

Summary: Creates grant to address the unique needs of rural schools and districts, supporting districts in creating and implementing systems that focus on improving educator practice and high educational outcomes for students per HB 3233.

Rules Coordinator: Cindy Hunt

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

Telephone: (503) 947-5651

.....

Rule Caption: Proficiency-Based Teaching and Learning Grant

Date:	Time:	Location:
5-29-14	9 a.m.	255 Capitol St. NE Salem OR

Hearing Officer: Emily Nazarov

Stat. Auth.: ORS 342.950

Stats. Implemented: ORS 342.950

Proposed Adoptions: 581-018-0430, 581-018-0433, 581-018-0436, 581-018-0439, 581-018-0442

Last Date for Comment: 5-30-14, 5 p.m.

Summary: Establish a proficiency-based teaching and learning grant which will be available to school districts and nonprofits working with school districts. Implements provisions of HB 3233; the goal of the grants is to support 1 to 4 demonstration sites.

Rules Coordinator: Cindy Hunt

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

Telephone: (503) 947-5651

.....

Rule Caption: Establishes a Culturally Responsive Pedagogy and Practices Grant Program

Date:	Time:	Location:
5-29-14	9 a.m.	255 Capitol St. NE Salem OR

Hearing Officer: Emily Nazarov

Stat. Auth.: ORS 342.950

Stats. Implemented: ORS 342.950

Proposed Adoptions: 581-018-0500, 581-018-0503, 581-018-0506, 581-018-0509, 581-018-0512, 581-018-0515

Last Date for Comment: 5-30-14, 5 p.m.

Summary: The rule establishes a Culturally Responsive Pedagogy and Practices Grant program as one of the methods to address initiatives in HB 3233. The purpose of the grant program is to support school districts, postsecondary institutions and non-profit organizations in closing opportunity gaps for culturally and/or linguistically diverse learners through culturally responsive pedagogy and practices.

Rules Coordinator: Cindy Hunt

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

Telephone: (503) 947-5651

Rule Caption: Establishes American Indian/Alaskan Native Culturally Relevant Teaching, Learning, and Pedagogy Grant Program

Date:	Time:	Location:
5-29-14	9 a.m.	255 Capitol St. NE Salem OR

Hearing Officer: Emily Nazarov

Stat. Auth.: ORS 342.950

Stats. Implemented: ORS 342.950

Proposed Adoptions: 581-018-0520, 581-018-0523, 581-018-0526, 581-018-0529, 581-018-0532, 581-018-0535

Last Date for Comment: 5-30-14, 5 p.m.

Summary: Establishes grant program to support districts in developing equitable and culturally responsive professional development and training models and practices to improve academic outcomes for American Indian/Alaskan Native students.

Rules Coordinator: Cindy Hunt

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

Telephone: (503) 947-5651

.....

Rule Caption: English Language Proficiency Standards Professional Learning Grant

Date:	Time:	Location:
5-29-14	9 a.m.	255 Capitol St. NE Salem OR

Hearing Officer: Emily Nazarov

Stat. Auth.: ORS 342.950

Stats. Implemented: ORS 342.950

Proposed Adoptions: 581-018-0540, 581-018-0543, 581-018-0546, 581-018-0549, 581-018-0552, 581-018-0553, 581-018-0556

Last Date for Comment: 5-30-14, 5 p.m.

Summary: Establishes new grant to provide cyclical, reflective professional learning opportunities for Oregon educators to support the implementation of new English Language Proficiency Standards.

Rules Coordinator: Cindy Hunt

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

Telephone: (503) 947-5651

.....

Rule Caption: Early Learning Professional Development Grant Program

Date:	Time:	Location:
5-29-14	9 a.m.	255 Capitol St. NE Salem OR

Hearing Officer: Emily Nazarov

Stat. Auth.: ORS 342.950

Stats. Implemented: ORS 342.950

Proposed Adoptions: 581-018-0575, 581-018-0578, 581-018-0581, 581-018-0584, 581-018-0587, 581-018-0590

Last Date for Comment: 5-30-14, 5 p.m.

Summary: Establishes grant to provide early learning professional development opportunities taking into account the unique needs of the workforce.

Rules Coordinator: Cindy Hunt

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

Telephone: (503) 947-5651

.....

Oregon Department of Education, Early Learning Division Chapter 414

Rule Caption: Early Literacy Grant Program

Date:	Time:	Location:
5-29-14	9 a.m.	255 Capitol St. NE, Rm. 251A Salem, OR

Hearing Officer: Emily Nazarov

Stat. Auth.: ORS 327.810

Stats. Implemented: ORS 327.810

NOTICES OF PROPOSED RULEMAKING

Proposed Adoptions: 414-800-0005, 414-800-0010, 414-800-0015, 414-800-0020, 414-800-0025, 414-800-0030

Last Date for Comment: 5-30-14, 5 p.m.

Summary: The purpose of the Early Literacy Grant is to improve the readiness of children preparing to enter kindergarten; improve the reading proficiency of students by the time students complete the third grade; encourage early reading by involving parents, child care providers, and the community; expand the amount of time spent reading, adult support of reading, the availability of reading materials, cultural relevance and promote the level of enjoyment that literacy brings; and create materials and curriculum that promote early literacy.

Rules Coordinator: Cindy Hunt

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

Telephone: (503) 947-5651

.....

Rule Caption: Kindergarten Readiness Partnership and Innovation Program

Date:	Time:	Location:
5-29-14	9 a.m.	255 Capitol St. NE, Rm. 251A Salem, OR

Hearing Officer: Emily Nazarov

Stat. Auth.: ORS 336.101

Stats. Implemented: ORS 336.101

Proposed Adoptions: 414-800-0105, 414-800-0110, 414-900-0115, 414-800-0120, 414-800-0125, 414-800-0130

Last Date for Comment: 5-30-14, 5 p.m.

Summary: The rules implement the Early Learning Kindergarten Readiness Partnership and Innovation program established by the legislature. This rule creates the opportunity to increase the connection between early learning and K-12 by investing in innovative and promising models for early learning/K-12 integration across the state and to build a body of evidence that Oregon can use to create stronger alignment between its early learning and K-12 education systems. The goal of this program is to promote community and school partnerships and innovations that result in measurable increase in children's readiness for kindergarten.

Rules Coordinator: Cindy Hunt

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

Telephone: (503) 947-5651

.....

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

Rule Caption: Permanent amendments to OAR 309-090 entitled Forensic Evaluators and Evaluations.

Date:	Time:	Location:
5-21-14	9 a.m.	Rm. 137-D 500 Summer St. NE Salem, OR 97310

Hearing Officer: Nola J. Russell

Stat. Auth.: ORS 161.309-161.370, 419C.524, OL 2011 - HB 3100

Stats. Implemented: OL 2011 - HB 3100

Proposed Adoptions: 309-090-0055, 309-090-0060

Proposed Amendments: 309-090-0000, 309-090-0005, 309-090-0010, 309-090-0015, 309-090-0020, 309-090-0025, 309-090-0030, 309-090-0035, 309-090-0040, 309-090-0050

Last Date for Comment: 5-28-14, Close of Business

Summary: These rules establish minimum standards for the certification of psychiatrists, licensed psychologists, and regulated social workers related to performing forensic examinations and evaluations as described in ORS 161.309-161.370, 419C.150 and 419C.524.

The rules are intended to ensure that forensic evaluations meet consistent quality standards and are conducted by qualified and trained evaluators. The Oregon Health Authority (OHA) shall

provide training, certify qualified applicants and maintain a list of certified forensic evaluators for statewide use.

Rules Coordinator: Nola Russell

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

Telephone: (503) 945-7652

.....

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

Rule Caption: PA Criteria-May 23, July 25, Sept 26, Nov 21, 2013 Jan 30, 2014 DUR/PandT Action

Date:	Time:	Location:
5-15-14	10:30 a.m.	500 Summer St. NE, Rm. 166 Salem, OR 97301

Hearing Officer: Sandy Cafourek

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

Stats. Implemented: ORS 414.065, 414.325, 414.334, 414.361, 414.369, 414.371, 414.353 & 414.354

Proposed Amendments: 410-121-0040

Proposed Repeals: 410-121-0040(T)

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

Summary: The Pharmaceutical Services Program administrative rules (division 121) govern Division payments for services provided to certain clients. The Division needs to amend rules as follows:

- 410-121-0040:
 - Hydroxyprogesterone Caproate (Makena®) — new criteria
 - Analgesics, Non-Steroidal Anti-Inflammatory Drugs — updated criteria
 - Antiemetics — updated criteria
 - Anti-Parkinsons Agents — updated criteria
 - Fentanyl Transmucosal, Buccal, and Sprays — updated criteria
 - Hepatitis C Oral Protease Inhibitors / Triple Therapy — updated criteria
 - Incretin Enhancers — updated criteria
 - Incretin Mimetics — updated criteria
 - LABA / ICS Inhalers — updated criteria
 - Mipomersen and Lomitapide — new criteria
 - Naltrexone Extended Release Inj (Vivitrol®) — new criteria
 - Oral MS Drugs — updated criteria
 - Oral Direct Factor Xa Inhibitor — updated criteria
 - Oral Direct Thrombin Inhibitor — updated criteria
 - Repository Corticotropin Injection (Acthar Gel®) — new criteria
 - Roflumilast — updated criteria
 - Saproterin — updated criteria
 - Skeletal Muscle Relaxants — updated criteria
 - Sodium-Glucose Co-Transporter 2 (SGLT2) — new criteria

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: PDL-May 23, July 25, Sept 26, Nov 21, 2013 Jan 30, 2014 DUR/PandT Action SR Contracts

Date:	Time:	Location:
5-15-14	10:30 a.m.	500 Summer St. NE, Rm. 166 Salem, OR 97301

Hearing Officer: Sandy Cafourek

Stat. Auth.: ORS 413.032, 413.042, 414.065, 414.325, 414.330-414.414, 414.312 & 414.316

Stats. Implemented: ORS 414.065, 414.325, 414.334, 414.361, 414.369, 414.371, 414.353 & 414.354

Proposed Amendments: 410-121-0030

Proposed Repeals: 410-121-0030(T)

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

NOTICES OF PROPOSED RULEMAKING

Summary: The Pharmaceutical Services Program administrative rules (Division 121) govern Division payments for services provided to certain clients. The Division needs to amend rules as follows:

410-121-0030:

Preferred:

Butorphanol Tartrate Spray

Sumatriptan Succinate

Peginterferon Alpha-2A

Peginterferon Alpha-2A Sub Q

Tricor TM

Trilipix TM

Bacitracin Zinc / Polymyx B Sulfate

Somatropin (Norditropin ®)

Mesalamine (Lialda ®)

Golimumab (Simponi ®)

Valproic Acid solution

Interferon Beta-1A / Albumin (Refib TM)

Interferon Beta-1B (Betaseron TM)

Carbidopa / Levodopa tablet ER

Metadate TM

Methylphenidate (Daytrana TM)

Buprenorphine

Buprenorphine-Naloxone (Suboxone TM)

Buprenorphine HCL / Naloxone (Suboxone TM)

Ipratropium / Albuterol Sulfate (Combivent Respimat TM)

Budesonide (Pulmicort Flexhaler ®)

Budesonide / Formoterol Fumarate (Symbicort ®)

Benzonatate

Guaifenesin

Guaifenesin / Codeine Phosphate

Guaifenesin / Dextromethorphan

Pseudoephedrine HCL

Atomoxetine HCL (Strattera ®)

Chlorpromazine HCL

Fluphenazine Decanoate

Fluphenazine HCL

Haloperidol

Haloperidol Decanoate

Haloperidol Lactate

Loxapine HCL

Loxapine Succinate

Perhenazine

Promazine HCL

Thioridazine HCL

Thiothixene

Thiothixene HCL

Trifluoperazine HCL

Triflupromazine HCL

Sofosbuvir (Sovaldi ®)

Simeprevir (Olysio ®)

Estradiol Transdermal patch (Vivelle Dot ®, Alora ®)

Non-Preferred:

Methadone HCL

Tramadol HCL

Imitrex ®

Zolmitriptan

Fenofibrate, Nanocrystallized

Spinosad (Natroba ®)

Testosterone patch TD24

Dextroamphetamine Sulfate

Ciclesonide

Montelukast Sodium gram pack

Zafirlukast

Insulin Lispro (Humalog ®)

Insulin NPL / Insulin Lispro (Humalog Mix 50/50 ®)

Insulin NPL / Insulin Lispro (Humalog Mix 75/25 ®)

Nadolol

Captopril

Captopril/ Hydrochlorothiazide

Fosinopril Sodium

Fosinopril/ Hydrochlorothiazide

Moexipril HCL

Moexipril/ Hydrochlorothiazide

Quinapril HCL

Quinapril/ Hydrochlorothiazide

Trandolapril

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: Amendment of HERC Prioritized List of Health Services Reflecting Approved Modifications Effective April 1, 2014

Date: 5-15-14

Time: 10:30 a.m.

Location: 500 Summer St. NE, Rm. 166
Salem, OR 97301

Hearing Officer: Sandy Cafourek

Stat. Auth.: ORS 192.527, 192.528, 413.042 & 414.065

Other Auth.: HB 2100

Stats. Implemented: ORS 192.527, 192.528, 414.010 & 414.065
NS 414.727

Proposed Amendments: 410-141-0520

Proposed Repeals: 410-141-0520(T)

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

Summary: The OHP Program administrative rules govern the Division of Medical Assistance Programs' payments for services provided to clients. The Division needs to temporarily amend 410-141-0520 to reference the Health Evidenced Review Committee (HERC) Prioritized List of Health Services January 1, 2011 through December 31, 2013. The HERC has made interim modifications and technical changes to the October 13, 2013 Prioritized List of Health Services. The changes will be effective April 1, 2014.

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: Rebasement of Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Reimbursement Levels

Date: 5-15-14

Time: 10:30 a.m.

Location: 500 Summer St. NE, Rm. 166
Salem, OR 97301

Hearing Officer: Sandy Cafourek

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-122-0186

Proposed Repeals: 410-122-0186(T)

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

Summary: The Division has temporarily amended OAR 410-122-0186 to allow a change in payment methodology based on a percentage of a more current version of Medicare fee schedule (20120). Payments were calculated as a percentage of 2010 Medicare fee schedule and vary depending on category of service. The new percentages keep rates essentially the same to maintain budget neutrality.

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: Allow for CCOs to Pay for Outpatient and Physician Administered Medications

Date: 5-15-14

Time: 10:30 a.m.

Location: 500 Summer St. NE, Rm. 166
Salem, OR 97301

Hearing Officer: Sandy Cafourek

Stat. Auth.: ORS 413.042, 414.615, 414.625, 414.635 & 414.651

Stats. Implemented: ORS 414.610-414.685

Proposed Amendments: 410-141-3070

NOTICES OF PROPOSED RULEMAKING

Proposed Repeals: 410-141-3070(T)

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

Summary: The Division needs to amend these rules to modify the allowance for Coordinated Care Organizations (CCO) to pay for out-patient and physician administered drugs produced by manufacturers that have valid rebate agreements with the Centers for Medicare and Medicaid (CMS). This change will align with federal regulations as stated in the State Medicaid Director Letter that allows CCOs flexibility with pharmacy payments.

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: Revise Form Number and Title of DMAP 1234 Referenced in Rules

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-141-0263, 410-141-3260

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

Summary: OAR 410-141-0263 and 410-141-3260 are being amended to change the name and form number of the DMAP 1234, referenced in the rules, to Division of Medical Assistance Programs Service Denial Appeal and Request form, DMAP 3302.

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 Authority, Oregon Educators Benefit Board Chapter 111

Rule Caption: Amendments made to clarify local government participation requirements in OEGB

Date:	Time:	Location:
5-22-14	10 a.m.	OEGB Boardroom. 1225 Ferry St. SE Salem, OR 97301

Hearing Officer: OEGB Staff

Stat. Auth.: ORS 243.860–243.886

Stats. Implemented: ORS 243.864(1)(a) & 243.867

Proposed Amendments: 111-020-0010

Last Date for Comment: 5-31-14, Close of Business

Summary: Proposed amendments to 111-020-0010 are to clarify participation requirements for local governments electing to join the Oregon Educators Benefit Board program.

Rules Coordinator: April Kelly

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

Telephone: (503) 378-6588

Oregon Health Authority, Public Health Division Chapter 333

Rule Caption: Adopts rules governing medical marijuana facility regulation

Date:	Time:	Location:
5-22-14	12 p.m.	1300 NW Wall St. Barnes-Sawyer Rm. Bend, OR 97701
5-23-14	8:30 a.m.	800 NE Oregon St., Rm. 1B Portland, OR 97232
5-27-14	1 p.m.	100 W 10th Ave. Bascom-Tykeson Rm. Eugene, OR 97402
5-29-14	10 a.m.	205 S Central Ave., Large Meeting Rm. Medford, OR 97501

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 431.262, 475.309, 475.312, 475.314 & 475.338

Other Auth.: 2013 OL Ch. 726

Stats. Implemented: ORS 431.262 & 475.300–475.346

Proposed Adoptions: 333-008-1000, 333-008-1010, 333-008-1020, 333-008-1030, 333-008-1040, 333-008-1050, 333-008-1060, 333-008-1070, 333-008-1080, 333-008-1090, 333-008-1100, 333-008-1110, 333-008-1120, 333-008-1130, 333-008-1140, 333-008-1150, 333-008-1160, 333-008-1170, 333-008-1180, 333-008-1190, 333-008-1200, 333-008-1210, 333-008-1220, 333-008-1230, 333-008-1250, 333-008-1260, 333-008-1280, 333-008-1290

Proposed Amendments: 333-008-0010, 333-008-0020, 333-008-0025, 333-008-0045, 333-008-0050, 333-008-0120

Proposed Repeals: 333-008-0010(T), 333-008-0020(T), 333-008-0025(T), 333-008-0045(T), 333-008-0050(T), 333-008-0120(T), 333-008-1000(T), 333-008-1010(T), 333-008-1020(T), 333-008-1030(T), 333-008-1040(T), 333-008-1050(T), 333-008-1060(T), 333-008-1070(T), 333-008-1080(T), 333-008-1090(T), 333-008-1100(T), 333-008-1110(T), 333-008-1120(T), 333-008-1130(T), 333-008-1140(T), 333-008-1150(T), 333-008-1160(T), 333-008-1170(T), 333-008-1180(T), 333-008-1190(T), 333-008-1200(T), 333-008-1210(T), 333-008-1220(T), 333-008-1230(T), 333-008-1250(T), 333-008-1260(T), 333-008-1280(T), 333-008-1290(T)

Last Date for Comment: 5-30-14, 5 p.m.

Summary: The Oregon Health Authority, Public Health Division is proposing to adopt and amend rules in chapter 333, division 8 to govern the newly created Medical Marijuana Dispensary Program, as required by HB 3460 (Oregon Laws 2013, chapter 726). This program has been created to regulate and inspect facilities that transfer marijuana to Oregon Medical Marijuana Program cardholders, and ensure that they meet certain standards related to public and patient safety.

Rules Coordinator: Alayna Nest

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

Telephone: (971) 673-1291

Rule Caption: Pulse oximetry screening for newborns at hospitals and birthing centers

Date:	Time:	Location:
5-20-14	10 a.m.	Portland State Office Bldg. 800 NE Oregon St., Rm. 1E Portland, OR 97232

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 441.025, 441.055 & 442.015

Other Auth.: 2013 OL Ch. 334

Stats. Implemented: ORS 441.025, 441.055 & 442.015

Proposed Amendments: 333-076-0670, 333-520-0060

Proposed Repeals: 333-076-0670(T), 333-520-0060(T)

Last Date for Comment: 5-23-14, 5 p.m.

Summary: The Oregon Health Authority (Authority), Public Health Division is proposing to permanently amend rules in chapter 333, divisions 76 and 520 related to pulse oximetry screening for newborns at hospitals and birthing centers. SB 172 (Oregon Laws 2013, chapter 334), passed during the 2013 legislative session, directs the Authority to adopt administrative rules no later than January 1, 2014 that require birthing facilities to perform pulse oximetry screening on each newborn delivered at the birthing facility before discharging the newborn. Birthing facilities include both hospitals that provide services related to the delivery of newborns and birthing centers. In response, the Authority adopted temporary rules effective January 1, 2014 through June 29, 2014 that require birthing facilities to perform, prior to discharge, pulse oximetry screening on every newborn delivered at the birthing facility effective March 1, 2014, to notify parents and the infant's health care provider of the results, to provide any necessary follow-up services or treatment in accordance with the applicable standard of care, or provide a referral for such services or treatment, and to document the screening in the infant's medical record. The screening is to be done in a manner con-

NOTICES OF PROPOSED RULEMAKING

sistent with recommendations published in Strategies for Implementing Screening for Critical Congenital Heart Disease, AR Kemper et al., Pediatrics 2011;128(5): e1259-1267.

In order to comply with the statutory mandate of SB 172, the Authority must adopt permanent administrative rules prior to the expiration of the temporary administrative rules currently in place. The proposed permanent amendments will establish requirements for pulse oximetry screening in hospitals and birthing centers.

Rules Coordinator: Alayna Nest

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

Telephone: (971) 673-1291

.....

Rule Caption: Pool closure criteria to the public swimming pool and public spa pool rules

Date:	Time:	Location:
6-9-14	10 a.m.	Portland State Office Bldg. 800 NE Oregon St., Rm. 1A Portland, OR 97232
6-11-14	10:30 a.m.	Lane County Health & Human Services Bldg. 151 W. 7th Ave., Charnelton Meeting Rm. 258 Eugene, OR 97401

Hearing Officer: Shannon O'Fallon

Stat. Auth.: ORS 448.011

Stats. Implemented: ORS 448.005–448.100 & 448.990

Proposed Adoptions: 333-060-0700, 333-060-0705, 333-062-0250, 333-062-0255

Proposed Amendments: 333-060-0075, 333-060-0105, 333-060-0128, 333-060-0145, 333-060-0165, 333-060-0170, 333-060-0205, 333-060-0505, 333-062-0070, 333-062-0080, 333-062-0103, 333-062-0120, 333-062-0145, 333-062-0150, 333-062-0170

Last Date for Comment: 6-11-14, 5 p.m.

Summary: The Oregon Health Authority, Public Health Division is proposing to permanently adopt and amend Oregon Administrative Rules in chapter 333, division 60, Public Swimming Pools, and chapter 333, division 62, Public Spa Pools, related to inspection enforcement and pool closure criteria. The proposed rules help address the concerns of public pool and spa license holders and operators concerning when a pool or spa should be closed because of an immediate danger to the health and safety of the public and bathers.

The changes to both divisions are largely identical. There are also some supporting changes proposed to implement and complement the new rules, and the references to other documents in the rules have been updated.

Rules Coordinator: Alayna Nest

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

Telephone: (971) 673-1291

.....

Rule Caption: Health care acquired infection reporting and addition of long term care facility annual survey.

Date:	Time:	Location:
5-16-14	2 p.m.	Portland State Office Bldg. 800 NE Oregon St., Rm. 1A Portland, OR 97232

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 442.420 & 2007 OL Ch. 838 § 1-6 & 12

Stats. Implemented: ORS 179.505, 192.243, 192.245, 192.410, 192.496, 192.502, 441.015, 442.400, 442.405 & 2007 OL Ch. 838 sec. 1–6 & 12

Proposed Adoptions: 333-018-0127

Proposed Amendments: 333-018-0100, 333-018-0110, 333-018-0115, 333-018-0120, 333-018-0125, 333-018-0130, 333-018-0135

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

Summary: The Oregon Health Authority (Authority), Public Health Division is proposing to permanently adopt and amend rules in chapter 333, division 18 related to health care acquired infection report-

ing and public disclosures. Oregon Laws 2009, chapter 838 directs the Authority to the extent practicable and appropriate to align the requirements for reporting health care acquired infection (HAI) measures by health care facilities with the requirements for the Department of Human Services and to the Centers for Medicare and Medicaid Services (CMS).

The proposed changes will also add a requirement for long term care facilities (LTCF) to submit an annual Infection Prevention survey.

Rules Coordinator: Alayna Nest

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

Telephone: (971) 673-1291

.....

Oregon Housing and Community Services Department Chapter 813

Rule Caption: Amends the definition for net worth and adds a definition for pension account.

Date:	Time:	Location:
5-22-14	9 a.m.	725 Summer St. NE, Suite B Salem, OR 97301

Hearing Officer: Sandy McDonnell

Stat. Auth.: ORS 456.444, 456.625 & 458.700

Stats. Implemented: ORS 315.271 & 458.670–458.700

Proposed Amendments: 813-300-0010

Last Date for Comment: 6-9-14, 5 p.m.

Summary: Amends the definition for net worth and adds a definition for pension account.

Rules Coordinator: Sandy McDonnell

Address: Oregon Housing and Community Services Department, 725 Summer St. NE, Suite B, Salem, OR 97301

Telephone: (503) 986-2012

.....

Rule Caption: Adopts rules for the Housing Choice Landlord Guarantee Program.

Date:	Time:	Location:
6-3-14	10 a.m.	725 Summer St. NE, Conference Rm. 124A Salem, OR

Hearing Officer: Sandy McDonnell

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.375 to 456.395

Proposed Adoptions: 813-360-0000, 813-360-0010, 813-360-0020, 813-360-0030, 813-360-0040, 813-360-0050, 813-360-0060

Last Date for Comment: 6-6-14, 5 p.m.

Summary: Implements rules to administer the Housing Choice Landlord Guarantee Program. The program provides certain financial assistance to qualifying landlords to mitigate damages caused by tenants as a result of occupancy under the Housing Choice Voucher Program.

Rules Coordinator: Sandy McDonnell

Address: Oregon Housing and Community Services Department, 725 Summer St. NE, Suite B, Salem, OR 97301

Telephone: (503) 986-2012

.....

Oregon Liquor Control Commission Chapter 845

Rule Caption: Amends/adopts or repeals 11 procedural rules in Division 001 (rulemaking) and Division 003 (contested cases).

Date:	Time:	Location:
5-28-14	10 a.m.	9079 SE McLoughlin Blvd. Portland, OR 97222

Hearing Officer: Annabelle Henry

Stat. Auth.: ORS 183.341(1) & (2), 183.425(2), 183.452, 183.745, 471.030 & 471.730(1), (5) & (6)

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

NOTICES OF PROPOSED RULEMAKING

Proposed Adoptions: 845-003-0345

Proposed Amendments: 845-001-0007, 845-003-0200, 845-003-0210, 845-003-0220, 845-003-0270, 845-003-0331, 845-003-0460, 845-003-0590, 845-003-0670

Proposed Repeals: 845-003-0340

Last Date for Comment: 6-11-14, 5 p.m.

Summary: This rulemaking package is comprised of eleven procedural rules in Division 001 and Division 003 of Chapter 845 of the Oregon Administrative Rules. The Commission proposes to amend, adopt or repeal the rules in this package for the following reasons:

In 2012, 2008 and 2007, the Commission amended OAR 845-001-0007, Attorney General's Model Rules of Procedure. These rule-making actions adopted the Attorney General's Model Rules for Rulemaking by reference. However, due to a technical defect, they are invalid. The rule's language is also ambiguous. Permanent rule-making is required to correct these defects.

In 2012, the Commission amended all of its Division 003 rules. This rulemaking action had two goals: (1) Adopt the Attorney General's Model Rules of Procedure for Contested Cases Office of Administrative Hearings, and (2) Adopt eight additional, compatible procedural rules for contested case proceedings. However, due to a technical defect, this rulemaking action is invalid. Select language is also ambiguous and fails to adopt by reference the Attorney General's Model Rules for Orders in Other Than Contested Cases. Permanent rulemaking is required to correct these defects.

In February 2014, the Department of Justice amended its letter authorizing lay representation in certain classes of contested case proceedings, in effect expanding the Commission's authority to use employee representatives. OAR 845-003-0331, Employee Representation at Contested Case Hearings, must be amended on a permanent basis to reflect this expanded authority.

The Commission also proposes to repeal OAR 845-003-0340, Interpreters, because it is redundant. The use and provision of interpreters in contested case hearings is already addressed in the Attorney General's Model Rules of Procedure for Contested Cases Office of Administrative Hearings.

Finally, the Commission proposes to adopt new rule OAR 845-003-0345, Public Attendance and Representation of Parties. This rule memorializes in rule the Commission's longstanding practice of excluding non-participants from its contested case hearings.

Rules Coordinator: Annabelle Henry

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

Telephone: (503) 872-5004

Oregon Public Employees Retirement System Chapter 459

Rule Caption: Revision to rules within the Oregon Savings Growth Plan (OSGP).

Date:	Time:	Location:
6-17-14	2 p.m.	PERS Boardroom. 11410 SW 68th Pkwy. Tigard, OR

Hearing Officer: Daniel Rivas

Stat. Auth.: ORS 243.470

Stats. Implemented: ORS 243.401-243.507

Proposed Amendments: 459-050-0025, 459-050-0037, 459-050-0060, 459-050-0075, 459-050-0077

Last Date for Comment: 7-3-14, 5 p.m.

Summary: The proposed rule modifications would:

1. Change number of executive or managerial staff designated by the PERS Executive Director to review applications of potential advisory committee members.

2. Remove trading restriction from Stable Value Fund directly to Intermediate Bond fund. Explain when funds can be moved into Short Term Fixed Option and Self-Directed Brokerage Account from Stable Value Option.

3. Distribute OSGP accounts according to Standard Designation of Beneficiary.

4. Designate Stable Value Option as default for loan payments.

5. Allow use of Roth monies for the purchase of service.

Rules Coordinator: Daniel Rivas

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

Telephone: (503) 603-7713

Rule Caption: Clarification of membership eligibility standards including clarification of certain terms and corresponding house-keeping edits.

Date:	Time:	Location:
6-17-14	2 p.m.	PERS Boardroom. 11410 SW 68th Pkwy. Tigard, OR

Hearing Officer: Daniel Rivas

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

Stats. Implemented: ORS 238.005, 238.015, 238.025, 238.300, 238A.025, 238A.100, 238A.140, 238A.370 & 238A.400

Proposed Amendments: 459-005-0001, 459-010-0003, 459-010-0010, 459-010-0035, 459-070-0001, 459-075-0010, 459-080-0260, 459-080-0500

Last Date for Comment: 7-3-14, 5 p.m.

Summary: Clarification of membership eligibility standards including clarification of certain terms and corresponding housekeeping edits.

Rules Coordinator: Daniel Rivas

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

Telephone: (503) 603-7713

Rule Caption: Change preliminary benefit options available on the Disability Preliminary Option Selection form.

Date:	Time:	Location:
6-17-14	2 p.m.	PERS Boardroom. 11410 SW 68th Pkwy. Tigard, OR

Hearing Officer: Daniel Rivas

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.320, 238.325 & 238.330

Proposed Amendments: 459-015-0055

Last Date for Comment: 7-3-14, 5 p.m.

Summary: Change the Disability Preliminary Option Selection form to not provide Option 1 as an option. Clarify benefit options available upon disability application approval.

Rules Coordinator: Daniel Rivas

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

Telephone: (503) 603-7713

Rule Caption: Updates date of connection to certain federal laws based on House Bill 4003 (2014).

Date:	Time:	Location:
6-17-14	2 p.m.	PERS Boardroom. 11410 SW 68th Pkwy. Tigard, OR

Hearing Officer: Daniel Rivas

Stat. Auth.: ORS 238A.450

Stats. Implemented: ORS 238A.400

Proposed Amendments: 459-080-0250

Last Date for Comment: 7-3-14, 5 p.m.

Summary: House Bill 4003 (2014) updates Oregon's date of connection to certain federal laws from January 3, 2013 to December 31, 2013. This impacts statutes pertaining to the tax qualification status of the Public Employees Retirement System plans. OAR 459-080-0250 implements ORS 238A.400, and the OAR must be updated with the December 31, 2013 federal tax connection date.

Rules Coordinator: Daniel Rivas

NOTICES OF PROPOSED RULEMAKING

Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281
Telephone: (503) 603-7713

Rule Caption: Housekeeping edits to correct disability rules.

Date:	Time:	Location:
6-17-14	2 p.m.	PERS Boardroom. 11410 SW 68th Pkwy. Tigard, OR

Hearing Officer: Daniel Rivas

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

Stats. Implemented: ORS 238.320, 238.335 & 238A.235

Proposed Amendments: 459-015-0010, 459-076-0010

Last Date for Comment: 7-3-14, 5 p.m.

Summary: Housekeeping edits and deletion of the erroneous phrase "or neurosurgeon" in OAR 459-076-0010(4)(b) to match 459-015-0010(3)(b).

Rules Coordinator: Daniel Rivas

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

Telephone: (503) 603-7713

Rule Caption: Implementation of HB 4155 to provide additional financial data to employers and allocate associated costs.

Date:	Time:	Location:
6-17-14	2 p.m.	PERS Boardroom. 11410 SW 68th Pkwy. Tigard, OR

Hearing Officer: Daniel Rivas

Stat. Auth.: ORS 238.650, 238A.450 & 2014 HB 4155

Stats. Implemented: 2014 HB 4155

Proposed Adoptions: 459-005-0260, 459-009-0250

Last Date for Comment: 7-3-14, 5 p.m.

Summary: The Governmental Accounting Standards Board (GASB) has adopted new standards for public pension plan financial reporting (GASB 67 and GASB 68). GASB 68 expands the pension liability information to be included by government bodies in their annual financial statements. The most efficient way for PERS-participating employers to obtain the needed additional data is for PERS to provide it, but the costs of doing so cannot be borne by the PERS Trust.

House Bill 4155, adopted in the 2014 Regular Legislative Session, allows the PERS Board to establish by rule procedures for recovering the additional actuarial and auditing costs associated with GASB 68 compliance. Costs will be recovered from investment earnings on employer contributions. This rule will clarify the additional information to be provided by PERS under GASB 68 and the process by which the associated costs will be allocated to employers.

This rule will have no fiscal impact to PERS administration, the PERS Fund, or PERS members. There will be a fiscal impact to PERS employers, via a reduction in annual earnings crediting, in the amount necessary to cover actual costs of providing audited financial information to comply with GASB 68 and generally accepted accounting principles.

Rules Coordinator: Daniel Rivas

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

Telephone: (503) 603-7713

Oregon State Marine Board Chapter 250

Rule Caption: Define slow-no wake in statewide rules.

Stat. Auth.: ORS 830.110

Stats. Implemented: ORS 830.110

Proposed Amendments: 250-010-0010

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

Summary: This rulemaking will define slow-no-wake within the Statewide Rules.

Rules Coordinator: June LeTarte

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

Telephone: (503) 378-2617

Oregon University System, Oregon State University Chapter 576

Rule Caption: Repeal of all Chapter 576 OARs.

Date:	Time:	Location:
6-5-14	1 p.m.	Memorial Union Rm. 206 Oregon State University Corvallis, OR

Hearing Officer: Beth Giddens

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Proposed Repeals: 576-001-0000, 576-001-0005, 576-001-0010, 576-001-0015, 576-001-0020, 576-001-0030, 576-001-0040, 576-001-0045, 576-001-0050, 576-001-0055, 576-001-0060, 576-002-0000, 576-002-0015, 576-002-0017, 576-002-0030, 576-002-0035, 576-002-0060, 576-002-0070, 576-003-0000, 576-003-0005, 576-003-0010, 576-003-0020, 576-003-0040, 576-003-0050, 576-003-0060, 576-003-0070, 576-003-0080, 576-003-0090, 576-003-0100, 576-003-0110, 576-003-0120, 576-004-0000, 576-004-0005, 576-004-0010, 576-004-0015, 576-004-0020, 576-005-0005, 576-005-0010, 576-005-0015, 576-005-0020, 576-005-0025, 576-005-0030, 576-005-0032, 576-005-0041, 576-010-0000, 576-010-0006, 576-010-0011, 576-010-0021, 576-010-0031, 576-010-0036, 576-010-0041, 576-012-0000, 576-015-0005, 576-015-0010, 576-015-0020, 576-015-0021, 576-015-0025, 576-015-0030, 576-015-0035, 576-015-0040, 576-015-0043, 576-015-0045, 576-015-0050, 576-015-0052, 576-015-0055, 576-015-0056, 576-015-0057, 576-015-0060, 576-016-0000, 576-016-0010, 576-016-0020, 576-016-0030, 576-016-0040, 576-016-0050, 576-016-0060, 576-017-0005, 576-020-0005, 576-020-0010, 576-020-0015, 576-020-0020, 576-020-0025, 576-020-0030, 576-020-0035, 576-020-0040, 576-020-0045, 576-020-0050, 576-020-0055, 576-020-0060, 576-020-0065, 576-022-0005, 576-022-0010, 576-022-0020, 576-022-0025, 576-022-0030, 576-022-0035, 576-022-0045, 576-022-0050, 576-023-0005, 576-023-0010, 576-023-0015, 576-023-0020, 576-023-0025, 576-023-0030, 576-023-0035, 576-023-0040, 576-024-0000, 576-025-0005, 576-025-0020, 576-030-0005, 576-030-0010, 576-030-0015, 576-030-0020, 576-030-0025, 576-030-0035, 576-030-0040, 576-030-0045, 576-030-0050, 576-030-0055, 576-030-0060, 576-030-0070, 576-030-0090, 576-035-0000, 576-035-0010, 576-035-0020, 576-035-0030, 576-040-0010, 576-040-0012, 576-040-0015, 576-045-0000, 576-045-0010, 576-045-0020, 576-045-0030, 576-050-0010, 576-050-0015, 576-050-0020, 576-050-0025, 576-050-0030, 576-050-0035, 576-050-0045, 576-050-0050, 576-050-0055, 576-055-0000, 576-055-0010, 576-055-0020, 576-055-0030, 576-055-0040, 576-055-0050, 576-055-0060, 576-055-0070, 576-055-0080, 576-055-0090, 576-055-0100, 576-055-0110, 576-055-0120, 576-055-0130, 576-055-0140, 576-055-0150, 576-055-0160, 576-056-0000, 576-056-0010, 576-056-0020, 576-056-0030, 576-056-0040, 576-056-0050, 576-056-0060, 576-056-0070, 576-056-0080, 576-056-0090, 576-056-0100, 576-056-0110, 576-056-0120, 576-056-0130, 576-060-0010, 576-060-0015, 576-060-0020, 576-060-0025, 576-060-0031, 576-060-0035, 576-060-0037, 576-060-0038, 576-060-0039, 576-060-0040, 576-065-0000, 576-065-0010, 576-065-0020, 576-080-0005, 576-080-0010, 576-080-0015, 576-080-0020, 576-080-0025, 576-080-0030, 576-080-0035, 576-080-0040, 576-080-0045

Last Date for Comment: 6-6-14, Close of Business

Summary: OSU is repealing all Chapter 576 OARs. The rules will be converted to Board Standards with the force of law as of July 1, 2014, under SB 270.

Rules Coordinator: Beth Giddens

NOTICES OF PROPOSED RULEMAKING

Address: Oregon University System, Oregon State University, 638 Kerr Administration Bldg., Corvallis, OR 97331
Telephone: (541) 737-2449

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

Rule Caption: Code of Student Conduct
Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 352.360
Proposed Amendments: 573-076-0050, 573-076-0060, 573-076-0070, 573-076-0080, 573-076-0130
Last Date for Comment: 5-30-14, 12 p.m.
Summary: Southern Oregon University's published expectations for the conduct of its students, as well as processes and procedures for adjudicating matters in which students are alleged to have violated prohibited student conduct. Revisions are made to this document on an annual basis to bring it into compliance with legislation, organizational change, and nationally-recognized best practices.
Rules Coordinator: Treasa Sprague
Address: Oregon University System, Southern Oregon University, 1250 Siskiyou Blvd., Ashland, OR 97520
Telephone: (541) 552-6319

.....
**Parks and Recreation Department
Chapter 736**

Rule Caption: Align State Scenic Waterway Rules with Federal Wild and Scenic Rules
Stat. Auth.: ORS 390.124 & 390.805-390.925
Stats. Implemented: ORS 390.845, 390.934(2) & 390.938(3)
Proposed Amendments: 736-040-0015, 736-040-0065, 736-040-0070
Last Date for Comment: 5-30-14, 5 p.m.
Summary: Some Oregon Scenic Waterways are also designated as federal Wild and Scenic Rivers. Federal regulations have been adopted that govern recreational use on Wild and Scenic Rivers. Those federal regulations are not enforceable by state law enforcement officers unless they have also been adopted in Oregon Administrative Rules (OAR) through the Scenic Waterway program. These proposed amendments to OAR chapter 736, division 40 rules align state rules on the John Day and Deschutes rivers with federal regulations

already in place on these rivers. The proposed rules do not impose additional regulations on river users.

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

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

Rule Caption: Updating the City Records Retention Schedule
Date: 6-25-14 **Time:** 10 a.m. **Location:** Archives Bldg., 800 Summer St. NE, Salem, OR 97310
Hearing Officer: Mary Beth Herkert
Stat. Auth.: ORS 192 & 357
Stats. Implemented: ORS 192.005-192.170 & 357.805-357.895
Proposed Adoptions: 166-200-0200 - 166-200-0400
Proposed Repeals: 166-200-0005 - 166-200-0145
Last Date for Comment: 6-25-14, Close of Business
Summary: Updates the retention periods for City records.
Rules Coordinator: Julie Yamaka
Address: Secretary of State, Archives Division, 800 Summer St. NE, Salem, OR 97310
Telephone: (503) 378-5199

.....
**Teacher Standards and Practices Commission
Chapter 584**

Rule Caption: Adopts standards for Elementary Mathematics Instructional Leader.
Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120-342.430, 342.455-342.495 & 342.553
Proposed Adoptions: 584-066-0020
Last Date for Comment: 7-30-14, 4 p.m.
Summary: Adopts standards that align with teacher leader standards and establish minimum qualifications to hold an Elementary Mathematics Instructional Leader specialization
Rules Coordinator: Victoria Chamberlain
Address: Teacher Standards and Practices Commission, 250 Division St. NE, Salem, OR 97301
Telephone: (503) 378-6813

ADMINISTRATIVE RULES

Board of Parole and Post-Prison Supervision Chapter 255

Rule Caption: These revisions provide clarification to the current rules and Board practices.

Adm. Order No.: PAR 4-2014(Temp)

Filed with Sec. of State: 3-27-2014

Certified to be Effective: 3-27-14 thru 9-22-14

Notice Publication Date:

Rules Amended: 255-080-0008, 255-080-0011

Subject: This revision makes an important clarification to the rules governing administrative review of Board decisions. Those seeking review should know the limitations on filing, and what the Board will do with incoming requests. The change will give fair notice to those seeking review, and will lead to more consistent responses from the Board.

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

255-080-0008

Specifications for Administrative Review Request

(1) The request for administrative review shall be substantially in the form specified by the Board in Exhibit O, Administrative Review Request Form, and shall contain:

- (a) The name and SID # of the person requesting review.
- (b) The heading "Request for Administrative Review"

(c) Identification of the Board action or order for which review is requested, by name of action (i.e., BAF #3, Order of Supervision, etc.) and date of action.

(d) A plain and concise statement of the points for which the offender wants review, specifically identifying how the challenged Board action is alleged to be in violation of statutes or Board rules, or how it is alleged that the decision was not supported by evidence in the record, or in what other way the offender believes the Board's action to be in error. A request for administrative review must concisely explain how the case fits the criteria for review listed in OAR 255-080-0010.

(e) The request must state, where applicable, what statute, administrative rule, or constitutional provision is alleged to have been violated, including the effective date of the law or rule.

(2) The administrative review request shall be created by any process that makes a clear, legible, black or dark blue image; the Board will not accept text written in pencil, carbon copies, copies on slick paper, or copies darkened by the duplicating process.

(a) All writing shall be legible and capable of being read without difficulty.

(b) The request must be written on standard 8.5" x 11" white or light blue paper.

(c) Each page shall have margins of at least 1" on all sides.

(d) Any attachments to the review request shall be duplicated on standard 8.5" x 11" white paper and must be clear and legible.

(e) Pages shall be consecutively numbered on the right side at either the top or bottom of the page.

(3)(a) The request shall not exceed 8 pages. That limitation does not include additional documentation necessary to support the request. (Under most circumstances, no additional documentation will be necessary.)

(b) Additional documentation in support of the request shall not exceed 10 pages.

(c) Legal arguments relating to the challenged order must be incorporated into the 8-page administrative review request; any claims or allegations included solely in the "additional documentation" will not be considered by the Board in its response.

(4)(a) An offender may request an exception to the limits in these rules, stating a specific reason for exceeding the prescribed limit(s). The request must reach the Board no fewer than fourteen days before the administrative review request is due. The Board, at its discretion, may permit the filing of a review request, and/or additional documentation that exceeds the page limits prescribed in subsection (2) of this rule. The Board may deny an untimely motion under this paragraph on the ground that the offender failed to make a reasonable effort to file the motion on time.

(b) If the Board grants permission for a longer review request, or additional documentation in support of the request, the documents shall conform to the rules set forth above in section (1).

(c) This rule does not create an exception to the timeliness requirements of OAR 255-080-0005. The offender is responsible for requesting an

exception and filing his review request within 45 days as required by OAR 255-080-0005.

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS 144.335

Stats. Implemented: ORS 144.335

Hist.: PAR 13-2010, f. & cert. ef. 12-1-10; PAR 14-2010, f. & cert. ef. 12-1-10; PAR 4-2014(Temp), f. & cert. ef. 3-27-14 thru 9-22-14

255-080-0011

Limitations on Requests for Administrative Review

All administrative review requests will be screened by a Board member or a Board designee who shall deny further review of the following:

(1) Administrative review requests determined to be untimely pursuant to rule 255-080-0005;

(2) Requests in which the subject matter relates to a hearing or review and/or Board order other than the Board order being appealed;

(3) Board orders that are not final;

(4) Requests that fail to comply with the requirements of OAR 255-080-0008.

Stat. Auth.: ORS 144.335

Stats. Implemented: ORS 144.335

Hist.: PAR 2-1991, f. & cert. ef. 2-20-91; PAR 4-1993, f. & cert. ef. 10-29-93; PAR 7-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 7-2000, f. & cert. ef. 6-9-00; PAR 9-2004(Temp), f. & cert. ef. 9-3-04 thru 3-1-05; PAR 12-2004, f. & cert. ef. 11-2-04; PAR 13-2010, f. & cert. ef. 12-1-10; PAR 4-2014(Temp), f. & cert. ef. 3-27-14 thru 9-22-14

Board of Pharmacy Chapter 855

Rule Caption: Amends Division 80 to include Schedule I compound structural classes 2a-2k and their salts

Adm. Order No.: BP 5-2014(Temp)

Filed with Sec. of State: 4-15-2014

Certified to be Effective: 4-15-14 thru 8-27-14

Notice Publication Date:

Rules Amended: 855-080-0021

Subject: Amends Division 080 to include Schedule I compound structural classes 2a-2k and their salts.

Rules Coordinator: Karen MacLean—(971) 673-0001

855-080-0021

Schedule I

(1) Schedule I consists of the drugs and other substances, by whatever official, common, usual, chemical, or brand name designated, listed in 21CFR part 1308.11, and unless specifically excepted or unless listed in another schedule, any quantity of the following substances, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

(a) 1,4-butanediol;

(b) gamma-butyrolactone

(c) Methamphetamine, except as listed in OAR 855-080-0022;

(d) Substituted derivatives of cathinone and methcathinone that are not listed in OARs 855-080-0022 through 0026 (Schedules II through V) or are not FDA approved drugs, including but not limited to,

(A) Methylnmethcathinone (Mephedrone);

(B) Methylenedioxypropylvalerone (MDPV); Muri

(C) Methylenedioxyethylcathinone (Methylone);

(D) 2-Methylamino-3',4'-(methylenedioxy)-butyrophenone (Butylone);

(E) Fluoromethcathinone (Flephedrone);

(F) 4-Methoxymethcathinone (Methedrone).

(2) Schedule I also includes any compounds in the following structural classes (2a–2k) and their salts, that are not FDA approved drugs, unless specifically excepted or when in the possession of an FDA registered manufacturer or a registered research facility, or a person for the purpose of sale to an FDA registered manufacturer or a registered research facility:

(a) Naphthylindoles: Any compound containing a 3-(1-naphthyl)indole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to: JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200, JWH-210, AM-1220, MAM-2201 and AM-2201;

(b) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent,

ADMINISTRATIVE RULES

Board of Psychologist Examiners Chapter 858

whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to: JWH-167, JWH-201, JWH-203, JWH-250, JWH-251, JWH-302 and RCS-8;

(c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to: RCS-4, AM-694, AM-1241, and AM-1233;

(d) Cyclohexylphenols: Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring whether or not substituted in the cyclohexyl ring to any extent. Examples of this structural class include but are not limited to: CP 47,497 and its C8 homologue (cannabicyclohexanol);

(e) Naphthylmethylindoles: Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent;

(f) Naphthoylpyrroles: Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent;

(g) Naphthylmethylindenes: Any compound containing a 1-(1-naphthylmethyl)indene structure with substitution at the 3-position of the indene ring whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent;

(h) Cyclopropanoylindoles: Any compound containing an 3-(cyclopropylmethanoyl)indole structure with substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent and whether or not substituted in the cyclopropyl ring to any extent. Examples of this structural class include but are not limited to: UR-144, XLR-11 and A-796,260;

(i) Adamantoylindoles: Any compound containing a 3-(1-adamantoyl)indole structure with substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent and whether or not substituted in the adamantyl ring to any extent. Examples of this structural class include but are not limited to: AM-1248 and AB-001;

(j) Adamantylindolecarboxamides: Any compound containing an N-adamantyl-1-indole-3-carboxamide with substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent and whether or not substituted in the adamantyl ring to any extent. Examples of this structural class include but are not limited to: STS-135 and 2NE1; and

(k) Adamantylindazolecarboxamides: Any compound containing an N-adamantyl-1-indazole-3-carboxamide with substitution at the nitrogen atom of the indazole ring, whether or not further substituted in the indazole ring to any extent and whether or not substituted in the adamantyl ring to any extent. Examples of this structural class include but are not limited to: AKB48.

(3) Schedule I also includes any other cannabinoid receptor agonist that is not listed in OARs 855-080-0022 through 0026 (Schedules II through V) or is not an FDA approved drug.

(4) Exceptions. The following are exceptions to subsection (1) of this rule:

(a) 1, 4-butanediol and gamma-butyrolactone when in the possession of a person for the purpose of its sale to a legitimate manufacturer of industrial products and the person is in compliance with the Drug Enforcement Administration requirements for List I Chemicals;

(b) 1,4-butanediol and gamma-butyrolactone when in the possession of a person for the purpose of the legitimate manufacture of industrial products;

(c) Marijuana and delta-9-tetrahydrocannabinol (THC).

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 475.035, 475.059 & 475.065

Hist.: PB 4-1987, f. & ef. 3-30-87; PB 8-1987, f. & ef. 9-30-87; PB 10-1987, f. & ef. 12-8-87; PB 15-1989, f. & cert. ef. 12-26-89; PB 9-1990, f. & cert. ef. 12-5-90; PB 5-1991, f. & cert. ef. 9-19-91; PB 1-1992, f. & cert. ef. 1-31-92 (and corrected 2-7-92); PB 1-1994, f. & cert. ef. 2-2-94; PB 1-1996, f. & cert. ef. 4-5-96; PB 1-1997, f. & cert. ef. 9-22-97; BP 4-2000, f. & cert. ef. 2-16-00; BP 9-2000, f. & cert. ef. 6-29-00; BP 2-2002(Temp), f. & cert. ef. 2-4-02 thru 7-31-02; BP 3-2002(Temp), f. & cert. ef. 3-1-02 thru 8-23-02; BP 4-2002, f. 6-27-02, cert. ef. 7-1-02; BP 5-2002, f. & cert. ef. 11-14-02; BP 1-2003, f. & cert. ef. 1-14-03; BP 1-2007, f. & cert. ef. 6-29-07; BP 8-2010, f. & cert. ef. 6-29-10; BP 10-2010(Temp), f. & cert. ef. 10-15-10 thru 4-11-11; BP 2-2011, f. & cert. ef. 4-11-11; BP 9-2013, f. & cert. ef. 10-28-13; BP 11-2013(Temp), f. & cert. ef. 12-20-13 thru 6-18-14; BP 4-2014(Temp), f. 2-27-14, cert. ef. 2-28-14 thru 8-27-14; BP 5-2014(Temp), f. & cert. ef. 4-15-14 thru 8-27-14

Rule Caption: Resident client progress notes.

Adm. Order No.: BPE 1-2014

Filed with Sec. of State: 3-24-2014

Certified to be Effective: 3-24-14

Notice Publication Date: 1-1-2014

Rules Amended: 858-010-0036

Subject: This amendment removes the requirement that post-degree supervisors must countersign residents' client progress notes.

Rules Coordinator: LaRee Felton—(503) 373-1196

858-010-0036

Guidelines for Post-Doctoral Supervised Work Experience

(1) Policy. One year of post-doctoral supervised work experience is required for licensure. The required work experience must take place after the doctorate degree is conferred.

(a) One year of supervised work experience is defined as 1,500 hours of psychological services performed over a period not less than twelve months.

(b) Psychological services are defined as direct psychological services to an individual or group; diagnosis and assessment; completing documentation related to services provided; client needs meetings and consultation; psychological testing; research related to client services; report writing; and receiving formal training including workshops and conferences.

(c) For the purposes of licensure, psychological services do not include business development; credentialing activities; marketing; purchasing; creating forms; administrative billing or other business management activities.

(2) The following guidelines shall be used by the Board to define supervised employment.

(a) While obtaining postdoctoral supervised work experience in Oregon, the candidate for licensure must be in a Board approved Resident Supervision Contract:

(A) Working under the supervision of an Oregon licensed psychologist licensed in Oregon for at least two years; or

(B) Working under the supervision of an Oregon licensed psychologist licensed for at least two years in a state with licensing standards comparable to Oregon.

(b) To receive supervised work experience credit from other jurisdictions, the experience must be a formal arrangement under the supervision of a psychologist who has been licensed for at least two years in a state with licensing standards comparable to Oregon.

(3) Candidates for licensure shall be eligible to enter into a Resident Supervision Contract as described in subsection (2)(a) of this rule.

(a) Resident status shall begin the date the Board approves the Resident Supervision Contract.

(b) Duration. The resident status is a transitional step toward licensure and is not intended as a means to avoid licensure. A Resident Supervision Contract shall be effective for a period not to exceed two years from the date of Board approval. The Board may extend the contract beyond two years for good cause upon a written request from the resident and the supervisor prior to the expiration of the contract. Failure to receive a courtesy reminder notice from the Board shall not relieve the resident of the responsibility to timely request an extension.

(c) Termination of a Resident Supervision Contract will be granted by the Board at the written request of the supervisor or the resident. The termination shall be effective at the time the Board approves the request in writing, or on the date indicated by the supervisor in the final residency evaluation, whichever is later.

(d) If the supervisor is to be paid for supervision payment must be in the form of a per-hour fee.

(e) Supervision of more than three residents concurrently shall require prior approval by the Board.

(4) Resident's Responsibilities. The resident's conduct must conform to the following standards:

(a) Title. The resident must be designated at all times by the title "psychologist resident." All signed materials, letterhead, business cards, telephone directory listings, internet postings, brochures, insurance billing and any other public or private representation must include the individual's title as "psychologist resident" and the supervisor's name and designation "supervisor."

(b) Scope of Practice. The resident will only offer services in those areas that the supervisor is competent.

ADMINISTRATIVE RULES

(c) Nature of Supervision. The resident must obtain frequent and regular supervision meetings throughout the duration of the Resident Supervision Contract. The resident must provide the supervisor with a periodic evaluation of all cases and psychological activities in which the resident is engaged. The resident's practice must comply with Oregon laws and administrative rules.

(d) The supervisor is not required to be working on-site with the resident.

(e) Non-routine individual supervision may occur by electronic means when geographical distance, weather or emergency prohibit a face-to-face meeting.

(f) Frequency:

(A) If a resident works 1–20 hours in a week the resident must receive at least one hour of individual supervision every week.

(B) If a resident works more than 20 hours in a week the resident must receive at least two hours of supervision every week. One hour must be individual and one hour may be group supervision. Group supervision must be:

(i) A formal and on-going group of at least three mental health professionals;

(ii) Facilitated by a licensed psychologist; and

(iii) Approved by the resident's supervisor.

(C) On a non-routine basis individual supervision may be delayed up to 14 days to accommodate vacations, illness, travel or inclement weather.

(D) If a resident's work in a particular week does not comply with these requirements, then it may not be counted towards the supervised work experience requirement.

(g) In the absence of the primary supervisor, not to exceed fourteen days, one-on-one supervision hours may be conducted retroactively.

(h) Confidentiality. The resident must advise all clients orally and in their informed consent policy that the supervisor may have access to all information and material relevant to the client's case.

(i) Promptly communicate to the Board any significant interruption or expected termination of the Resident Supervision Contract.

(j) The resident must discuss with their supervisor the Supervisor Evaluation Report at the conclusion or termination of the Resident Supervision Contract.

(5) The supervisor's responsibilities are:

(a) Review, supervise and evaluate representative and problem cases with attention to diagnostic evaluation, treatment planning, ongoing case management, emergency intervention, recordkeeping and termination;

(b) Countersign all psychological reports and professional correspondence produced by the resident; and ensure that letterhead, business cards, telephone directory listings, internet postings, brochures, insurance billing and any other public or private representation includes the appropriate title of "psychologist resident" or "psychologist associate resident" and the supervisor's name and designation as "supervisor." Client progress notes do not need to be co-signed by the supervisor.

(c) Review with the resident, Oregon laws and administrative rules related to the practice of psychology, including the current APA "Ethical Principles of Psychologists and Code of Conduct," professional relationships and referrals, protection of records, billing practices, recordkeeping and report writing;

(d) Assist the psychologist resident in developing a plan to prepare for the national written exam and the Oregon jurisprudence examination;

(e) Promptly communicate to the Board any professional or ethical concerns regarding the resident's conduct or performance;

(f) Notify the Board within fourteen days and explain any significant interruption or expected termination of the Resident Supervision Contract;

(g) Ensure that the resident has access to supervision by telephone to discuss urgent matters, if the supervisor is unavailable during a period not to exceed fourteen days;

(h) Create and maintain for at least three years a record of hours of supervision and notes for each supervision session contemporaneously as supervision occurs, and provide it to the Board within fourteen days of request;

(i) Provide the Board with an interim Resident Evaluation Report upon request; and

(j) Provide the Board with a final Resident Evaluation Report at the conclusion or termination of the Resident Supervision Contract.

(6) Associate Supervisor. Any supervision of the resident by a person other than the primary supervisor must be identified in the Resident Contract and approved by the Board.

(a) The associate supervisor is responsible for providing supervision as described in section (5) of this rule in the event that the primary supervisor is unavailable for any reason; and

(b) The associate supervisor is responsible for reporting professional or ethical concerns regarding the resident's conduct or performance to the primary supervisor and the Board.

Stat. Auth.: ORS 675.030, 675.040, 675.045, 675.050, 675.065 & 675.110

Stats. Implemented: ORS 675.030, 675.040, 675.045, 675.050, 675.065, 675.110

Hist.: PE 1-1988, f. & cert. ef. 7-25-88; PE 1-1990, f. & cert. ef. 2-16-90; PE 1-1991, f. & cert. ef. 4-3-91; PE 2-1991, f. 8-15-91, cert. ef. 8-16-91; PE 4-1993, f. & cert. ef. 7-19-93; PE 1-1996, f. & cert. ef. 6-25-96; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 4-2002, f. & cert. ef. 10-11-02; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 1-2011, f. & cert. ef. 1-25-11; BPE 2-2011, f. & cert. ef. 5-31-11; BPE 3-2011, f. & cert. ef. 9-27-11; BPE 2-2012, f. & cert. ef. 6-8-12; BPE 3-2013, f. & cert. ef. 9-30-13; BPE 1-2014, f. & cert. ef. 3-24-14

Bureau of Labor and Industries Chapter 839

Rule Caption: Amends the prevailing rates of wage for the period beginning April 1, 2014.

Adm. Order No.: BLI 3-2014

Filed with Sec. of State: 4-2-2014

Certified to be Effective: 4-2-14

Notice Publication Date: 4-1-2014

Rules Amended: 839-025-0700

Subject: The amended rule amends the prevailing rates of wage as determined by the Commissioner of the Bureau of Labor and Industries for the period beginning April 1, 2014.

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

839-025-0700

Prevailing Wage Rate Determination/Amendments to Determination

(1) Pursuant to ORS 279C.815, the Commissioner of the Bureau of Labor and Industries has determined that the wage rates stated in the publication of the Bureau of Labor and Industries entitled *Prevailing Wage Rates on Public Works Contracts* in Oregon dated January 1, 2014, are the prevailing rates of wage for workers upon public works in each trade or occupation in the locality where work is performed for the period beginning January 1, 2014, and the effective dates of the applicable special wage determination and rates amendments: Amendments to Oregon Determination 2014-01 (effective April 1, 2014).

(2) Copies of Prevailing Wage Rates on Public Works Contracts in Oregon dated January 1, 2014, are available from any office of the Wage and Hour Division of the Bureau of Labor and Industries. The offices are located in Eugene, Portland and Salem. Copies are also available on the bureau's webpage at www.oregon.gov/boli or may be obtained from the Prevailing Wage Rate Coordinator, Prevailing Wage Rate Unit, Wage and Hour Division, Bureau of Labor and Industries, 800 NE Oregon Street #1045, Portland, Oregon 97232; (971) 673-0839.

Stat. Auth.: ORS 279C.815, 651.600

Stats. Implemented: ORS 279C.815

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

ADMINISTRATIVE RULES

07 cert. ef. 10-1-07; BLI 31-2007, f. 11-20-07, cert. ef. 11-23-07; BLI 34-2007, f. 12-27-07, cert. ef. 1-1-08; BLI 1-2008, f. & cert. ef. 1-4-08; BLI 2-2008, f. & cert. ef. 1-11-08; BLI 3-2008, f. & cert. ef. 2-21-08; BLI 6-2008, f. & cert. ef. 3-13-08; BLI 8-2008, f. 3-31-08, cert. ef. 4-1-08; BLI 9-2008, f. & cert. ef. 4-14-08; BLI 11-2008, f. & cert. ef. 4-24-08; BLI 12-2008, f. & cert. ef. 4-30-08; BLI 16-2008, f. & cert. ef. 6-11-08; BLI 17-2008, f. & cert. ef. 6-18-08; BLI 19-2008, f. & cert. ef. 6-26-08; BLI 20-2008, f. & cert. ef. 7-1-08; BLI 23-2008, f. & cert. ef. 7-10-08; BLI 26-2008, f. & cert. ef. 7-30-08; BLI 28-2008, f. & cert. ef. 9-3-08; BLI 30-2008, f. & cert. ef. 9-25-08; BLI 31-2008, f. 9-29-08, cert. ef. 10-1-08; BLI 32-2008, f. & cert. ef. 10-8-08; BLI 36-2008, f. & cert. ef. 10-29-08; BLI 41-2008, f. & cert. ef. 11-12-08; BLI 42-2008, f. & cert. ef. 12-1-08; BLI 44-2008, f. & cert. ef. 12-29-08; BLI 45-2008, f. 12-31-08, cert. ef. 1-1-09; BLI 1-2009, f. & cert. ef. 1-6-09; BLI 2-2009, f. & cert. ef. 1-12-09; BLI 4-2009, f. & cert. ef. 2-11-09; BLI 6-2009, f. & cert. ef. 3-17-09; BLI 7-2009, f. & cert. ef. 3-24-09; BLI 8-2009, f. 3-31-09, cert. ef. 4-1-09; BLI 10-2009, f. 6-9-09, cert. ef. 6-10-09; BLI 11-2009, f. 6-29-09, cert. ef. 6-30-09; BLI 12-2009, f. 6-29-09, cert. ef. 7-1-09; BLI 13-2009, f. & cert. ef. 7-1-09; BLI 14-2009, f. & cert. ef. 7-10-09; BLI 15-2009, f. & cert. ef. 7-16-09; BLI 16-2009, f. & cert. ef. 7-22-09; BLI 17-2009, f. & cert. ef. 7-29-09; BLI 19-2009, f. & cert. ef. 8-18-09; BLI 20-2009, f. & cert. ef. 9-14-09; BLI 21-2009, f. & cert. ef. 9-21-09; BLI 22-2009, f. 9-30-09, cert. ef. 10-1-09; BLI 23-2009, f. & cert. ef. 10-8-09; BLI 24-2009, f. & cert. ef. 11-12-09; BLI 25-2009, f. & cert. ef. 11-23-09; BLI 29-2009, f. 12-31-09, cert. ef. 1-1-10; BLI 1-2010, f. 1-8-10, cert. ef. 1-12-10; BLI 2-2010, f. 1-11-10, cert. ef. 1-13-10; BLI 3-2010, f. & cert. ef. 1-19-10; BLI 4-2010, f. & cert. ef. 1-27-10; BLI 13-2010, f. & cert. ef. 4-1-10; BLI 17-2010, f. 6-29-10, cert. ef. 7-1-10; BLI 20-2010, f. & cert. ef. 10-1-10; BLI 24-2010, f. 12-30-10, cert. ef. 1-1-11; BLI 2-2011, f. 3-25-11, cert. ef. 4-1-11; BLI 4-2011, f. 6-30-11, cert. ef. 7-1-11; BLI 7-2011, f. & cert. ef. 10-12-11; BLI 10-2011, f. 12-30-11, cert. ef. 1-1-12; BLI 4-2012, f. & cert. ef. 3-29-12; BLI 6-2012, f. & cert. ef. 7-2-12; BLI 10-2012, f. 9-26-12, cert. ef. 10-1-12; BLI 13-2012, f. 12-28-12, cert. ef. 1-1-13; BLI 1-2013, f. & cert. ef. 3-25-13; BLI 2-2013, f. & cert. ef. 9-20-13; BLI 3-2013, f. 9-30-13, cert. ef. 10-1-13; BLI 5-2013, f. 12-16-13, cert. ef. 1-1-14; BLI 3-2014, f. & cert. ef. 4-2-14

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

Adm. Order No.: BLI 4-2014

Filed with Sec. of State: 4-10-2014

Certified to be Effective: 4-10-14

Notice Publication Date: 3-1-2014

Rules Amended: 839-015-0155

Subject: 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—(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 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; BLI 4-2014, f. & cert. ef. 4-10-14

Rule Caption: Removing charge amendment restrictions, establishing procedural deadlines, conforming rules to Hearings Unit reorganization, clarifying.

Adm. Order No.: BLI 5-2014

Filed with Sec. of State: 4-15-2014

Certified to be Effective: 4-15-14

Notice Publication Date: 11-1-2013

Rules Amended: 839-050-0000, 839-050-0010, 839-050-0020, 839-050-0030, 839-050-0040, 839-050-0050, 839-050-0060, 839-050-0070, 839-050-0080, 839-050-0090, 839-050-0100, 839-050-0110, 839-050-0120, 839-050-0130, 839-050-0140, 839-050-0150, 839-050-0160, 839-050-0170, 839-050-0180, 839-050-0190, 839-050-0200, 839-050-0210, 839-050-0220, 839-050-0230, 839-050-0240, 839-050-0250, 839-050-0255, 839-050-0260, 839-050-0270, 839-050-0280, 839-050-0290, 839-050-0300, 839-050-0310, 839-050-0320, 839-050-0330, 839-050-0340, 839-050-0350, 839-050-0360, 839-050-0370, 839-050-0380, 839-050-0400, 839-050-0410, 839-050-0420, 839-050-0430, 839-050-0440, 839-050-0445

Subject: The Agency amends OAR 839-050-0140 to mirror the rules of the Office of Administrative Hearings, which allow an agency to amend its charging document at any time prior to hearing without seeking the consent of the administrative law judge. Respondents will be permitted to respond to amendments.

The agency amends OAR 839-050-150, setting a deadline for filing motions for summary judgment at 21 days prior to hearing.

The amendments to OAR 839-050-0210 and 839-050-0255 will set the deadline for filing case summaries at 14 days prior to the hearing date, providing uniformity among cases and clarity so that all participants may be aware of this important deadline.

During 2012, the agency's Hearings Unit was reorganized and renamed the Administrative Prosecution Unit. OAR 839 Division 50 rules still refer to the "Hearings Unit" and other terminology specific to the unit's former organization. The Agency will define new terms and otherwise amend the rules to reflect the unit reorganization and renaming.

The Agency amends rules to correct statutory references; to add clarifying language; to correct the source for obtaining Attorney General Model Rules; to clarify that declaratory ruling proceedings are governed by Attorney General Model Rules; to set out the types of cases brought by or on behalf of "aggrieved persons;" to delete references to the Wage and Hour Commission, which was abolished by SB 135.

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

839-050-0000

Statement of Purpose

(1) The purpose of OAR 839-050-0000 to 839-050-0440 is to ensure that the contested case procedures of the Bureau of Labor and Industries comply with ORS 183.413 to 183.470, to provide clear guidelines and an understanding of what is expected of participants, and to provide for thorough and timely hearings.

(2) In an effort to provide timely hearings, OAR 839-050-0000 to 839-050-0440 establish time limits that will be strictly followed. Waiver or extension of set time limits will be granted only under the limited circumstances set forth in these rules.

Stat. Auth.: ORS 183; 279C.815, 279C.817; & 651.060(4), 658.407(3), 658.820, 659A.805
Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 659A.845 & 659A.850

Hist.: BL 8-1986, f. & ef. 9-2-86; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0020; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0010

Model Rules of Procedure

The Attorney General's Model Rules of Procedure for contested cases adopted pursuant to OAR 839-002-0005 govern contested case proceedings of the Bureau of Labor and Industries except to the extent they conflict with or are modified by rules in this division or any other division of chapter 839 of the Oregon Administrative Rules. The rules for contested case proceedings are set forth in OAR chapter 839, division 50. The Attorney General's Model Rules for Agency Declaratory Rulings govern Declaratory Rulings.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or Bureau of Labor and Industries.]

Stat. Auth.: ORS 183 & 651.060(4)

Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850

ADMINISTRATIVE RULES

Hist.: BL 8-1986, f. & ef. 9-2-86; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0022; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 7-2006, f. 3-16-06 cert. ef. 3-20-06; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0020

Definitions

Unless the context requires otherwise, the following definitions apply to OAR 839-050-0000 through 839-050-0445:

(1) "Administrative law judge" means the commissioner or an individual or a special tribunal designated by the commissioner to preside over any or all aspects of a contested case hearing including motions, oral or written hearings, preparation of the Proposed Order and assistance in preparation of the Final Order. The administrative law judge may or may not be an employee of the Agency, except that when a case involves a complaint alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under federal housing law, the administrative law judge or anyone appointed as a hearings officer or member of a special tribunal to hear the matter must be an employee of the Agency.

(2) "Administrative Prosecution Unit" means the section of the Bureau of Labor and Industries handling the administrative prosecution of contested case hearings.

(3) "Administrative Prosecutor" means the Agency staff person assigned to prosecute the case for the Agency at the contested case hearing and to handle all related matters, but does not include counsel for the Agency.

(4) "Agency" means the Bureau of Labor and Industries and any employee thereof, and includes the bureau when acting as the agent of another governmental entity, but for the purposes of these rules does not refer to the administrative law judge, contested case coordinator, or the commissioner.

(5) "Aggrieved person"

(a) For the purpose of proceedings involving a complaint alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under federal housing law, includes, but is not limited to, a person who believes that the person either:

(A) Has been injured by an unlawful practice or discriminatory housing practice; or

(B) Will be injured by an unlawful practice or discriminatory housing practice that is about to occur.

(b) For the purpose of a complaint filed by the commissioner or the Attorney General, is a person on whose behalf the complaint is filed.

(c) For the purpose of prevailing wage rate determinations, is a person as defined at OAR 839-050-0445.

(6) "Authorized representative" means a member of a partnership, an authorized officer or regular employee of a corporation, association or organized group, including fiduciaries, mutual companies, trusts and unincorporated organizations, or an authorized officer or employee of a governmental agency who has been authorized by the partnership, corporation, association, organized group, or governmental agency to represent that entity during the contested case proceeding.

(7) "Charging document" means any document issued by the Bureau of Labor and Industries stating that any person, entity, or government agency has violated the laws within this Agency's jurisdiction and includes, but is not limited to:

(a) Formal Charges;

(b) Order of Determination;

(c) Notice of Intent to Revoke License;

(d) Notice of Intent to Deny License;

(e) Notice of Intent to Refuse to Renew a License;

(f) Notice of Intent to Place Name on List of Ineligibles;

(g) Notice of Intent to Assess Civil Penalties;

(h) Notice of Intent to Suspend or Revoke License or to Assess Civil Penalty in Lieu Thereof.

(8) "Chief Prosecutor" is the Administrative Prosecutor responsible for managing the Administrative Prosecution Unit. The Chief Prosecutor may also administratively prosecute cases on behalf of the Agency.

(9) "Claimant" means any individual who has filed a wage claim pursuant to ORS Chapter 652 or 653 and who has assigned that claim to the commissioner.

(10) "Commissioner" means the Commissioner of the Bureau of Labor and Industries.

(11) "Complainant" means an individual who has, or whose attorney has, filed a complaint pursuant to ORS Chapter 658 or 659A, ORS Chapters 652 and 653, ORS Chapter 279C, and any laws, regulations, or

ordinances enforced by the bureau as the agent of another governmental entity.

(12) "Contested Case Coordinator" means the Bureau of Labor and Industries staff person who maintains the records of contested cases, issues official documents, and provides administrative support to the Forum and the Administrative Prosecution Unit.

(13) "Counsel" means an attorney who is in good standing with the Oregon State Bar or an out-of-state attorney who is granted permission by the administrative law judge to appear in the matter pursuant to ORS 9.241 and Oregon Uniform Trial Court Rule 3.170. Local counsel who obtained the order on behalf of the out-of-state attorney must participate meaningfully in the case in which the out-of-state attorney appears.

(14) "Counsel for the Agency" means the Attorney General or the Attorney General's designee.

(15) "Forum" means the Administrative Law Judge assigned to preside over the contested case proceeding and the Commissioner or Deputy Commissioner who signs the final order. The address for the Forum is: Bureau of Labor and Industries, ATTN: Contested Case Coordinator, 1045 State Office Building, 800 N.E. Oregon Street, Portland, OR 97232-2162.

(16) "Good cause" means, unless otherwise specifically stated, that a participant failed to perform a required act due to an excusable mistake or a circumstance over which the participant had no control. "Good cause" does not include a lack of knowledge of the law, including these rules.

(17) "Issuance" means the act of sending out a document from the Forum. For purposes of these rules, the date of issuance is the date, as noted on the document, that the document was sent out from the Forum.

(18) "Participant" means any party, including any person, aggrieved person intervening in a proceeding involving a complaint alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under federal housing law, or entity granted party status under OAR 137-003-0005, or the Agency.

(19) "Party" means:

(a) Any person, government agency, or entity upon whom a charging document has been served;

(b) Any person, government agency, or entity that has been granted party or limited party status under OAR 137-003-0005;

(c) Any aggrieved person intervening in a proceeding involving a complaint alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under federal housing law.

(20) "Service" means, for purposes of these rules, the method of forwarding documents and includes personal service, registered or certified mail, hand delivery or regular U.S. mail.

Stat. Auth.: ORS 183 & 651.060(4)

Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850, 659A.885

Hist.: BL 8-1986, f. & ef. 9-2-86; BL 10-1988, f. & cert. ef. 6-16-88; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0025; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 24-2008, f. 7-10-08, cert. ef. 7-11-08; BLI 38-2008, f. & cert. ef. 11-7-08; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0030

Service of Documents

(1) Except as otherwise provided in ORS 652.332(1) the charging document will be served on the party or the party's representative by personal service or by registered or certified mail. Service of a charging document is complete upon the earlier of:

(a) Receipt by the party or the party's representative; or

(b) Mailing when sent by registered or certified mail to the correct address of the party or the party's representative.

(2) All other documents may be served on the party or the party's representative by personal service or by mailing to the last known address in the Agency file for the case to be heard. Service of a document other than the charging document is complete upon personal service or mailing, whichever occurs earlier.

(3) Any participant to a contested case proceeding filing a document with the Forum will serve a copy of such document upon all other participants or their representatives.

(4) Each party must notify the Forum and the Administrative Prosecution Unit of the party's change of address. Such notice must be in writing and served on the Forum and the Administrative Prosecution Unit within 10 days of the party's change of address. Unless the Forum and the Administrative Prosecution Unit have been so notified, they will presume that the party's address on file with the Agency is correct.

(5) For the purpose of this rule, the term "party" does not include an aggrieved person intervening in a proceeding involving a complaint alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimina-

ADMINISTRATIVE RULES

tion under federal housing law, or an aggrieved person named in a commissioner's complaint.

Stat. Auth.: ORS 183 & 651.060(4)
Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845, 659A.850, 659A.885
Hist.: BL 8-1986, f. & ef. 9-2-86; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0030; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 38-2008, f. & cert. ef. 11-7-08; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0040

Filing of Documents with the Forum; Calculation of Time and Filing Dates

(1) Except as modified by statute or enlarged by these rules, by order of the commissioner, or by decision of the administrative law judge, a document is filed with the Forum either on the date the Forum receives the document, or on the date postmarked on the properly addressed document, whichever is earlier.

(2) Documents are not to be filed by facsimile transmission except with the prior approval of the administrative law judge. The administrative law judge may require the participant filing a document by facsimile transmission to also send the Forum a copy of the document by mail or personal delivery and may require the participant to serve the other participants with the document by facsimile transmission in addition to mail or personal delivery.

(3) The computation of any period of time will not include the day from which the designated period begins to run. The computation will include the last day of this period unless it is a Saturday, Sunday, furlough day officially recognized by the State of Oregon or holiday officially recognized by the State of Oregon or the federal government. If the last day of the time period is a Saturday, Sunday, furlough day or holiday, the period will run until 5 p.m. of the next day that is not a Saturday, Sunday, furlough day or holiday.

(4) All time periods described in these rules are measured in calendar days.

Stat. Auth.: ORS 183 & 651.060(4)
Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850
Hist.: BL 8-1986, f. & ef. 9-2-86; BL 10-1988, f. & cert. ef. 6-16-88; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0035; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 16-2011, f. 12-30-11, cert. ef. 1-1-12; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0050

Timeliness

(1) The administrative law judge may disregard any document that is filed with the Forum beyond the established number of days for filing.

(2) When a participant requires additional time to submit any document, a written request for such extension must be filed with and received by the Forum no later than the date set for filing of the document in question, except that the administrative law judge has discretion to permit a participant to make an oral motion for an extension of time. When the administrative law judge allows a participant to make an oral motion for extension of time, the administrative law judge will promptly notify the other participants of the motion and give them an opportunity to respond, either orally or in writing. When a participant files a written motion for extension of time, the other participants will have seven days after service of the motion in which to file a written response, unless that time is altered by order of the administrative law judge.

(3) The administrative law judge may grant such an extension of time only in situations when the requesting participant shows good cause for the need for more time or when no other participant opposes the request. The administrative law judge will promptly notify the participant requesting the extension whether it will be allowed.

(4) When an extension of time is allowed to a participant, the administrative law judge will advise all participants of the new due date, and will state whether the same extension of time applies to the other participants.

Stat. Auth.: ORS 183 & 651.060(4)
Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850
Hist.: BL 8-1986, f. & ef. 9-2-86; BL 10-1988, f. & cert. ef. 6-16-88; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0040; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 6-2005, f. 2-8-05, cert. ef. 2-11-05; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0060

Charging Documents

(1) A charging document will contain:

(a) A reference to the particular statutes or administrative rules involved in the violation;

(b) A short and concise statement of the matters that constitute the violation; and

(c) A statement of the remedies sought, the statutes or rules involved and, when appropriate, the penalty imposed.

(2) A charging document may contain statements that:

(a) When a party fails to timely request a hearing, or having made a timely request subsequently withdraws it, the Agency file will be the evidentiary record of the proceeding;

(b) When, following an answer and a request for hearing (when required), the party subsequently notifies the Agency that it will not appear at the hearing, or, without such notice, the party fails to appear at the hearing, the Agency's file may become part of the contested case record; and

(c) A statement that when a party fails to answer a charging document, the Agency file will automatically become the contested case record, or part thereof, upon default for the purpose of proving a prima facie case.

Stat. Auth.: ORS 183 & 651.060(4)
Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850
Hist.: BL 8-1986, f. & ef. 9-2-86; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0050; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0070

Request for a Contested Case Hearing

Except in cases when Formal Charges are issued, any party wishing to contest a charging document must request a contested case hearing. This request must be in writing and filed with the Agency within the time limit established in the charging document. A party that fails to file a request for a hearing within the time limit established in the charging document, or that requests a hearing and subsequently withdraws the request, will be in default as to those charges.

Stat. Auth.: ORS 183 & 651.060(4)
Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850
Hist.: BL 8-1986, f. & ef. 9-2-86; BL 12-1986, f. 10-29-86, ef. 10-30-86; BL 10-1988, f. & cert. ef. 6-16-88; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0051; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0080

Notice of Hearing

(1) When a party makes a timely written request for a contested case hearing, that hearing will be scheduled in accordance with OAR 839-050-0070 and the Forum will issue a notice of hearing to the participants.

(2) When Formal Charges are issued, the notice of hearing will accompany the Formal Charges.

(3) In civil rights housing cases only, unless a complainant or respondent named in a complaint alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under federal housing law elects to have the matter heard in circuit court under 659A.885 (see 659A.870(4)(b)), a contested case hearing must commence no later than 120 days after Formal Charges are issued. If it is not practicable to commence the hearing within 120 days after Formal Charges are issued, the Administrative Law Judge will include on the notice of hearing or in a separately issued document the general reasons for the delay and will schedule the hearing as soon as practicable.

(4) A notice of hearing will include:

(a) A statement of the time and place of the hearing, including the statement that the hearing will reconvene on successive business days thereafter until concluded;

(b) A statement of the authority and jurisdiction under which the hearing is to be held;

(c) A reference to the particular sections of the statutes and rules involved;

(d) A short and plain statement of the matters asserted or charged;

(e) The name of the administrative law judge designated by the commissioner to preside at the hearing and whether the administrative law judge is an employee of the Agency; and

(f) A statement indicating whether the case for the Agency will be presented by the Department of Justice or by an Agency case presenter.

(5) Sections (3)(c) and (d) above are satisfied if the notice of hearing attaches and incorporates a charging document that includes the matters referred to in those paragraphs.

(6) The notice of hearing may contain a statement that:

(a) When a party fails to timely request a hearing, or having made a timely request subsequently withdraws it, the Agency file will be the evidentiary record of the proceeding;

ADMINISTRATIVE RULES

(b) When, following an answer and request for hearing (when required), the party subsequently notifies the Agency that the party will not appear at the hearing, or, without such notice, the party fails to appear at the hearing, the Agency file will become the contested case record, or a part thereof; and

(c) When a party fails to answer a charging document, the Agency file will become the contested case record, or part thereof, upon default for the purpose of proving a prima facie case.

Stat. Auth.: ORS 183 & 651.060(4)

Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845, 659A.850, 659A.870

Hist.: BL 8-1986, f. & ef. 9-2-86; BL 12-1986, f. 10-29-86, ef. 10-30-86; BL 10-1988, f. & cert. ef. 6-16-88; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0055; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 12-2010, f. 3-1-10, cert. ef. 3-3-10; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0090

Location of Contested Case Hearings

Contested case hearings will generally be held in a State of Oregon office building when available, or another appropriate facility, near the location where the action arose.

Stat. Auth.: ORS 183 & 651.060(4)

Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850

Hist.: BL 8-1986, f. & ef. 9-2-86; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0045; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0100

Information for Contested Case Hearings

The Forum will provide a statement of information for all parties involved in a contested case hearing that includes:

(1) Instructions that all filings, correspondence and documents must be transmitted to the administrative law judge, through the Contested Case Coordinator at this address: Bureau of Labor and Industries, ATTN Contested Case Coordinator, 1045 State Office Building, 800 N.E. Oregon Street, Portland, OR 97232-2162;

(2) The information required under ORS 183.413(2) concerning the rights of the parties to the hearing;

(3) A statement that an order may be issued upon default if a party requesting a hearing fails to appear at the hearing and there is a prima facie case of unlawful conduct; and

(4) A statement that the party's address as it appears in the Agency's files, and to which the notice has been sent, will be the address used throughout the proceeding. A party whose address changes must notify the Agency; otherwise, the Agency will presume the address on file to be correct.

Stat. Auth.: ORS 183 & 651.060(4)

Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850

Hist.: BL 8-1986, f. & ef. 9-2-86; BL 10-1988, f. & cert. ef. 6-16-88; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0056; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0110

Representation of a Party in a Contested Case Proceeding

(1) Any party may be represented by counsel, as that term is defined in OAR 839-050-0020(10). At all stages of the contested case proceeding, all government agencies, partnerships, corporations and unincorporated associations must be represented either by counsel, who may perform all functions consistent with representation of a client, or by an authorized representative, subject to the limitations of sections (2) through (6) of this rule.

(2) For purposes of OAR chapter 839, division 50, "authorized representative" means a member of a partnership, an authorized officer or regular employee of a corporation, association or organized group, or an authorized officer or employee of a governmental agency.

(3) Before appearing in the case, an authorized representative must provide written authorization for the named representative to appear on behalf of the party or limited party. This written authorization must be provided no later than the time that an answer and request for hearing is filed.

(4) An authorized representative may not present legal argument during the contested case proceeding except to the extent authorized by section 5 of this rule. "Legal argument" includes arguments on:

(a) The jurisdiction of the agency to hear the contested case;

(b) The constitutionality of a statute or rule or the application of a constitutional requirement to an agency;

(c) The application of court precedent to the facts of the particular contested case proceeding.

(5) The administrative law judge may allow the authorized representative to present evidence, examine and cross-examine witnesses, and make arguments relating to the:

(a) Application of statutes and rules to the facts in the contested case;

(b) Actions taken by the Agency in the past in similar situations;

(c) Literal meaning of the statutes or rules at issue in the contested case;

(d) Admissibility of evidence; and

(e) Proper procedures to be used in the contested case hearing.

(6) When a party is represented by an authorized representative in a hearing, the administrative law judge will advise such representative of the manner in which objections may be made and matters preserved for appeal. Such advice is of a procedural nature and does not change applicable law on waiver or the duty to make timely objection. When such objections may involve legal argument as defined in section 4 of this rule, the administrative law judge will provide reasonable opportunity for the authorized representative to consult legal counsel and permit such legal counsel to file written legal argument within a reasonable time after the conclusion of the hearing.

(7) A party that intends to be represented by counsel during the contested case proceeding, and that is not a government agency, partnership, corporation or unincorporated association, will notify the Forum of its intent to be represented by counsel as soon as practicable. Once the contested case hearing has begun, no party will be allowed a recess to obtain the services of counsel.

Stat. Auth.: ORS 183 & 651.060(4)

Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850

Hist.: BL 10-1988, f. & cert. ef. 6-16-88; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0057; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 4-2002, f. 2-14-02, cert. ef. 2-15-02; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0120

Representation of a Claimant, Complainant, or Aggrieved Person in a Contested Case Proceeding

The claimant, complainant or aggrieved person may have counsel present at the contested case hearing; however, counsel's participation is limited to rendering advice to counsel's client. Such counsel may not file motions, make objections, examine or cross-examine witnesses or make legal argument, except that such counsel may assert privilege for counsel's client at any point in a contested case proceeding and may participate fully in any deposition of counsel's client.

Stat. Auth.: ORS 183 & 651.060(4)

Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850

Hist.: BL 8-1986, f. & ef. 9-2-86; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0058; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 4-2002, f. 2-14-02, cert. ef. 2-15-02; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0130

Responsive Pleadings

(1) A party filing a written request for a hearing or a party served with Formal Charges must file a written response, referred to as an "answer," to the allegations in the charging document.

(2) The answer must include an admission or denial of each factual matter alleged in the charging document and a statement of each relevant defense to the allegations. A general denial is not sufficient to constitute an answer. An answer not including the information required by this rule may be disregarded and a notice of default may be issued in accordance with OAR 839-050-0330, as if no answer had been filed.

(3) Except for good cause shown to the administrative law judge, factual matters alleged in the charging document and not denied in the answer will be deemed admitted by the party. The failure of the party to raise an affirmative defense in the answer is a waiver of such defense, except as provided in OAR 839-050-0140(3). Any new facts or defenses alleged in the answer will be deemed denied by the Agency. Evidence will not be taken at the contested case hearing on any factual or legal issue not raised in the charging document or the answer as originally filed or as amended pursuant to OAR 839-050-0140.

(4) Except as may be otherwise provided in subsections (5), (6) and (7) of this rule, a party must file an answer within 20 days after service of the charging document.

(5) ORS 652.332 provides administrative procedures for wage claim collection.

(6) A party must file an answer within 60 days after service of the charging document if that document proposes to deny a license.

ADMINISTRATIVE RULES

(7) A respondent or complainant named in a complaint filed under ORS 659A.145 or 659A.421 or discrimination under federal housing law must file any election to have the matter heard in circuit court under ORS 659A.885, within 20 days after service of Formal Charges.

Stat. Auth.: ORS 183 & 651.060(4)
Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845, 659A.850, 659A.870
Hist.: BL 8-1986, f. & cf. 9-2-86; BL 4-1987, f. 2-11-87, cf. 2-13-87; BL 10-1988, f. & cert. ef. 6-16-88; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0060; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 12-2010, f. 3-1-10, cert. ef. 3-3-10; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0140

Amendments

(1) The Agency may amend its charging document:

(a) At any time before the hearing commences; or

(b) During the hearing, but before the evidentiary record closes, as allowed in (4) and (5) of this rule.

(2) If the Agency files an amended charging document before the hearing commences, any party may file an answer to it as it would in responding to an original charging document under OAR 839-050-0130(2)—(3), except:

(a) The answer to an amended charging document must be filed no later than seven days after the amended charging document is served on the party, subject to the administrative law judge's discretion to alter the deadline; and

(b) The answer to an amended charging document may differ from the answer to the previous charging document only as needed to respond to new or amended information, unless good cause is shown. If a party does not file an answer to an amended charging document, the party's answer to the previous charging document will be deemed its answer to the amended charging document.

(3) For good cause shown to the administrative law judge, a party may amend its answer at any time before the hearing commences. Any new facts or defenses alleged in the amended answer will be deemed denied by the Agency.

(4) Once the hearing commences, issues not raised in the charging document or answer may be raised and evidence presented on such issues, provided there is express or implied consent of the participants, except that affirmative defenses not raised in the answer may only be raised in response to an agency motion to amend that is made and allowed under this section or section (5) of this rule. Consent will be implied when there is no objection to the introduction of such issues and evidence or when the participants address the issues. Any participant raising new issues must move the administrative law judge, before the close of the evidentiary portion of the hearing, to amend its charging document or answer to conform to the evidence and to reflect issues presented. The administrative law judge may address and rule upon such issues in the Proposed Order.

(5) If evidence offered at hearing is objected to on the grounds that it is not within the issues raised by the charging document or answer, the administrative law judge may allow the pleadings to be amended to conform to the evidence presented. The administrative law judge will allow the amendment when the participant seeking the amendment shows good cause for not having included the new matter in its charging document or answer prior to hearing and the objecting participant fails to satisfy the administrative law judge that it would be substantially prejudiced by the admission of such evidence. The administrative law judge may grant a continuance to enable the objecting participant to meet such evidence. A party may amend its answer to raise an affirmative defense and introduce evidence in support of that defense only when the amendment responds to new matter raised in a charging document amended under this section or section (4) of this rule.

Stat. Auth.: ORS 183 & 651.060(4)
Stats. Implemented: ORS 279.361, 279.370, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845, 659A.850
Hist.: BL 8-1986, f. & cf. 9-2-86; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0075; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 42-2006, f. & cert. ef. 12-6-06; BLI 12-2010, f. 3-1-10, cert. ef. 3-3-10; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0150

Motions

Except as otherwise stated in OAR 839-050-0050, all pre-hearing and post-hearing motions will be submitted in writing to the administrative law judge through the Contested Case Coordinator. If the nonmoving participant chooses to respond, the nonmoving participant must file a written response to a written motion within seven days after service of the motion,

unless the administrative law judge orders otherwise. Motions include but are not limited to the following:

(1) Motion to dismiss: This motion must be based upon:

(a) Lack of jurisdiction over the subject matter or person;

(b) Insufficiency of process or service of process; or

(c) Failure to state a claim upon which relief can be granted.

(2) Motion to change the place of hearing.

(3) Motion to exclude witnesses:

(a) The motion may be made by any participant at any time prior to or during the hearing.

(b) The administrative law judge may, without a motion being made by a participant, exclude witnesses from the hearing except for a party, counsel, the Administrative Prosecutor, one agency officer or employee, an authorized representative, claimant, complainant and any person authorized by statute to attend. Notwithstanding this rule, an administrative law judge may expel any person from the hearing if that person engages in conduct that disrupts the hearing.

(4) Motion for summary judgment:

(a) A motion for summary judgment may be made by a participant or by decision of the administrative law judge for an accelerated decision in favor of any participant as to all or part of the issues raised in the pleadings. The motion may be based on any of the following conditions:

(A) Issue or claim preclusion;

(B) No genuine issue as to any material fact exists and the participant is entitled to a judgment as a matter of law, as to all or any part of the proceedings; or

(C) Such other reasons as are just.

(b) When the administrative law judge grants the motion, the decision will be set forth in the Proposed Order.

(c) A motion for summary judgment shall be denied if, at the time of its filing, the contested case hearing is scheduled to commence in fewer than 21 days.

(5) Motion for a postponement:

(a) Any participant making a request for a postponement of any part of the contested case proceeding must state in detail the reason for the request. The administrative law judge may grant the request for good cause shown. In making this determination, the administrative law judge will consider:

(A) Whether previous postponements have been granted;

(B) The timeliness of the request;

(C) Whether a participant has previously indicated it was prepared to proceed;

(D) Whether there is a reasonable alternative to postponement; for example, submitting a sworn statement of a witness; and

(E) The date the hearing was originally scheduled to commence.

(b) The administrative law judge will issue a written ruling either granting or denying the motion and will set forth the reasons therefore;

(c) If all participants agree to a postponement, in order for the postponement to be effective, the administrative law judge will approve of this agreement. Whether the administrative law judge grants or denies such a motion for postponement, the administrative law judge will issue a written ruling setting forth the reasons therefore.

(6) Motion for consolidation of hearings: This motion must allege facts sufficient to meet the criteria of OAR 839-050-0190.

(7) Motion for hearing by telephone: Any participant may file a motion to conduct the hearing by telephone. The motion must contain:

(a) A statement setting forth the reason(s) for the request;

(b) A statement explaining why no participant will be substantially prejudiced by having a hearing in this manner;

(c) A statement of the location of the majority of witnesses expected to be called;

(d) A statement estimating the number and/or volume of documents to be introduced into the record;

(e) A statement indicating whether the participant intends to call any expert witness; and

(f) A statement indicating whether an interpreter or an assistive communication device under OAR 839-050-0300 will be required for any witness.

(8) Motion for a protective order.

(9) Motion for default when a respondent has failed to timely file an answer within the time specified in the charging document.

(10) Motion to amend.

(11) Motion to make more definite and certain.

(12) Motion for prevailing party costs and reasonable attorney fees for an aggrieved person who intervenes in a proceeding alleging an unlaw-

ADMINISTRATIVE RULES

ful practice under ORS 659A.145 or 659A.421 or discrimination under federal housing law.

Stat. Auth.: ORS 183 & 651.060(4)
Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845, 659A.850
Hist.: BL 8-1986, f. & ef. 9-2-86; BL 12-1986, f. 10-29-86, ef. 10-30-86; BL 10-1988, f. & cert. ef. 6-16-88; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0070; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 4-2002, f. 2-14-02, cert. ef. 2-15-02; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 13-2006, f. 3-23-06, cert. ef. 3-24-06; BLI 12-2010, f. 3-1-10, cert. ef. 3-3-10; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0160

Disqualification of Administrative Law Judge

(1) An administrative law judge may withdraw from a proceeding whenever the administrative law judge determines disqualification is necessary. Any party to any contested case may claim that the person designated as administrative law judge is prejudiced against any party or counsel or the interest of any party or counsel appearing in such case. Such prejudice must be established by a motion supported by an affidavit establishing that the designated administrative law judge is prejudiced against the party or counsel, or against the interest of the party or counsel, such that the party or counsel cannot, or believes that he or she cannot, have a fair and impartial hearing before the administrative law judge, and that it is made in good faith and not for the purpose of delay. Grounds upon which a motion may be made, or upon which the administrative law judge may determine that disqualification is necessary, include but are not limited to a family relationship with the complainant or claimant or with any party or counsel, or a financial interest in the property or business of any of those individuals. The fact that the administrative law judge is an employee of the Oregon Bureau of Labor and Industries is not a ground for disqualification of the administrative law judge.

(2) The motion and affidavit must be filed together within 14 days after service of the notice of hearing. No motion to disqualify an administrative law judge may be made after the administrative law judge has ruled upon any motion, other than a motion to extend time in the case, or after the hearing has commenced, whichever is earlier.

(3) The administrative law judge will issue a written ruling on the motion for withdrawal or disqualification, setting forth the grounds therefore, within ten days of the receipt of the motion. The ruling will be sent to the commissioner, the Agency, and all parties.

(4) When an administrative law judge has been disqualified, the commissioner will designate another administrative law judge to preside over the contested case proceeding. The Forum will notify the participants of this designation.

Stat. Auth.: ORS 183 & 651.060(4)
Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850
Hist.: BL 8-1986, f. & ef. 9-2-86; BL 10-1988, f. & cert. ef. 6-16-88; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0065; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0170

Joinder of Parties, Claimants, Complainants, or Aggrieved Persons

(1) Complainants or claimants: Any number of persons may be joined in one proceeding as complainants or claimants if they assert a right to relief arising out of the same or similar transaction(s) or occurrence(s) and if questions of law or fact common to all these persons will arise in the proceeding.

(2) Parties: Any number of persons may be joined in one proceeding as parties if there is asserted against them any right to relief arising out of the same transaction(s) or occurrence(s) and if questions of law or fact common to all these persons will arise in the proceeding.

(3) Aggrieved persons: Any aggrieved person may intervene and be joined as a party in a proceeding in which the Agency has issued Formal Charges alleging violations of ORS 659A.145, 659A.421, or federal housing law. The procedures set out in OAR 137-003-0005 of the Attorney General's Model Rules apply.

(4) The Final Order may find for or against one or more of the complainants or claimants, aggrieved persons, or parties according to their respective rights or liabilities.

(5) Misjoinder of complainants, claimants, or parties is not a ground for dismissal of a proceeding. Parties may be added or deleted by order of the administrative law judge upon the motion of any participant, upon the administrative law judge's own motion, or upon the application of any person or entity seeking party or limited party status, at any stage of the contested case proceeding. When necessary to complete disposition of the case,

the administrative law judge may postpone the hearing to allow a newly added complainant, claimant, or party to prepare for the hearing.

(6) In proceedings in which the Agency has issued Formal Charges alleging violations of ORS 659A.145, 659A.421, or federal housing law, misjoinder of an aggrieved person is not a ground for dismissal of the proceeding. Aggrieved persons may be added by order of the administrative law judge under OAR 137-003-0005 at any stage of the contested case proceeding.

Stat. Auth.: ORS 183 & 651.060(4)
Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845, 659A.850, & 659A.885
Hist.: BL 8-1986, f. & ef. 9-2-86; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0085; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 38-2008, f. & cert. ef. 11-7-08; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0180

Dual Hearings

(1) The commissioner may hold a hearing to resolve the allegations set forth in two or more charging documents when:

(a) The same evidence will be presented in both cases; and

(b) There will not be substantial prejudice to any party.

(2) The issues in both cases need not be the same, nor must the same enforcement means or damages be sought.

(3) Conduct of the hearing includes establishing the procedure for the hearing, questioning of witnesses, and ruling on motions and objections to evidence.

(4) The administrative law judge will issue a Proposed Order to the commissioner in the case. All other rules governing the issuance of any charging document or the hearings process apply to dual hearings.

Stat. Auth.: ORS 183 & 651.060(4)
Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850
Hist.: BL 8-1986, f. & ef. 9-2-86; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0095; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0190

Consolidation of Hearings

The administrative law judge may order a joint contested case hearing for two or more cases when the administrative law judge determines that the cases involve common questions of law or fact. The administrative law judge, in conducting the hearing, may establish procedures necessary to avoid additional costs or delay.

Stat. Auth.: ORS 183 & 651.060(4)
Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850
Hist.: BL 8-1986, f. & ef. 9-2-86; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0095; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0200

Discovery

(1) The administrative law judge has the discretion to order discovery by a participant in appropriate cases. This rule does not require the administrative law judge to authorize any discovery. If the administrative law judge does authorize discovery, the administrative law judge will control the methods, timing, and extent of discovery, but nothing in this rule prevents informal exchanges of information. When the administrative law judge orders discovery, the administrative law judge will notify the participants of the possible sanction, pursuant to section (11) of this rule, for failure to provide the discovery ordered.

(2) Discovery may include but is not limited to one or more of the following:

(a) Disclosure of names and addresses of witnesses expected to testify at the hearing;

(b) Production of documents;

(c) Production of objects for inspection or permission to enter upon land to inspect land or other property;

(d) Written interrogatories to be served on a participant; and

(e) Requests for admission.

(3) Depositions are strongly disfavored and will be allowed only when the requesting participant demonstrates that other methods of discovery are so inadequate that the participant will be substantially prejudiced by the denial of a motion to depose a particular witness.

(4) Except as provided in sections (6) and (9) of this rule, before requesting a discovery order, a participant must seek the discovery through an informal exchange of information.

ADMINISTRATIVE RULES

(5) Except as provided in sections (6) and (9) of this rule, a request for a discovery order must be filed with the Forum, be in writing, and must include a description of the attempts to obtain the requested discovery informally. The administrative law judge will consider any objections by the participant from whom discovery is sought.

(6) A participant seeking information from another participant by means of written interrogatories may serve that participant with up to 25 interrogatories, including all discrete subparts, to be answered by the participant served, or, in the case of a corporation, unincorporated association, or government agency, by its officer or agent. A participant wishing to serve another participant with more than 25 interrogatories must file a motion identifying the participant to be served, setting forth a general description of the nature of the information to be sought and its relevance, and explaining why the additional interrogatories are necessary. Each interrogatory must be answered separately and fully in writing under oath, unless it is objected to, in which event the objecting party must state the reasons for objection and must answer to the extent the interrogatory is not objectionable. The answers are to be signed by the person making them. The participant served with interrogatories must serve its answers and objections, if any, within 14 days after service of the interrogatories. The administrative law judge may alter the deadline for answers to interrogatories upon motion by either participant.

(7) Any discovery request must be reasonably likely to produce information that is generally relevant to the case. If the relevance of the requested discovery is not apparent, the administrative law judge may require the participant requesting discovery to explain how the request is likely to produce relevant information. If the request appears unduly burdensome, the administrative law judge may require an explanation of why the requested information is necessary or is likely to facilitate resolution of the case.

(8) The administrative law judge will issue an order granting or denying a discovery request in whole or in part. Participants must comply with such orders and have a continuing obligation, through the close of the hearing, to provide the other participants with any newly discovered material that is within the scope of the discovery order.

(9) Unless limited by the administrative law judge, the participants may issue subpoenas in support of discovery. Counsel representing a party may issue subpoenas in the same manner as subpoenas are issued in civil actions, as set forth in the Oregon Rules of Civil Procedure. The administrative law judge may issue subpoenas in support of discovery for any party not represented by counsel. The Bureau of Labor and Industries may apply to the circuit court to compel obedience to a subpoena.

(10) A party wishing the administrative law judge to issue a subpoena on its behalf must file a motion with the Forum as soon as practicable after it is served with the notice of hearing, but in no event less than seven days prior to hearing. The motion must include a showing of general relevance and reasonable scope of the evidence sought. If the motion is granted, the Forum will deliver the subpoena to the party that requested it. The party will then be responsible for serving the subpoena and for paying any applicable witness fees.

(11) The administrative law judge may refuse to admit evidence that has not been disclosed in response to a discovery order or subpoena, unless the participant that failed to provide discovery shows good cause for having failed to do so or unless excluding the evidence would violate the duty to conduct a full and fair inquiry under ORS 183.415(10). If the administrative law judge admits evidence that was not disclosed as ordered or subpoenaed, the administrative law judge may grant a continuance to allow an opportunity for the other participant(s) to respond.

(12) The authority to order and control discovery rests with the administrative law judge.

Stat. Auth.: ORS 183 & 651.060(4)

Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850

Hist.: BL 8-1986, f. & ef. 9-2-86; BL 10-1988, f. & cert. ef. 6-16-88; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0071; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 4-2002, f. 2-14-02, cert. ef. 2-15-02; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0210 Case Summary

(1) Prior to any contested case hearing, the administrative law judge may issue a discovery order directing the participants to prepare a case summary, due no later than 14 calendar days before the hearing date, containing any or all of the following:

(a) A list of all persons to be called as witnesses, including expert witnesses, at the hearing, except that impeachment or rebuttal witnesses need not be included on the witness list;

(b) The qualifications of any expert witnesses and the substance of the facts and opinions to which the experts are expected to testify;

(c) Identification and description of any document or other physical evidence to be offered into evidence at the hearing, together with two copies of any such document, except that evidence offered solely for impeachment or rebuttal need not be identified or furnished;

(d) Statement of any defenses to the claim;

(e) Statement of any agreed or stipulated facts;

(f) Statement, when appropriate, of any applicable agency policies together with, in the discretion of the Agency, any supporting documents or information on which such policies are based.

(2) When a party is unrepresented by counsel, the administrative law judge may order the party to produce a summary of the case containing only the information and documents described in subsections (1)(a), (b), and (c) of this rule.

(3) Each participant must serve a copy of its case summary, including all documents or other physical evidence to be offered into evidence at the hearing as described in (1)(c) of this rule, on the other participants. Following production of the case summary and before the start of the hearing, a participant must, as soon as practicable, file and serve the other participants with an addendum to its case summary if the participant intends to offer as evidence at the hearing any additional documents, physical exhibits, or testimony that was not identified in the original case summary. The addendum must meet the requirements of paragraphs (1)(a), (1)(b), and (1)(c) of this rule, as applicable. As with the original case summary, evidence to be offered solely for impeachment or rebuttal need not be identified or furnished.

(4) When the administrative law judge orders a case summary, the administrative law judge will notify the participants of the possible sanction, pursuant to OAR 839-050-0210(5), for failure to provide the case summary.

(5) The administrative law judge may refuse to admit evidence that has not been disclosed in response to a case summary order, unless the participant that failed to provide the evidence offers a satisfactory reason for having failed to do so or unless excluding the evidence would violate the duty to conduct a full and fair inquiry under ORS 183.417(8). If the administrative law judge admits evidence not provided in response to a case summary order, the administrative law judge may grant a continuance to allow an opportunity for the other participants to respond.

Stat. Auth.: ORS 183 & 651.060(4)

Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850

Hist.: BL 8-1986, f. & ef. 9-2-86; BL 10-1988, f. & cert. ef. 6-16-88; BL 6-1989, f. & cert. ef. 9-5-89; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0071; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 4-2002, f. 2-14-02, cert. ef. 2-15-02; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0220 Informal Disposition of Contested Case

(1) After the Agency issues a charging document, a case may be resolved informally by stipulation, agreed settlement, consent order, settlement agreement, or default.

(2) When a charging document involves a license revocation proceeding, informal settlement may be made by written agreement of the parties and the Agency consenting to a suspension, civil penalty, or other intermediate sanction.

(3) Any informal disposition of a contested case, other than by default, must be in writing and signed by the party or parties to the case and the Agency.

(4) A party interested in resolving a case before the contested case hearing should contact the assigned Administrative Prosecutor. Settlement negotiations are not a basis for postponing the hearing and participants should continue to prepare for hearing until they reach an agreement to settle. An agreement to settle is reached when the participants have agreed to resolve all issues of the contested case and have agreed, orally or in writing, to all terms and conditions of the agreement.

(5) When an agreement to settle is reached before the hearing date, the participants will submit a joint written notice to the Forum that includes a synopsis of the substantive terms and conditions of the agreement. The administrative law judge will waive the case summary requirement and cancel the hearing upon receipt of the written notice of agreement to settle and synopsis of the substantive terms and conditions of the agreement signed by the Administrative Prosecutor and respondent or respondent's authorized representative or counsel, if represented. The participants will file fully executed settlement documents with the Forum within 10 days after submitting written notice of the agreement to settle. If fully executed

ADMINISTRATIVE RULES

settlement documents are not filed within that period and no extension of time to submit those documents has been granted, the administrative law judge will set a new hearing date that is at least 14 days after the original hearing date unless the administrative law judge and participants agree to an earlier date. No further cancellations or postponements will be allowed based on a purported settlement and the case summary requirement will not be waived for the rescheduled hearing.

(6) Fully executed settlement documents submitted to the Forum will not contain terms the Agency lacks the authority to enforce or to which the Agency is not a party, such as an agreement by a claimant or complainant not to pursue legal action against a respondent other than the claim or complaint being settled.

(7) Fully executed settlement documents submitted to the Forum will not contain provisions requiring the settlement terms to be confidential or requiring a claimant, complainant, or the Agency to keep the settlement terms confidential.

(8) Participants waive their right to a contested case hearing by their signatures on fully executed settlement documents.

(9) When a contested case is resolved by informal disposition other than default (see OAR 839-050-0330), the administrative law judge will incorporate the settlement terms into a Final Order Incorporating Informal Disposition ("FOID"). When an Order of Determination or Notice of Intent has been issued, but a Notice of Hearing has not been issued, the fully executed settlement document may be incorporated into a FOID by either the Administrator of the Wage and Hour Division or an administrative law judge.

(a) The Forum will deliver or mail a copy of a FOID issued by an administrative law judge, and the Wage and Hour Division will deliver or mail a copy of a FOID issued by the Administrator of the Wage and Hour Division, to each participant and participant's attorney of record.

(b) A FOID is not subject to ORS 183.470.

(c) A FOID is not subject to judicial review.

(d) Within 60 days after a FOID is issued, a participant may petition the Bureau of Labor and Industries to set aside the order on the ground that the informal disposition was obtained by fraud or duress.

Stat. Auth.: ORS 183 & 651.060(4)

Stats. Implemented: ORS 183.417(3), 279.361, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820 & 659A.850

Hist.: BL 8-1986, f. & ef. 9-2-86; BL 10-1988, f. & cert. ef. 6-16-88; BL 6-1989, f. & cert. ef. 9-5-89; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0200; BL 12-1996, f. & cert. ef. 12-10-96; BLI 3-1998, f. & cert. ef. 2-11-98; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 6-2005, f. 2-8-05, cert. ef. 2-11-05; BLI 35-2008, f. 10-22-08, cert. ef. 10-25-08; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0230

Authority of the Administrative Prosecutor

(1) The Administrative Prosecutor is authorized by ORS chapter 183 to appear on behalf of and represent the Agency. The Administrative Prosecutor may perform any function not prohibited by this rule.

(2) The case presenter may not present legal argument during the contested case proceeding except to the extent authorized by section 3 of this rule. "Legal argument" includes arguments on:

(a) The jurisdiction of the agency to hear the contested case;

(b) The constitutionality of a statute or rule or the application of a constitutional requirement to an agency;

(c) The application of court precedent to the facts of the particular contested case proceeding.

(3) The administrative law judge may allow the Administrative Prosecutor to present evidence; examine and cross-examine witnesses; and make arguments relating to the:

(a) Application of statutes and rules to the facts in the contested case;

(b) Actions taken by the Agency in the past in similar situations;

(c) Literal meaning of the statutes or rules at issue in the contested case;

(d) Admissibility of evidence; and

(e) Proper procedures to be used in the contested case hearing.

(4) When an Administrative Prosecutor is representing the Agency in a hearing, the administrative law judge will advise such representative of the manner in which objections may be made and matters preserved for appeal. Such advice is of a procedural nature and does not change applicable law on waiver or the duty to make timely objection. When such objections may involve legal argument as defined in section 2 of this rule, the administrative law judge will provide reasonable opportunity for the Administrative Prosecutor to consult legal counsel and permit such legal counsel to file written legal argument within a reasonable time after the conclusion of the hearing.

Stat. Auth.: ORS 183 & 651.060(4)

Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850

Hist.: BL 10-1988, f. & cert. ef. 6-16-88; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0059; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0240

Responsibilities of the Administrative Law Judge

(1) The commissioner designates as administrative law judges those employees who are employed by the Agency as hearings officers and those persons who are appointed to preside at particular hearings. The commissioner delegates to such designee the authority to:

(a) Rule on all motions filed prior to the hearing.

(b) Issue subpoenas and otherwise oversee the discovery process in a manner consistent with rules relating to these powers.

(c) Hold appropriate conferences, if necessary, before or during the course of the hearing to discuss the conduct of the proceedings or the issues to be presented.

(d) Regulate the course of the hearing, including scheduling, reconvening, and adjourning.

(e) Maintain order during the course of the hearing, including the authority to expel persons whose conduct is disruptive.

(f) Make rulings on motions or evidence, with or without objection, during the hearing.

(g) Question witnesses at the hearing and set time limitations for argument or presentation.

(h) Limit or extend filing periods.

(i) Decide procedural matters, but not grant motions for summary judgment or other motions by a party that involve final determination of the proceeding, but to issue a Proposed Order as provided for in these rules. Nothing in this section may be construed to prohibit the administrative law judge from making a routine disposition of a hearing proceeding based on a settlement, on the Agency's withdrawal of the charging document, or on other reasons not requiring a Final Order by the commissioner.

(j) Prepare a Proposed Order at the conclusion of the contested case hearing and send it to the Agency, the commissioner, and all parties to the case; and at the request of the commissioner, assist in responding to any exceptions and the preparation of the Final Order.

(k) Take any other action consistent with the duties of an administrative law judge.

(2) In a contested case proceeding alleging an unlawful practice under ORS 659A.145 or 659A.421, or discrimination under federal housing law, only an employee of the bureau may be a member of a special tribunal or administrative law judge appointed to hear the matter.

Stat. Auth.: ORS 183 & 651.060(4)

Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845, 659A.850

Hist.: BL 8-1986, f. & ef. 9-2-86; BL 12-1986, f. 10-29-86, ef. 10-30-86; BL 10-1988, f. & cert. ef. 6-16-88; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0100; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 12-2010, f. 3-1-10, cert. ef. 3-3-10; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0250

Conduct of Hearings

The hearing will be conducted by and under the control of the administrative law judge.

(1) The administrative law judge will open the hearing with a brief introduction of the Agency, the parties and issues, including all information required by ORS 183.413(2) and 183.415(7).

(2) Each participant may be given an opportunity to make an opening statement describing the evidence and issues to be presented at the hearing.

(3) The Administrative Prosecutor will present evidence in support of the charging document.

(4) Any person, government agency, or entity granted party status may present additional evidence in support of the charging document.

(5) Each party opposing the charging document must present evidence in support of the party's position.

(6) Participants will have the right to conduct cross-examination of adverse witnesses.

(7) Participants may present rebuttal evidence.

(8) Participants may be given the opportunity to make a closing statement at the conclusion of the testimony.

(9) The administrative law judge has the right to question any witness. The administrative law judge may request any participant to provide additional evidence, and may recess the hearing when necessary to allow the participant the opportunity to gather and present the requested evidence.

ADMINISTRATIVE RULES

(10) In any proceeding the administrative law judge may call the participants together for a pre-hearing conference in order to ascertain what is disputed, hear argument on motions, order discovery, or resolve procedural matters. At any time during the hearing, the administrative law judge may recess the hearing in order to conduct such a conference. The results of any conference will be summarized on the record, except that argument on motions will be recorded verbatim.

(11) When the testimony of a witness not present at the hearing is necessary to the complete and fair adjudication of the case, the administrative law judge may admit testimony of the witness by telephone or other two-way communication device. In such cases:

(a) The testimony of the witness will be broadcast simultaneously to all participants and to the administrative law judge;

(b) All rules governing the questioning of witnesses present at the hearing apply to witnesses whose testimony is taken by telephone; and

(c) The participant presenting the witness by telephone will provide the witness's telephone number and the approximate time that the witness will be available.

(12) The Agency has the right to submit a statement of policy concerning any issue that may arise in the course of the hearing.

Stat. Auth.: ORS 183 & 651.060(4)

Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850

Hist.: BL 8-1986, f. & ef. 9-2-86; BL 10-1988, f. & cert. ef. 6-16-88; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0105; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0255

Telephone Hearings

(1) A "telephone hearing" is one in which at least one participant is not physically present at the hearing but participates by telephone or other two-way communication device.

(2) The administrative law judge has the discretion to hold a hearing or portion of a hearing by telephone. Nothing in this rule precludes the administrative law judge from allowing some parties or witnesses to attend by telephone while others attend in person.

(3) The administrative law judge may direct that a hearing be held by telephone upon request or on the administrative law judge's own motion.

(4) Fourteen days before the telephone hearing is scheduled to occur each participant must deliver to the Forum and each other participant copies of documentary evidence that it will seek to introduce into the record and a list of all persons to be called as witnesses.

(5) The administrative law judge may refuse to admit evidence not disclosed as required by section (4) of this rule, unless the participant that failed to provide the documentary evidence and the list of witnesses offers a satisfactory reason for having failed to do so or unless excluding the evidence would violate the duty to conduct a full and fair inquiry under ORS 183.415(10). If the administrative law judge admits evidence that was not disclosed as required, the administrative law judge may grant a continuance to allow an opportunity for the other participant(s) to respond.

Stat. Auth.: ORS 183 & 651.060(4)

Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850

Hist.: BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 4-2002, f. 2-14-02, cert. ef. 2-15-02; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0260

Evidence

(1) All evidence of the type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs, including hearsay if reliable, will be admissible.

(2) Irrelevant, immaterial, or unduly repetitious evidence may be excluded.

(3) The burden of presenting evidence to support a fact or proposition rests on the proponent of that fact or proposition.

(4) The burden of presenting evidence to establish a prima facie case rests with the Agency.

(5) When appropriate, the burden of proving failure to mitigate damages rests with the party opposing damages.

(6) Any witness, including Agency staff, may submit evidence to the administrative law judge.

(7) All offered evidence to which there is no objection may be received by the administrative law judge subject to the administrative law judge's power to exclude irrelevant, immaterial, or unduly repetitious matters.

(8) Evidence on which an objection is made may be taken by the administrative law judge. Rulings on the admissibility or exclusion of this

evidence will be made at the hearing or at the time the Proposed Order in the case is issued.

(9) Any declaration, affidavit, certificate, or document included with a case summary or that a participant serves on the other participants at least ten days before hearing may be offered and received into evidence unless cross-examination is requested of the declarant, affiant, certificate preparer, or other document preparer or custodian no later than five days prior to hearing or, for good cause shown, by such other date as the administrative law judge may set. A declaration, affidavit or certificate may be offered and received with the same effect as oral testimony.

(10) If cross-examination is requested of the declarant, affiant, certificate preparer or other document preparer or custodian as provided in section (9) of this rule and the preparer is not made available for cross-examination, but the declaration, affidavit, certificate or other document is offered in evidence, the same may be received in evidence, provided the administrative law judge determines that:

(a) The contents of the document are otherwise admissible; and

(b) The participant requesting cross-examination would not be substantially prejudiced by the lack of cross-examination.

(11) The administrative law judge will accept an offer of proof made for excluded evidence. The administrative law judge has the discretion to decide when and in what form the offer of proof will be made and may place reasonable time or page limits on the offer of proof.

Stat. Auth.: ORS 183 & 651.060(4)

Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850

Hist.: BL 8-1986, f. & ef. 9-2-86; BL 10-1988, f. & cert. ef. 6-16-88; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0120; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0270

Exhibits

(1) Hearing participants must premark their exhibits. Agency exhibits will be marked with "A" (for example, A-1, A-2, etc.), and respondent exhibits will be marked with "R" (for example, R-1, R-2, etc.). The administrative law judge will preserve the exhibits received as part of the record of the proceedings.

(2) All paper exhibits must be no larger than 8-1/2 by 11 inches in size and the participant presenting this exhibit must bring two copies of the exhibit to the hearing in addition to the copies already provided with the case summary. Participants must bring four copies of rebuttal or impeachment exhibits to the hearing unless those exhibits were previously submitted with the case summary, in which case only two additional copies are required at the hearing.

(3) Larger exhibits are allowed; however, in order to be included in the record, the information contained in the exhibit must be reduced to paper 8 1/2 by 11 inches in size.

(4) Variation from the exhibit size requirements will be allowed only when there is no reasonable alternative.

Stat. Auth.: ORS 183 & 651.060(4)

Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850

Hist.: BL 8-1986, f. & ef. 9-2-86; BL 10-1988, f. & cert. ef. 6-16-88; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0125; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 4-2002, f. 2-14-02, cert. ef. 2-15-02; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0280

Stipulation

(1) Prior to the hearing, participants to a contested case may agree to all or some of the facts involved in the controversy. This may be done through a written and signed stipulation or an oral stipulation made on the record during a prehearing conference. Such a stipulation of facts is binding upon those who agree to it and will be regarded and used as evidence at the hearing. During the hearing, participants may stipulate to facts involved in the controversy. The administrative law judge is bound by the facts set forth in a stipulation, but not by any conclusion drawn from those facts.

(2) Any party interested in stipulating to all or any part of the facts involved in the case should contact the Administrative Prosecutor identified in the notice of hearing. The Agency may also contact any party requesting that a stipulation be entered on all or any part of the facts.

Stat. Auth.: ORS 183 & 651.060(4)

Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850

Hist.: BL 8-1986, f. & ef. 9-2-86; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0135; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 5-2014, f. & cert. ef. 4-15-14

ADMINISTRATIVE RULES

839-050-0290

Witnesses

All testimony to be taken at the hearing, except matters officially noticed or entered by stipulation, will be sworn or affirmed. This may include testimony given on deposition, by declaration, or in answers to interrogatories.

Stat. Auth.: ORS 183 & 651.060(4)
Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850
Hist.: BL 8-1986, f. & ef. 9-2-86; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0140; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0300

Interpreters and Assistive Communication Devices

(1) When a person unable to speak or understand the English language, or having a physical hearing or speaking impairment, is involved in a contested case hearing, such person is entitled to a qualified interpreter or appropriate assistive communication device. All interpreters will be appointed by the administrative law judge. A participant wishing to obtain the services of an interpreter or to obtain an assistive communication device must notify the administrative law judge no later than 20 days before the hearing. Such notification must include:

(a) The name of the person needing a qualified interpreter or assistive communication device;

(b) The person's status as a party or a witness in the proceeding; and

(c) If the request is on behalf of:

(A) A person with a physical hearing or speaking impairment, the nature and extent of the person's impairment, and the type of aural interpreter, or assistive communication device needed or preferred; or

(B) A person unable to speak or understand the English language, the language spoken by the person unable to speak or understand the English language.

(2) If a person with a physical hearing or speaking impairment is a party or a witness in a hearing:

(a) The administrative law judge will appoint a qualified interpreter and make available appropriate assistive communication devices whenever it is necessary to interpret the proceedings to, or to interpret the testimony of, the person with a physical hearing or speaking impairment.

(b) No fee will be charged to the person with a physical hearing or speaking impairment for the appointment of an interpreter or use of an assistive communication device. No fee will be charged to any person for the appointment of an interpreter or the use of an assistive communication device if appointment or use is made to determine whether the person has a physical hearing or speaking impairment.

(3) If a person unable to speak or understand the English language is a party or a witness in a hearing:

(a) The administrative law judge will appoint a qualified interpreter whenever it is necessary to interpret the proceedings to a party unable to speak or understand the English language, to interpret the testimony of a party or a witness unable to speak or understand the English language, or to assist the administrative law judge in performing the duties of the administrative law judge.

(b) No fee will be charged to any person for the appointment of an interpreter to interpret the testimony of a party or witness unable to speak or understand the English language, or to assist the administrative law judge in performing the duties of the administrative law judge. No fee will be charged to a party unable to speak or understand the English language who is unable to pay for the appointment of an interpreter to interpret the proceedings to the party unable to speak or understand the English language. No fee will be charged to any person for the appointment of an interpreter if an appointment is made to determine whether the person is unable to pay or is a person unable to speak or understand the English language.

(c) A party unable to speak or understand the English language will be considered unable to pay for a qualified interpreter for purposes of this rule if:

(A) The party makes a verified statement and provides other information in writing under oath showing financial inability to pay for a qualified interpreter and provides any other information required by the Forum concerning the inability to pay for such an interpreter; and

(B) It appears to the Forum that the party is in fact unable to pay for a qualified interpreter.

(d) The administrative law judge has the authority to determine whether the party is unable to pay for a qualified interpreter.

(4) When a participant requests the services of an interpreter, the administrative law judge will appoint a qualified interpreter who has been certified under ORS 45.291. If no certified interpreter is available, able or

willing to serve, the administrative law judge will appoint a qualified interpreter. For the purposes of these rules, a "qualified interpreter" means:

(a) For a person with a physical hearing or speaking impairment, a person readily able to communicate with the person with the impairment, interpret the proceedings and accurately repeat and interpret the statements of the person with the impairment to the administrative law judge.

(b) For a person unable to speak or understand the English language, a person readily able to communicate with the person unable to speak or understand the English language and who can orally transfer the meaning of statements to and from English and the language spoken by the person unable to speak or understand the English language. A qualified interpreter must be able to interpret in a manner that conserves the meaning, tone, level, style and register of the original statement, without additions or omissions. "Qualified interpreter" does not include a person who is unable to interpret the dialect, slang or specialized vocabulary used by the party or witness.

(5) When the hearing begins, the administrative law judge will require the person serving as an interpreter to state the person's name on the record and whether the person is certified under ORS 45.291. If the interpreter is certified, the interpreter will not be required to make the oath or affirmation required by 40.325 or to submit the interpreter's qualifications on the record. If an interpreter is not certified under 45.291, the administrative law judge will require the interpreter to state or submit the interpreter's qualifications on the record and make an oath or affirmation to make a true and impartial interpretation of the proceedings in an understandable manner using the interpreter's best skills and judgment in accordance with the standards and ethics of the interpreter profession.

(6) The administrative law judge will not appoint any person under these rules if:

(a) The person has a conflict of interest with any of the participants or witnesses;

(b) The person is unable to understand the administrative law judge, participants or witnesses or cannot be understood by the administrative law judge, participants or witnesses; or

(c) The person is unable to cooperate with administrative law judge, the person in need of an interpreter, or the counsel for that person.

Stat. Auth.: ORS 183 & 651.060(4)
Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850
Hist.: BL 8-1986, f. & ef. 9-2-86; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0145; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 4-2002, f. 2-14-02, cert. ef. 2-15-02; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 13-2006, f. 3-23-06, cert. ef. 3-24-06; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0310

Ex Parte Communications

(1) An ex parte communication is an oral or written communication to an agency decision maker or the presiding officer not made in the presence of all parties to the hearing, concerning a fact in issue in the proceeding, but does not include communication from agency staff or counsel about facts in the record.

(2) The administrative law judge will place on the record a statement of the substance of any ex parte communication on a fact in issue made to the administrative law judge while the proceeding is pending. Participants will be given notice of such ex parte communication and of their right to rebut the substance of the ex parte communication on the record.

Stat. Auth.: ORS 183 & 651.060(4)
Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850
Hist.: BL 8-1986, f. & ef. 9-2-86; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0101; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 16-2011, f. 12-30-11, cert. ef. 1-1-12; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0320

Official Notice

The administrative law judge and commissioner may take notice of judicially cognizable facts and of general, technical, or scientific facts within the specialized knowledge of the administrative law judge or commissioner. Participants will be notified at any time during the proceeding of material officially noticed, and they will be afforded the opportunity to contest the fact so noticed. The notice required by this section may be given to the participants during the hearing, prior to the issuance of the Proposed Order, or in the Proposed Order in the matter.

Stat. Auth.: ORS 183 & 651.060(4)
Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850
Hist.: BL 8-1986, f. & ef. 9-2-86; BL 10-1988, f. & cert. ef. 6-16-88; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0130; BL

ADMINISTRATIVE RULES

12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 4-2002, f. 2-14-02, cert. ef. 2-15-02; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0330

Default

(1) Default may occur when:

(a) A party fails to file a required response, including a request for hearing or an answer, within the time specified in the charging document;

(b) A party withdraws a request for hearing;

(c) The Forum has scheduled a hearing and a party notifies the Agency or the administrative law judge that the party will not appear at the specified time and place; or

(d) Notice regarding the time and place of the hearing was sent to the party and the party fails to appear at the scheduled hearing.

(2) Under the circumstances described in (1)(b)–(d) of this rule, the administrative law judge will take evidence to establish a prima facie case in support of the charging document. If the Agency designated the Agency file as the record in its charging document and no further testimony or evidence is necessary to establish a prima facie case, the Agency file, including all materials submitted by a party, shall constitute the record. No hearing shall be conducted and the administrative law judge shall issue a final order by default. If the Agency has not designated the Agency file as the record and further testimony and evidence is necessary to establish a prima facie case, the administrative law judge will commence the hearing at the scheduled time. If a party fails to appear at the time of hearing, the administrative law judge will wait no longer than 30 minutes from the time set for the hearing to commence the hearing.

(3) If the party failed to appear at the hearing and, before issuing a final order by default, the administrative law judge finds that the party had good cause for not appearing, the administrative law judge may not issue a final order by default under this rule. In this case, the administrative law judge shall schedule a new hearing. If the reasons for the party's failure to appear are in dispute, the administrative law judge shall schedule a hearing on the reasons for the party's failure to appear.

(4) When a party is in default, the Agency has not designated the Agency file as the record in its charging document, and the administrative law judge has not granted relief from default, the administrative law judge will take evidence of a prima facie case from the Agency at hearing. The administrative law judge will not permit the defaulted party to participate in any manner in the hearing, including, but not limited to, presentation of witnesses or evidence on the party's own behalf, examination of Agency witnesses, objection to evidence presented by the Agency, making of motions or argument, and filing exceptions to the Proposed Order.

Stat. Auth.: ORS 183 & 651.060(4)

Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850

Hist.: BL 8-1986, f. & ef. 9-2-86; BL 4-1987, f. 2-11-87, ef. 2-13-87; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0185; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0340

Relief from Default

(1) A party seeking relief from default must file a written request for relief from default within 10 days after any of the following:

(a) A Final Order by default has been issued by the administrator of the Wage and Hour Division;

(b) A notice of default has been issued; or

(c) A party has failed to appear at a hearing and the administrative law judge has issued a Final Order by default.

(2) Relief from default may be granted when the party's written request for relief from default shows good cause for the party's action or inaction that caused the default. The party's request should state any facts supporting the party's claim of good cause and include any documents that support the party's claim.

(3) The computation of the 10-day deadline for filing begins on the day after one of the events listed in (1)(a), (b) or (c) of this rule occurs. If the 10th day is a Saturday, Sunday, furlough day officially recognized by the State of Oregon, or holiday officially recognized by the State of Oregon or the federal government, the 10-day deadline will expire at 5 p.m. of the next day that is not a Saturday, Sunday, furlough day or holiday. A request for relief from default is filed on the date that it is postmarked or received, whichever is earlier.

(4) A request for relief from default made after a Final Order by default has been issued by the administrator of the Wage and Hour Division must be addressed to the administrator of the Wage and Hour Division and ruled upon by an administrative law judge. When the administrator of the

Wage and Hour Division receives a request for relief from default, the administrator will forward that request to the Forum for assignment to an administrative law judge, along with a copy of the Final Order by default. The administrator may also file a response to the request for relief from default. Any response the administrator files will be served on the requesting party.

(5) A request for relief from default made after a notice of default has been issued or after the party has failed to appear at a hearing and the administrative law judge has issued a Final Order on default must be addressed to and ruled upon by the administrative law judge. If the administrative law judge grants the party's request for relief from default, the administrative law judge shall schedule a new hearing.

Stat. Auth.: ORS 183 & 651.060(4)

Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850

Hist.: BL 8-1986, f. & ef. 9-2-86; BL 4-1987, f. 2-11-87, ef. 2-13-87; BL 10-1988, f. & cert. ef. 6-16-88; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0190; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 16-2011, f. 12-30-11, cert. ef. 1-1-12; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0350

Record of Proceeding

(1) A verbatim, written and/or mechanical record of the proceeding will be made that includes:

(a) All pleadings, motions, legal memoranda, correspondence, and rulings made by the administrative law judge;

(b) The case summary submitted by any participant;

(c) Evidence received or considered;

(d) Stipulations approved by the administrative law judge;

(e) A statement of matters officially noticed;

(f) Questions asked, offers of proof and objections and rulings made during the hearing;

(g) A statement of any ex parte communications on a fact at issue made to the administrative law judge;

(h) The Proposed Order by the administrative law judge;

(i) Exceptions filed by any participant;

(j) Nonconfidential advice from counsel to the Agency;

(k) Policy statements submitted by the Agency; and

(l) The commissioner's Final Order.

(2) The record in the case does not close until the Forum has received all documents, statements, and advice requested. The administrative law judge will determine the date upon which the record closed.

(3) The written or mechanical record ordinarily will not be transcribed unless requested for purposes of court review.

Stat. Auth.: ORS 183 & 651.060(4)

Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850

Hist.: BL 8-1986, f. & ef. 9-2-86; BL 10-1988, f. & cert. ef. 6-16-88; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0150; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0360

Post-Hearing Briefs

(1) The administrative law judge may request a post-hearing brief from a participant. The administrative law judge will state the specific issues to be briefed and the deadline for filing the brief.

(2) If a party's brief contains legal argument as defined in OAR 839-050-0110(4), the party must file its brief through counsel, except if the party is an individual who is not required under 839-050-0110(1) to be represented by counsel and personally files the brief. The Agency may respond to the administrative law judge's request by filing a legal brief from the Attorney General or an Agency statement of policy.

(3) Nothing in this rule limits the administrative law judge's authority to request a statement of policy from the Agency.

Stat. Auth.: ORS 183 & 651.060(4)

Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820 & 659A.850

Hist.: BL 8-1986, f. & ef. 9-2-86; BL 10-1988, f. & cert. ef. 6-16-88; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0155; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 6-2005, f. 2-8-05, cert. ef. 2-11-05; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0370

Proposed Orders

(1) The administrative law judge will prepare and serve upon the commissioner and all participants a Proposed Order including the following:

(a) Rulings, motions, or objections, including those rulings previously reserved;

ADMINISTRATIVE RULES

(b) Findings of fact, including those matters at issue that are either agreed to as fact at the hearing or by stipulation, or that, when disputed, are determined by the administrative law judge to be a fact over contentions to the contrary, and will include:

(A) A concise statement of facts supporting the findings as to each contested issue of fact;

(B) Ultimate facts required to support the Agency's order; and

(C) Credibility findings when credibility is of importance in the decision of the case, including the evidence relied on to reach this finding and the relevance of that evidence.

(c) Conclusions of law;

(d) An opinion explaining the rationale for the findings of fact and conclusions of law; and

(e) An order setting forth the administrative law judge's suggested determination, when the proposed decision is adverse to the party, of the amount owed by the party and any other relief within the authority of the commissioner.

(2) Proposed Orders will include a statement that written exceptions, if any, must be filed by participants within ten days of the date of issuance of the Proposed Order.

(3) Unless it is not practicable to do so, a proposed order in a case involving alleged violations of ORS 659A.145 or 659A.421, or federal housing law, will be issued within 60 days of the date of the closure of the hearing record. If the issuance of the proposed order will be delayed, written notice will be given to the participants by the administrative law judge as to the general reasons for the delay.

Stat. Auth.: ORS 183 & 651.060(4)

Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845, 659A.850

Hist.: BL 8-1986, f. & ef. 9-2-86; BL 12-1986, f. 10-29-86, ef. 10-30-86; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0160; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 12-2010, f. 3-1-10, cert. ef. 3-3-10; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0380

Exceptions to Proposed Order

(1) Any participant may file exceptions to the Proposed Order. Exceptions must be specific and must be in writing. No oral argument is allowed on exceptions unless requested by the administrative law judge. Any new facts presented or issues raised in exceptions will not be considered by the commissioner in the Final Order.

(2) Exceptions filed by the Agency may include factual summaries, statements of policy, corrections, and prior Agency decisions, but may not include legal argument as defined in OAR 839-050-0110(4) unless the Agency is represented by counsel.

(3) Exceptions filed by a party's authorized representative may include factual summaries, statements of policy, corrections, and prior Agency decisions, but may not include legal argument as defined in OAR 839-050-0110(4). A party that is a government agency, corporation, or unincorporated association, including a limited liability company, may include legal argument in its exceptions only if those exceptions are filed by counsel.

(4) Participants must file any exceptions within ten days of the date of issuance of the Proposed Order. Exceptions must be filed with the administrative law judge through the Contested Case Coordinator. Participants may request an extension of time to file exceptions as provided in OAR 839-050-0050.

Stat. Auth.: ORS 183 & 651.060(4)

Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850

Hist.: BL 8-1986, f. & ef. 9-2-86; BL 10-1988, f. & cert. ef. 6-16-88; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0165; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0400

Agency Policy

The administrative law judge may, at any time during a contested case proceeding and before the issuance of a Final Order, request that the Agency submit a written statement indicating the Agency's policy with regard to any statute or administrative rule at issue in the case. The administrative law judge will provide a copy of such request and Agency statement to the commissioner and all parties in the case and will include the statement in the record of the proceeding.

Stat. Auth.: ORS 183 & 651.060(4)

Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850

Hist.: BL 8-1986, f. & ef. 9-2-86; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0175; BL 12-1996, f. & cert. ef. 12-10-96;

BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0410

Reopening the Contested Case Record

On the administrative law judge's own motion or on the motion of a participant, the administrative law judge will reopen the record when the administrative law judge determines additional evidence is necessary to fully and fairly adjudicate the case. A participant requesting that the record be reopened to offer additional evidence must show good cause for not having provided the evidence before the record closed.

Stat. Auth.: ORS 183 & 651.060(4)

Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850

Hist.: BL 8-1986, f. & ef. 9-2-86; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0195; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0420

Final Order

(1) Except as provided in OAR 839-050-0220, 839-050-0430, or 839-050-0440, on the basis of the record considered as a whole, the commissioner will issue a Final Order in writing that includes findings of fact, conclusions of law, and an opinion and order. The Final Order will also contain a notice that the Final Order may be appealed to the Oregon Court of Appeals.

(2) The Final Order may include different findings, conclusions, or interpretations of law than the Proposed Order.

(3) The Final Order may provide for a different determination of liability, alternative means of enforcement, damages, or penalties, than the Proposed Order.

(4) A copy of the Final Order will be served on participants to a contested case in accordance with OAR 839-050-0030.

(5) Unless otherwise provided by law, a final order remains in effect during appeal, reconsideration or rehearing until stayed or changed.

Stat. Auth.: ORS 183 & 651.060(4)

Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850

Hist.: BL 8-1986, f. & ef. 9-2-86; BL 10-1988, f. & cert. ef. 6-16-88; BL 4-1993(Temp), f. 4-7-93, cert. ef. 4-12-93; BL 8-1993, f. & cert. ef. 9-3-93, Renumbered from 839-030-0180; BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 4-2002, f. 2-14-02, cert. ef. 2-15-02; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0430

Final Order by Default

(1) The administrator of the Wage and Hour Division may issue a Final Order by default when:

(a) A party is given an opportunity to request a hearing and file an answer within the time specified in the charging document and fails to do so; or

(b) A party withdraws the party's request for hearing.

(2) A Final Order by default may be issued only after a prima facie case in support of the charging document is made on the record. A prima facie case may be made from the Agency's file, if designated as the record in the charging document, provided that the charging document contained a statement advising the party that a failure to request a hearing would result in a Final Order.

(3) The participants will be served with a copy of the Final Order by default in accordance with OAR 839-050-0030.

(4) When a party has requested a hearing but either fails to attend the hearing or notifies the Agency that it will not attend, the administrative law judge will issue a Proposed Order pursuant to OAR 839-050-0330(2) and the commissioner will issue a Final Order pursuant to 839-050-0420.

Stat. Auth.: ORS 183 & 651.060(4)

Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850

Hist.: BL 12-1996, f. & cert. ef. 12-10-96; BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0440

Contested Case Proceedings based on Orders of Determination and Notices of Intent to Assess Civil Penalties under ORS 652.710 or ORS 653.256

(1) Contested case proceedings based on Orders of Determination under ORS 652.332, Notices of Intent to assess civil penalties under 652.710 or 653.256, or consolidated proceedings based on both types of charging documents are governed by the procedures set forth in OAR chapter 839, division 50, except to the extent those procedures are modified by this rule.

ADMINISTRATIVE RULES

(2) The discovery provisions of OAR 839-050-0200 do not apply to contested case proceedings based on Orders of Determination under ORS 652.332, Notices of Intent to assess civil penalties under ORS 652.710 or 653.256, or consolidated proceedings based on both types of charging documents except that participants may seek discovery through an informal exchange of information.

(3) Prior to a contested case hearing based on an Order of Determination under ORS 652.332, Notices of Intent to assess civil penalties under ORS 652.710 or 653.256, or consolidated proceedings based on both types of charging documents, the administrative law judge will issue a case summary order as provided in OAR 839-050-0210(1)-(4). 839-050-0210(5) will apply to evidence not disclosed in response to the case summary order.

(4) No amendments will be allowed in contested case proceedings based on Orders of Determination under ORS 652.332, Notices of Intent to assess civil penalties under ORS 652.710 or 653.256, or consolidated proceedings based on both types of charging documents, except that the agency may amend an Order of Determination or Notice of Intent once to correct names of respondents or to add respondents.

Stat. Auth.: ORS 183 & 651.060(4)
Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850
Hist.: BLI 2-2000, f. & cert. ef. 1-27-00; BLI 15-2004, f. 11-1-04, cert. ef. 11-3-04; BLI 1-2011, f. 1-31-11, cert. ef. 2-1-11; BLI 5-2014, f. & cert. ef. 4-15-14

839-050-0445

Hearings on Prevailing Wage Rate Determinations

(1) This rule sets forth the procedures used in contested case hearings requested pursuant to ORS 279C.817(4) and OAR 839-025-0005(7).

(2) Hearings on prevailing wage rate determinations are governed by the procedures set forth in OAR 839-050-0000 to 839-050-0430, except to the extent those procedures are modified by this rule.

(3) The following definitions apply to this rule:

(a) "Aggrieved person" means a person adversely affected or aggrieved by a commissioner's determination under ORS 279C.817.

(b) "Determination" means a determination issued by the commissioner under the provisions of ORS 279C.817 and OAR 839-025-0005.

(c) "Party" means a requester or aggrieved person who has requested a hearing after the commissioner issues a determination.

(d) "Requester" means a public agency or other interested person who requests a determination under ORS 279C.817 about whether a project or proposed project is or would be a public works on which payment of the prevailing rate of wage is or would be required under 279C.840.

(4) When the commissioner has issued a determination and the requester or aggrieved person requests a hearing, an administrative law judge will be assigned to hear the case and the Forum will issue a Notice of Hearing to the party that meets the requirements of OAR 839-050-0080(1) and information will be provided under 839-050-0100.

(5) Within ten days after the Notice of Hearing is issued, the administrative law judge will issue an order requiring:

(a) The party to file a written statement identifying all of the party's reasons for contesting the determination; and

(b) The agency to file copies of all materials provided by the requester under OAR 839-025-0005(1)-(4), a copy of the agency's determination, and a copy of any other materials the agency relied on to reach its determination. The agency will mark these materials and the agency's determination for identification in the manner set forth in 839-050-0270.

(6) The statement, materials, and agency determination filed pursuant to section (5) of this rule will be received into the record as exhibits.

(7) Within twenty days prior to hearing, the party and the agency each will file written statements containing the names of all persons they propose to call as witnesses at the hearing, along with a statement of how each person's testimony will help the administrative law judge understand the materials provided by the requester under OAR 839-025-0005(1)-(4) or the reasons for the agency's determination.

(8) After reviewing the materials and statements filed pursuant to sections (5) and (7) of this rule, the administrative law judge may issue an interim order finding that the testimony of any proposed witness is irrelevant to the issues at hearing and disallowing the proposed testimony. The administrative law judge may also request that the party or agency bring additional witnesses to the hearing.

(9) Evidence presented at hearing is limited to the exhibits and witness testimony explaining the exhibits and their significance.

(10) At hearing, the party will have an opportunity to explain the reasons that the party contests the determination and the agency will have an opportunity to explain the reasons for its determination.

(11) If the party withdraws its request for hearing or does not appear at the scheduled hearing, the administrative law judge will issue an order canceling the hearing. When a hearing is cancelled based on a party's failure to appear at the scheduled hearing, the hearing may be rescheduled if the party establishes good cause for its failure to appear within 10 days after the party fails to appear at hearing. The party's request to reschedule the hearing must be in writing and be accompanied by a written statement, together with appropriate documentation, setting forth facts supporting the claim of good cause.

Stat. Auth.: ORS 183, 651.060(4), 279C.817

Stat. Implemented: ORS 279C.817

Hist.: BLI 25-2008(Temp), f. & cert. ef. 7-29-08 thru 1-23-09; BLI 39-2008, f. & cert. ef. 11-7-08; BLI 1-2011, f. 1-31-11, cert. ef. 2-1-11; BLI 5-2014, f. & cert. ef. 4-15-14

Construction Contractors Board Chapter 812

Rule Caption: Revisions to Residential Continuing Education (RCE) Requirements and Exemptions

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

Filed with Sec. of State: 3-26-2014

Certified to be Effective: 3-26-14 thru 9-22-14

Notice Publication Date:

Rules Adopted: 812-022-0022

Rules Amended: 812-022-0010, 812-022-0021

Subject: 812-022-0010 is amended to clarify that: 1) CCB-LRB substitutes for new CCB-LRB requirements (up to three hours); 2) BEST and Building Codes substitutes for new Series A course requirements (up to five hours); and 3) electives substitute for new Series B course requirements (up to eight hours).

812-022-0021 is amended to remove references to course substitution and add contractors with a registered architect (owner or officer) or licensed professional engineer (owner or officer) to the exemption.

812-022-0022 is adopted to permit a contractor to count any period during which it was licensed towards the six-year requirement to qualify for renewal by completing eight, rather than 16, hours of continuing education, permit contractors to use the experience of its RMI to qualify for renewal by completing eight, rather than 16 hours of continuing education, and clarifies that the licensing or experience does not need to be continuous.

NOTE: In order to save postage and printing costs in these difficult times, CCB is only providing a copy of the notice. To view the language of each individual rule change, please go to our web site at http://ccbed.ccb.state.or.us/New_Web/laws/new_rule_notices.htm. If you don't have web access, contact Cathy Dixon at (503) 934-2185 for assistance in receiving a copy.

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 the following.

(a) Construction Contractor Board laws, regulations and business practices (up to three hours). Hours earned will be applied towards the three hours of Construction Contractor Board laws, regulations and business practices required for the new residential continuing education.

(b) Building codes courses approved by CCB before January 1, 2014, (up to two hours). Hours earned will be applied towards the five hours of Series A courses required for the new residential continuing education.

ADMINISTRATIVE RULES

(c) Building Exterior Shell Training (BEST) (up to three hours). Hours earned will be applied towards the five hours of Series A courses required for the new residential continuing education.

(d) Elective courses. Hours earned will be applied towards the eight hours of Series B courses required for the new residential continuing education for contractors licensed less than six years.

(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, 701.082, 701.126, 701.235

Stats. Implemented: ORS 701.082

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; CCB 2-2014(Temp), f. & cert. ef. 3-26-14 thru 9-22-14

812-022-0021

Exemptions from Continuing Education — Continuing Education for Residential Contractors (SB 783)

The following contractors are exempt from continuing education requirements as required by OAR division 22:

(1) Contractors licensed as plumbing contractors under ORS 447.010 to 447.156;

(2) Contractors licensed as electrical contractors under ORS 479.630;

(3) Contractors owned by, or having an officer who is, an architect registered under ORS 671.010 to 671.220; and

(4) Contractors owned by, or having an officer who is, a professional engineer licensed under ORS 672.002 to 672.325

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; CCB 2-2014(Temp), f. & cert. ef. 3-26-14 thru 9-22-14

812-022-0022

Experience Exemptions from Continuing Education – Continuing Education for Residential Contractors (SB 783)

(1) Notwithstanding ORS 701.082(2), if a contractor was licensed for at least six years before the contractor's renewal date, the contractor may qualify for renewal by completing eight hours of continuing education as provided in ORS 701.082(1).

(2) Notwithstanding ORS 701.082(2), if a contractor's RMI was an RMI for any contractor for at least six years before the contractor's renewal date, the contractor may qualify for renewal by completing eight hours of continuing education as provided in ORS 701.082(1).

(3) The licensing for the contractor or experience for the RMI does not need to be continuous.

Stat. Auth.: ORS 670.310, 701.08, 701.235

Stats. Implemented: ORS 701.082, 701.265

Hist.: CCB 2-2014(Temp), f. & cert. ef. 3-26-14 thru 9-22-14

Department of Administrative Services Chapter 125

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

Adm. Order No.: DAS 1-2014

Filed with Sec. of State: 4-9-2014

Certified to be Effective: 4-9-14

Notice Publication Date: 3-1-2014

Rules Adopted: 125-015-0200

Rules Repealed: 125-015-0200(T)

Subject: 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—(503) 378-5522

125-015-0200

Electronic Deposit and Electronic Itemized Statements of Net Salary and Wages

(1) Effective November 29, 2013 Electronic payment of net salary and wages and electronic statements of payroll deductions is the standard for all officers and employees of the state.

(2) All officers and employees paid under the state payroll system shall receive payment of net salary and wages one of three ways:

(a) through electronic payment by direct deposit via Automated Clearing House (ACH) to a checking and/or savings account(s) that is located in a financial institution in the United States; or

(b) through electronic payment by direct deposit via ACH to a reloadable state offered prepaid card; or a reloadable prepaid card provided by the officer or employee; or

(c) payment of net salary and wages by paper check.

(3) Officers and employees receiving payment of net salary and wages through electronic payment shall receive electronically each month's itemized statement of payroll deductions from the Oregon Statewide Payroll Application.

(4) Officers and employees receiving payment of net salary and wages through paper check shall receive by paper each month's itemized statements of payroll deductions from the Oregon Statewide Payroll Application.

(5) An officer or employee may receive payment of net salary and wages by paper check and a paper itemized statement of payroll deductions. To do so the officer or employee shall contact the agency in writing noting the desire to be exempt from electronic payment of wages and electronic itemized statements.

(6) Exceptions to electronic payment and electronic itemized statement may be deemed necessary when the agency employing an officer or employee determines that electronic payment of net salary and wages is:

(a) Not practicable or efficient. The criteria agencies may use in deciding whether electronic payment is practicable or efficient include, but are not limited to:

(A) An officer or employee is newly hired and the routing and transfer information is in the process of being verified;

(B) An officer or employee is changing banks, causing the need for an alternate payment method because of the verification process for routing and transfer information;

(C) An officer or employee has been hired into an appointment for a period of 3 months or less;

(D) An officer or employee has on-going leave without pay status, which could result in overpayments if electronic payment is used;

(E) An officer or employee is receiving the final payment of wages due to separation from State employment; and

(F) An officer or employee has not established an account with a bank or financial institution or has not completed the authorization for electronic payment of net salary and wages as described in (2)(a) or (b) above.

(b) Where an officer or employee is mandated by a judicial action to receive payment of net salary and wages by a non-electronic method;

(c) Or, where an agency determines that an alternate method of payment is needed because of security concerns arising from protected-class employment or other sensitive situations identified by the agency.

Stat. Auth.: ORS 184.340

Stat. Implemented: ORS 292.026, HB2207 B (OL 2013, Ch 369)

Hist.: DAS 3-2013(Temp), f. & cert. ef. 10-28-13 thru 4-25-14; DAS 1-2014, f. & cert. ef. 4-9-14

ADMINISTRATIVE RULES

Department of Agriculture, Oregon Mint Commission Chapter 642

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

Adm. Order No.: OMC 1-2014

Filed with Sec. of State: 4-14-2014

Certified to be Effective: 7-1-14

Notice Publication Date: 3-1-2014

Rules Amended: 642-010-0010

Subject: Decreases the assessment for all mint oil produced in Oregon from 10 cents (\$1.10) per pound to 9 cents (\$.09) per pound beginning July 1, 2014.

Rules Coordinator: Lisa Ostlund—(503) 364-2944

642-010-0010

Assessments

Any first purchaser shall deduct and withhold an assessment of nine cents (\$.09) per pound for all oil purchased after June 30, 2014. All mint oil produced in the State of Oregon is to be included.

Stat. Auth.: ORS 576.325 - 576.365

Stats. Implemented: ORS 576.325 - 576.365

Hist.: OMC 1-1984, f. & ef. 6-18-84; MC 1-1989, f. 4-19-89, cert. ef. 7-1-89; MC 1-1993, f. 6-10-93, cert. ef. 7-1-93; OMC 1-2010, f. 6-15-10, cert. ef. 7-1-10; OMC 1-2014, f. 4-14-14, cert. ef. 7-1-14

**Department of Community Colleges and
Workforce Development
Chapter 589**

Rule Caption: Allows timely payment of state allocation to community colleges providing contracted out-of-district (COD) services

Adm. Order No.: DCCWD 3-2014

Filed with Sec. of State: 3-20-2014

Certified to be Effective: 3-20-14

Notice Publication Date: 2-1-2014

Rules Amended: 589-002-0120

Subject: Authority for distribution of the Community College Support Fund (CCSF) is granted by OAR 589-002-0120. This rule amendment allows the allocation provided to community college districts for contracted out-of-district (COD) programs to be paid in the same fiscal year as the year the COD services are provided.

Rules Coordinator: Linda Hutchins—(503) 947-2456

589-002-0120

Community College Support Fund Distribution Methodology

(1) The Community College Support Fund (CCSF) shall be distributed in equal payments as follows:

(a) For the first year of the biennium, August 15, October 15, January 15, and April 15;

(b) For the second year of the biennium, August 15, October 15, and January 15;

(c) The final payment of each biennium is deferred until July 15 of the following biennium as directed by the legislature.

(d) Should any of the dates set forth above occur on a weekend, payment shall be made on the next business day.

(e) All payments, made before actual property taxes imposed by each district are certified by the Oregon Department of Revenue, shall be based on the department's best estimate of quarterly entitlement using property tax revenue projections. Payments shall be recalculated each year as actual property tax revenues become available from the Oregon Department of Revenue and any adjustments will be made in the final payment(s) of the fiscal year.

(2) Community college districts shall be required to submit enrollment reports in the format specified by the commissioner, including numbers of clock hours realized for all coursework, in a term-end enrollment report by the Friday of the sixth week following the close of each term. If reports are outstanding at the time of the quarterly payments, payment to the district(s) not reporting may be delayed at the discretion of the commissioner.

(a) All payments, made before actual Full-Time Equivalent (FTE) student enrollment data are available shall be based on the department's best

estimate of quarterly entitlement using student enrollment data from previous years.

(b) Payments shall be recalculated each year as FTE student enrollment data become available and any adjustments will be made in the fiscal year.

(3) Reimbursement from the CCSF shall be made for career technical education, lower-division collegiate, developmental education and other courses approved by the state board in accordance with OAR 589-006-0100 through 589-006-0400. State reimbursement is not available for hobby and recreation courses as defined in 589-006-0400.

(4) Residents of the State of Oregon and the states of Idaho, Washington, Nevada, and California shall be counted as part of each community college district's CCSF reimbursable FTE, but only for those students who take part in coursework offered within Oregon's boundaries.

(5) State funding for community college district. Operations is appropriated by the legislature on a biennial basis to the CCSF. The amount of state funds available for each biennium and for distribution through the funding formula shall be calculated based on the following:

(a) Funds to support services provided to inmates of state penitentiary and correctional institutions by community college districts shall be subtracted from the amount allocated to the CCSF before the formula is calculated. The amount available for services provided to inmates shall be equal to the funding amount in the preceding biennium, except as adjusted to reflect the same percentage increase or decrease realized in the overall CCSF appropriation. The distribution method of CCSF funding for individual state penitentiary and correction institution programs provided by community college districts will be determined in consultation between the agency and the Department of Corrections.

(b) Funds to support contracted out-of-district (COD) programs described in OAR 589-002-0600 shall be subtracted from the amount allocated to the CCSF before the formula is calculated.

(A) A community college district providing contracted out-of-district services will receive an allocation equal to the college's number of reimbursable COD FTE multiplied by the statewide average of non-base community college support funds per total funded FTE. The average funds per total funded FTE is based on the same year COD services are provided.

(B) The allocation is distributed after the reimbursable COD FTE has been reported to CCWD for the full academic year. An adjustment to the allocation may be made if the final audited FTE is significantly different than the COD FTE from which the allocation was made.

(C) Beginning July 1, 2014, to be eligible for a COD allocation, each participating community college district must:

(i) Provide the department with a copy of the agreement between the community college district and the local participating entity by October 1 of each service year.

(ii) Enter into a contract with the department by January 1 of the service year for a COD allocation payment.

(iii) Follow all requirements found in OAR 589-002-0600.

(D) Section (5)(b)(A) and (B) of this rule applies to COD contracts that were in effect starting with the 2012-13 fiscal year.

(c) Funds to support targeted investments such as distributed learning shall be subtracted from the amount allocated to the CCSF before the formula is calculated. The amount available for these investments shall be equal to the funding amount in the preceding biennium, except as adjusted to reflect the same percentage change to the current biennium's total CCSF appropriation.

(d) Funds remaining in the CCSF shall be distributed through the formula as described in section 6.

(e) State general fund and local property taxes for territories annexed or formed effective June 1, 1996 or later shall not be included in the funding formula for the first three years of service. Additionally, the FTE generated in newly annexed territories shall not impact the funding formula during the first three years of service. Beginning in the fourth year, funding will be distributed through the formula as outlined in this rule.

(6) Distribution of funds to community college districts from the CCSF shall be accomplished through a formula, based on the following factors:

(a) Base Payment: Each community college district shall receive a base payment of \$720 for each Weighted Reimbursable FTE up to 1,100 and \$360 per FTE for unrealized enrollments between actual Weighted Reimbursable FTE and 1,100 FTE. The base payment for each community college district will be adjusted according to the size of the district. Community college district size for purposes of this adjustment will be determined each year by the FTE set forth in section (8)(b) of this rule. The base payment adjustments shall be:

ADMINISTRATIVE RULES

- (A) 0–750 FTE 1.3513;
- (B) 751–1,250 FTE 1.2784;
- (C) 1,251–1,750 FTE 1.2062;
- (D) 1,751–2,250 FTE 1.1347;
- (E) 2,251–2,750 FTE 1.0641;
- (F) 2,751–3,250 FTE 1.0108;
- (G) 3,251–3,750 FTE 1.0081;
- (H) 3,751–4,250 FTE 1.0054;
- (I) 4,251–4,999 FTE 1.0027;
- (J) 5,000 or more FTE 1.000.

(b) Student-Centered Funding: The formula is designed to distribute the CCSF is based on each community college district's FTE.

(A) The equalized amount per FTE is determined by dividing Total Public Resources (TPR) — excluding base payments, contracted out-of-district payments, and any other payments directed by the State Board or the legislature — by funded FTE. The department shall make the calculation based on submission of FTE reports by community college districts and in accordance with established FTE principles.

(B) To determine the number of funded FTE for each community college district, a three-year weighted average of fundable FTE for each community college district will be used with the first year prior to current fundable FTE weighted at 40%, second year prior to current fundable FTE weighted at 30%, and third year prior to current fundable FTE weighted at 30%.

(c) Beginning with the 2011–13 biennium, a Biennial Growth Management Component is added to the calculation of each community college district's funded FTE. The purpose of the Biennial Growth Management Component is to manage the level of total public resource available per FTE within the total public resources available.

(A) The methodology for calculating the base year and subsequent biennial growth management component is displayed in Table 1 "Community College Support Fund Growth Management Calculation Tables" and is available through the following hyperlink. [Table not included. See ED. NOTE.]

(B) The calculations that will implement the Growth Management Component in the CCSF Distribution Formula Model are available in Table 2. Formula Calculation of Fundable FTE by Community College District." [Table not included. See ED. NOTE.]

(C) The state board has authority, on a biennial basis to, set the "quality growth factor" that may increase or decrease the number of FTE that will be counted for funding purposes above or below the Biennial Growth Management Component. The state board will consider the following principles as guidelines for setting the "quality growth factor":

(i) Balance the desire to support growth beyond that which is funded through the funding formula distribution model with the desire to enhance quality by increasing the level of funding provided on a per-student FTE basis.

(ii) The TPR per FTE should not erode by more than 5% on an annual basis.

(iii) Where current TPR per FTE is determined to be insufficient to support the "quality of education" desired, a growth factor could be established that would increase the TPR per FTE.

(iv) If revenue is significantly reduced during a biennium, the Board may reduce the "quality growth factor."

[ED.NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 326.051, 341.015, 341.022, 341.317, 341.440, 341.525, 341.528, 341.626 & 341.665
Stats. Implemented: ORS 341.626
Hist.: DCCWD 1-2012(Temp), f. & cert. ef. 7-17-12 thru 1-10-13; DCCWD 3-2012, f. & cert. ef. 12-26-12; DCCWD 3-2013, f. & cert. ef. 6-11-13; DCCWD 6-2013(Temp), f. & cert. ef. 12-16-13 thru 6-13-14; DCCWD 3-2014, f. & cert. ef. 3-20-14

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

Rule Caption: Lay representation in division contested case hearings

Adm. Order No.: BCD 4-2014

Filed with Sec. of State: 3-24-2014

Certified to be Effective: 3-24-14

Notice Publication Date: 3-1-2014

Rules Amended: 918-001-0025

Subject: This rule expands the division's ability to use lay representation in contested case hearings based on violation types.

Rules Coordinator: Holly A. Tucker—(503) 378-5331

918-001-0025

Division Representation by Authorized Officer or Employee at Contested Case Hearings

(1) An employee of the Building Codes Division authorized by the Administrator may appear on behalf of the division, pursuant to ORS 183.452, at the following types of contested case hearings:

(a) Civil penalty hearings;

(b) Hearings held on appeals made to the division under ORS 479.853 by persons aggrieved by a decision made upon inspection authority under ORS 455.148 to 455.150 or 479.510 to 479.860 of an electrical product or electrical installation;

(c) License and certification denial hearings under ORS 455.117 and the rules adopted thereunder, and ORS 455.125 and 455.129; and

(d) License discipline hearings under ORS 455.125 or 455.129, for cases involving conditioning of a license or certification, or suspensions of up to one year.

(2) In all other contested case hearings officers or employees of the division may appear on behalf of the division only if prior written consent is obtained from the Attorney General or Deputy Attorney General.

(3) The administrative law judge shall not allow a division representative appearing under section (1) or (2) of this rule to present legal argument as defined in this rule.

(a) "Legal Argument" includes arguments on:

(A) The jurisdiction of the division to hear the contested case;

(B) The constitutionality of a statute or rule or the application of a constitutional requirement to a division;

(C) The application of court precedent to the facts of the particular contested case proceeding.

(b) "Legal Argument" does not include presentation of motions, evidence, examination and cross-examination of witnesses or presentation of factual arguments or arguments on:

(A) The application of the statutes or rules to the facts in the contested case;

(B) Comparison of prior actions of the division in handling similar situations;

(C) The literal meaning of the statutes or rules directly applicable to the issues in the contested case;

(D) The admissibility of evidence; and

(E) The correctness of procedures being followed in the contested case hearing.

(4) If the administrative law judge determines that statements or objections made by the division representative appearing under section (1) or (2) involve legal argument as defined in this rule, the administrative law judge shall provide reasonable opportunity for the division representative to consult the Attorney General and permit the Attorney General to present argument at the hearing or to file written legal argument within a reasonable time after conclusion of the hearing.

Stat. Auth.: ORS 183.450

Stats. Implemented: ORS 183.452

Hist.: BCA 12-1989(Temp), f. & cert. ef. 5-5-89; BCA 21-1989, f. 7-19-89, cert. ef. 8-1-89; BCD 26-1996, f. & cert. ef. 12-4-96; BCD 4-2014, f. & cert. ef. 3-24-14

.....

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

Adm. Order No.: BCD 5-2014

Filed with Sec. of State: 4-1-2014

Certified to be Effective: 4-1-14

Notice Publication Date: 3-1-2014

Rules Adopted: 918-098-1525

Rules Amended: 918-098-1000, 918-098-1005, 918-098-1010, 918-098-1015, 918-098-1210, 918-098-1215, 918-098-1450, 918-098-1470, 918-098-1500, 918-098-1550

Rules Repealed: 918-098-1030, 918-098-1560

Subject: These rules amend the division's certification rules for 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—(503) 378-5331

ADMINISTRATIVE RULES

918-098-1000

Purpose and Scope

(1) These rules establish minimum training, experience, certification, and certification renewal requirements for building officials and persons who perform specialty code plan review and inspections in this state.

(a) The certification requirements for commercial plumbing and electrical inspectors are located in OAR 918-695-0400 through 918-695-0410 and 918-281-0000 through 918-281-0020.

(b) Plan review and inspections required under the Oregon Reach Code are to be performed by individuals certified under these rules, OAR chapter 918, division 281, or chapter 918, division 695 to conduct plan review or inspections for the specialty code under which the particular Reach Code provision is regulated.

(2) Nothing in these rules is intended to allow a person to violate statute or rule or change certification and licensing requirements set forth in statute.

(3) Nothing in these rules prevents the director from waiving procedural requirements in the rare circumstance where substantial compliance is impracticable.

(4) Nothing in these rules prevents the director from pursuing actions under ORS 455.125, 455.127, 455.129, 455.740, 455.895, or these rules.

Stat. Auth.: ORS 455.500 & 455.720

Stats. Implemented: ORS 446.250, 455.500, 455.622 & 455.720

Hist.: BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05; BCD 4-2006, f. 3-31-06, cert. ef. 4-1-06; BCD 18-2006, f. 12-29-06, cert. ef. 1-1-07; BCD 6-2010, f. 5-14-10, cert. ef. 7-1-10; BCD 7-2011, f. & cert. ef. 3-11-11; BCD 20-2011(Temp), f. & cert. ef. 7-12-11 thru 12-31-11; BCD 24-2011, f. 7-26-11, cert. ef. 10-1-11; BCD 34-2011, f. 12-30-11, cert. ef. 1-1-12; BCD 1-2013(Temp), f. 2-1-13, cert. ef. 2-2-13 thru 7-31-13; Administrative correction, 8-21-13; BCD 5-2014, f. & cert. ef. 4-1-14

918-098-1005

Definitions

As used in OAR chapter 918, division 098, unless the context requires otherwise:

(1) "A-level Structures" means structures regulated by the Oregon Structural Specialty Code that require a state fire and life safety plan review or are required to be designed by an Oregon licensed architect or engineer pursuant to ORS Chapter 671.

(2) "B-level Structures" means structures regulated by the Oregon Structural Specialty Code that do not require a state fire and life safety plan review and are not required to be designed by an Oregon licensed architect or engineer pursuant to ORS Chapter 671.

(3) "Building Inspection Technology" means an approved curriculum meeting the requirements of OAR 918-098-1420.

(4) "Code-Change Course" means a continuing education course that addresses changes to specialty codes, code standards, interpretations and alternate methods or administrative rules addressing code.

(5) "Commercial" means structures regulated by the Oregon Structural Specialty Code.

(6) "Cross-Training Program" means a division approved residential, electrical or plumbing inspector on-the-job cross-training program and practical evaluation, established by the building official of a local jurisdiction, that meets the minimum training and education requirements established by the division.

(7) "Design" means professional, engineering or technical design of systems or components that requires computations, research or special knowledge.

(8) "Division" means the Building Codes Division.

(9) "Education Institution" is an institution accredited through a nationally recognized body and is usually governed by a local board and receives a state recognition.

(10) "Education Program" is a minimum two-year, or one-year focused building inspection technology program administered by an education institution.

(11) "International Code Council certification" means a certification issued by the International Code Council demonstrating that an individual has passed a specific International Code Council certification examination.

(12) "Nationally Recognized Certification Body" means a body or organization that provides formal recognition that a person possesses minimum knowledge of a recognized code.

(13) "High Priority Training" means periodic continuing education training identified by the division that addresses new technologies or specific problem areas identified by the division.

(14) "Oregon Code Certification" means a certification issued by the division for:

(a) Building Official;

(b) Fire and Life Safety Plans Examiner;

(c) A-Level Structural Plans Examiner;

(d) B-Level Structural Plans Examiner;

(e) Residential or One-and-Two Family Dwelling Plans Examiner;

(f) Residential or One-and-Two Family Dwelling Structural Inspector;

(g) A-Level Structural Inspector;

(h) A-Level Mechanical Inspector;

(i) B-Level Structural Inspector;

(j) B-Level Mechanical Inspector;

(k) Residential or One-and-Two Family Dwelling Mechanical Inspector;

(l) Electrical Specialty Code Inspector;

(m) Residential or One-and-Two Family Dwelling Electrical Inspector;

(n) Plumbing Specialty Code Inspector;

(o) Residential or One-and-Two Family Dwelling Plumbing Inspector;

(p) Limited Plumbing Inspector – Building Sewers;

(q) Manufactured Structure Construction Inspector;

(r) Manufactured Structure Installation Inspector;

(s) Recreational Vehicle Inspector Certification; and

(t) Park and Camp Inspector.

(15) "Oregon Inspector Certification" means a certification issued by the division demonstrating that a person has passed a division-approved examination that covers Oregon laws and regulations relating to state building codes including, but not limited to, architectural barrier laws governing accessibility to buildings by disabled persons.

(16) "Practical Experience Evaluation" means a division-approved process that may include, but is not limited to field training or evaluation to determine the skill and knowledge of a person by the division for the purposes of certification.

(17) "Recognized Code" means a regulatory document enforced by one or more state or local governments that prescribes minimum standards for building materials and construction methods of buildings or structures and building service equipment including plumbing, mechanical and electrical systems.

(18) "Residential Structures" means a structure regulated by the "Low-Rise Residential Dwelling Code" as defined by ORS 455.010.

(19) "Specialized Inspector" means a person authorized to enforce all or portions of the specialty codes.

(20) "Year of Experience" means 2,000 hours of documented experience.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 455.715, 455.720, 455.723 & 455.732

Stats. Implemented: ORS 455.715, 455.720, 455.723 & 455.732

Hist.: BCA 16-1992, f. & cert. ef. 8-11-92; BCD 23-1996(Temp), f. & cert. ef. 10-21-96; BCD 8-1997, f. & cert. ef. 4-1-97; Renumbered from 918-099-0220; BCD 15-1997, f. 9-30-97, cert. ef. 10-1-97; BCD 38-2000, f. 12-29-00, cert. ef. 1-1-01; BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05, Renumbered from 918-098-0010; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05, Renumbered from 918-098-0010; BCD 4-2006, f. 3-31-06, cert. ef. 4-1-06; BCD 18-2006, f. 12-29-06, cert. ef. 1-1-07; BCD 5-2014, f. & cert. ef. 4-1-14

918-098-1010

Certification Requirements

(1) Unless otherwise stated in this rule, every person who performs building official duties, building code inspections, or plan reviews must possess a valid Oregon Inspector Certification and either:

(a) A valid appropriate Oregon Code Certification for the work being performed, or

(b) A valid appropriate International Code Council certification for the work being performed and the minimum level of experience as follows:

(A) Two years of construction or inspection-related experience or its equivalent;

(B) An approved one year inspection-related education program and one year of construction or inspection-related experience;

(C) A degree from an approved two year inspection-related education program or its equivalent; or

(D) Be a registered Oregon architect, a certified Oregon professional engineer, or have a Bachelor's or Master's degree in architecture or civil or structural engineering.

(2) Notwithstanding section (1)(b) of this rule, a person may perform the duties of a building official provided the person:

(a) Has a valid Oregon Inspector Certification;

(b) Passes the International Code Council Certified Building Official Legal Management examination within six months of hire; and

(c) Completes a division-approved training course for building officials within six months of hire.

ADMINISTRATIVE RULES

(3) If a certified building official is appointed by the municipality to perform duties as a building official on or after April 1, 2014, the person must complete a division-approved training course for building officials within six months of appointment.

(4) Plan review certification is not required for individuals reviewing one- and two-family dwelling permit applications for the following:

(a) First floor decks attached to a dwelling that:

(A) Extend not more than 12 feet from the dwelling but not closer than three feet to a property line;

(B) Are not more than 8 feet above grade;

(C) Will not exceed a 70 PSF live load and not a combined live and dead load of 80 PSF; and

(D) Are not in excess of a 2 horizontal 1 vertical ground slope.

(b) Car ports with a single slope that:

(A) Have a rafter span extending not more than 12 feet from a dwelling;

(B) Are attached to the dwelling for the full length not to exceed 30 feet;

(C) Have a maximum overhang of two feet that is not closer than three feet to a property line; and

(D) Will not exceed a combined 80 PSF live and dead load.

(c) Patio covers that:

(A) Have a single slope roof;

(B) Have a rafter span extending not more than 12 feet from the dwelling;

(C) Are attached to the dwelling the full length not to exceed 30 feet;

(D) Have a maximum overhang of two feet that is not closer than three feet to a property line; and

(E) Will not exceed a combined 80 PSF live and dead load.

(d) Fences not greater than 8 feet in height.

(e) Garage conversions as an accessory to a one- or two-family dwelling with no new cut openings in the existing wall.

(f) Window, door, or bathroom remodels where there are no load-bearing or lateral-bracing wall penetrations.

(g) Pole or manufactured steel structures with a maximum of 3,000 square feet that:

(A) Have a maximum 14-foot eave height;

(B) Are not closer than three feet to the property line and at least 6 feet from all other buildings on the same lot; and

(C) Fully engineered, including foundation where applicable.

(h) Mechanical equipment for the purposes of determining setback requirements have been met.

(5) Plan review certification is not required for individuals reviewing permit applications for buildings or structures that have plans and specifications provided by the department or a municipality ORS 455.062.

(6) The building official is responsible for ensuring that persons performing permit reviews under this section utilize a division-approved checklist to perform reviews.

(7) The building official may determine based on unusual features, characteristics or other complicating circumstances that a certified individual must review a permit application.

(8) Where a jurisdiction routinely performs permit reviews for a type of project determined by the building official to be similar in complexity to the types of projects listed in sections (4) and (5) of this rule, the building official may submit a checklist to the division for approval. If approved, the jurisdiction may utilize the checklist in the same manner as section (6).

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 455.030, 455.055, 455.062, 455.110, 455.720 & 455.730

Stats. Implemented: ORS 455.030, 455.055, 455.062, 455.110, 455.720 & 455

Hist.: BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05; BCD 4-2006, f. 3-31-06, cert. ef. 4-1-06; BCD 18-2006, f. 12-29-06, cert. ef. 1-1-07; BCD 6-2010, f. 5-14-10, cert. ef. 7-1-10; BCD 7-2011, f. & cert. ef. 3-11-11; BCD 24-2011, f. 7-26-11, cert. ef. 10-1-11; BCD 7-2013(Temp), f. 7-26-13, cert. ef. 8-1-13 thru 12-31-13; BCD 9-2013, f. 12-16-13, cert. ef. 1-1-14; BCD 5-2014, f. & cert. ef. 4-1-14

918-098-1015

Scope of Work Allowed for Persons with an Oregon Inspector Certification and Oregon Code Certifications

Persons who possess a valid Oregon Inspector Certification and a valid Oregon Code Certification may perform inspections and plan reviews based on the class designated on their certificate. The classes, other than electrical and plumbing inspector classifications found in OAR 918-281-0020 and 918-695-0400, are:

(1) Building Official. Persons certified as an Oregon Building Official may oversee jurisdictions' administration and enforcement of the state building code for those specialty codes assumed by the jurisdiction pursuant to ORS 455.148 or 455.150. Building officials may not perform plan

reviews or inspections unless they possess the appropriate certification for the plan review or inspection being performed.

(2) Fire and Life Safety. Persons certified as fire and life safety plans examiners may review construction plans for compliance with the fire and life safety plan review provisions of the **Oregon Structural Specialty Code** and the **Oregon Fire Code** for any structure regulated by the **Oregon Structural Specialty Code**.

(3) A-Level.

(a) Persons certified as A-level structural plans examiners may:

(A) Review construction plans for compliance with the provisions of the **Oregon Structural Specialty Code** and **Oregon Fire Code** for all work regulated by the **Oregon Structural Specialty Code**, except the fire and life safety plan review provisions for structures required to receive a state fire and life safety plan review; and

(B) Review construction plans for work that falls within the B-level structural plans examiner classification.

(b) Persons certified as A-level structural inspectors:

(A) Conduct construction inspections of all work regulated by the **Oregon Structural Specialty Code**; and

(B) Conduct inspections of work that falls within the B-level structural inspector classification.

(c) Persons certified as A-level mechanical inspectors may:

(A) Conduct construction inspections and may review construction plans for all work regulated by the **Oregon Mechanical Specialty Code**; and

(B) Conduct inspections and review construction plans for work that falls within the B-level mechanical inspector classification.

(4) B-Level.

(a) Persons certified as B-level structural plans examiners may review construction plans for compliance with the provisions of the **Oregon Structural Specialty Code** and **Oregon Fire Code** for work regulated by the **Oregon Structural Specialty Code**, except:

(A) Work in structures required to receive a state fire and life safety plan review; and

(B) Work in structures required to be designed by an Oregon registered architect or certified professional engineer pursuant to ORS chapter 671.

(b) Persons certified as B-level structural inspectors may conduct construction inspections of work regulated by the **Oregon Structural Specialty Code**, except:

(A) Work in structures required to receive a state fire and life safety plan review; and

(B) Work in structures required to be designed by an Oregon registered architect or certified professional engineer pursuant to ORS chapter 671.

(c) Persons certified as B-level mechanical inspectors may conduct construction inspections of work regulated by the **Oregon Mechanical Specialty Code**, except:

(A) Work in structures required to receive a state fire and life safety plan review; and

(B) Work in structures required to be designed by an Oregon registered architect or certified professional engineer pursuant to ORS chapter 671.

(d) Persons certified as B-level structural plans examiners, B-level structural inspectors, or B-level mechanical inspectors:

(A) May qualify to be certified to review construction plans or conduct inspections of structures regulated by the **Oregon Residential Specialty Code**; and

(B) May not be authorized to review construction plans or conduct inspections of structures that are outside the B-level classification without first obtaining the appropriate certification.

(5) One and two family dwelling or residential.

(a) Persons certified as one and two family dwelling or residential:

(A) Structural inspectors may conduct construction inspections of structural work regulated by the **Oregon Residential Specialty Code**, and manufactured structures and manufactured structure accessory buildings and structures under the **Oregon Manufactured Dwelling Installation Specialty Code**, the provisions of OAR chapter 918, division 500, or the **Manufactured Home Construction and Safety Standards** located in 24 CFR 3280 and 3282.

(B) Mechanical inspectors may conduct inspections for mechanical work regulated by the **Oregon Residential Specialty Code**, and manufactured dwellings under the **Oregon Manufactured Dwelling Installation Specialty Code**, and the provisions of OAR chapter 918, division 500, or

ADMINISTRATIVE RULES

the **Manufactured Home Construction and Safety Standards** located in 24 CFR 3280 and 3282.

(C) Plumbing inspectors may conduct inspections for:

(i) Plumbing work regulated by the **Oregon Residential Specialty Code**, and the **Oregon Manufactured Dwelling Installation Specialty Code**, or the provisions of OAR chapter 918, division 500, or the **Manufactured Home Construction and Safety Standards** located in 24 CFR 3280 and 3282; and

(ii) Any portion of a solar water heating system installation up to 180 gallons of storage tank capacity.

(D) Electrical inspectors may conduct inspections for:

(i) Electrical work regulated by the **Oregon Residential Specialty Code**, and the **Oregon Manufactured Dwelling Installation Specialty Code**, or the provisions of OAR chapter 918, division 500, or the **Manufactured Home Construction and Safety Standards** located in 24 CFR 3280 and 3282; and

(ii) Any portion of a solar PV installation up to 25 Kw.

(b) Persons certified as a one-and-two family dwelling plans examiners may review construction plans for compliance with provisions of the **Oregon Residential Specialty Code**, and structures under the **Oregon Manufactured Dwelling Installation Specialty Code**. The provisions of OAR chapter 918, division 500, or the **Manufactured Home Construction and Safety Standards** located in 24 CFR 3280 and 3282.

(c) Persons certified as a one and two family dwelling or residential inspectors and plans examiners may not be authorized to review construction plans or conduct inspections of either A-level or B-level structures without the required commercial A-level or B-level certification.

(d) See OAR 918-098-1325 for additional requirements of one and two family dwelling residential inspectors and plans examiners performing manufactured dwelling alteration inspections or plan reviews.

(e) See OAR 918-098-1330 for additional requirements of one and two family dwelling residential inspectors performing manufactured structure accessory structure or accessory building inspections.

(6) Specialized Solar Photo-Voltaic. Persons certified as a Specialized Solar PV inspector may conduct inspections of the structural and electrical systems for solar PV installations up to 25 Kw that follow the “prescriptive installation” provisions in section 305.4 of the **Oregon Solar Installation Specialty Code**.

(7) Plumbing inspectors certified under OAR 918-695-0400 may, in addition to any other authority, inspect any portion of a solar water heating system installation up to 180 gallons of storage tank capacity. This rule does not apply to limited or special plumbing inspectors.

(8) Electrical inspectors certified under OAR 918-281-0020 may, in addition to any other authority, inspect any portion of a solar PV installation up to 25 Kw.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 455.720

Stats. Implemented: ORS 455.720

Hist.: DC 24-1978, f. & ef. 9-1-78; DC 10-1980, f. & ef. 9-10-80; DC 4-1983, f. & ef. 1-12-83; Renumbered from 814-003-0065; BCA 16-1992, f. & cert. ef. 8-11-92; BCD 8-1997, f. & cert. ef. 4-1-97; Renumbered from 918-099-0065; BCD 15-1997, f. 9-30-97, cert. ef. 10-1-97; BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05, Renumbered from 918-098-0060; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05, Renumbered from 918-098-0060; BCD 4-2006, f. 3-31-06, cert. ef. 4-1-06; BCD 13-2007, f. 12-28-07 cert. ef. 1-1-08; BCD 1-2010, f. 3-1-10, cert. ef. 4-1-10; BCD 6-2010, f. 5-14-10, cert. ef. 7-1-10; BCD 7-2011, f. & cert. ef. 3-11-11; BCD 24-2011, f. 7-26-11, cert. ef. 10-1-11; BCD 5-2014, f. & cert. ef. 4-1-14

918-098-1210

Residential Plumbing Inspectors

(1) A person possessing an Oregon “One and Two Family Dwelling Plumbing Inspector” certification is considered a “Residential Plumbing Inspector” for the purpose of these rules.

(2) A person issued a residential plumbing inspector certification must also possess a valid Oregon Inspector Certification issued under OAR 918-098-1025 prior to performing residential plumbing inspections.

(3) A residential plumbing inspector may conduct inspections for:

(a) Plumbing work regulated by the **Oregon Residential Specialty Code**, and where connection to the building is not a separate plumbing system;

(b) Plumbing work on manufactured dwellings, manufactured structure accessory buildings and structures under the **Oregon Manufactured Dwelling Installation Specialty Code** and the provisions of OAR chapter 918, division 500 or the **Manufactured Home Construction and Safety Standards** located in 24 CFR 3280 and 3282; and

(c) Any portion of a solar water heating system installation up to 180 gallons of storage tank capacity.

(4) To qualify to perform work as a residential plumbing inspector, individuals must demonstrate compliance with at least one of the following minimum experience, education, or training requirements:

(a) A valid division certification as an **Oregon Plumbing Specialty Code** inspector; or

(b) Two years of experience designing or installing plumbing systems as a journeyman plumber or its equivalent; or

(c) 2 years of experience as a plumbing inspector in another jurisdiction inspecting plumbing systems in commercial or residential structures for compliance with a recognized code for plumbing installations; or

(d) 90 quarter hours or 60 semester hours education and training in mechanical engineering, which includes designing and installing plumbing systems, through a college or community college; or

(e) Valid division certification as a one and two family dwelling or residential inspector under one or more provisions of the **Oregon Residential Specialty Code**, and:

(A) 1 year of experience administering and enforcing another provision of the **Oregon Residential Specialty Code**; and

(B) Confirmation by the building official of the jurisdiction that employs the applicant that the applicant has completed a one and two family dwelling or residential plumbing inspector cross-training program that meets the minimum requirements established by the division.

(f) Any combination of experience designing, installing, or inspecting plumbing systems totaling 3 years.

(5) Persons certified by a nationally recognized certification body to inspect plumbing systems in commercial or residential structures according to a recognized code in plumbing installations may be granted 1 year of credit toward the experience requirements listed in subsections (4)(b) and (c) of this rule.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 455.720

Stats. Implemented: ORS 455.622

Hist.: BCD 8-1997, f. & cert. ef. 4-1-97; BCD 38-2000, f. 12-29-00, cert. ef. 1-1-01; BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05, Renumbered from 918-098-0220; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05, Renumbered from 918-098-0220; BCD 4-2006, f. 3-31-06, cert. ef. 4-1-06; BCD 1-2010, f. 3-1-10, cert. ef. 4-1-10; BCD 6-2010, f. 5-14-10, cert. ef. 7-1-10; BCD 7-2011, f. & cert. ef. 3-11-11; BCD 24-2011, f. 7-26-11, cert. ef. 10-1-11; BCD 5-2014, f. & cert. ef. 4-1-14

918-098-1215

Residential Electrical Inspectors

(1) A person possessing an Oregon “One and Two Family Dwelling Electrical Inspector” certification is considered a “Residential Electrical Inspector” for the purpose of these rules.

(2) A person issued a residential electrical inspector certification must also possess a valid Oregon Inspector Certification issued under OAR 918-098-1025 prior to performing residential electrical inspections.

(3) Residential electrical inspectors may conduct inspections for:

(a) Electrical work regulated by the **Oregon Residential Specialty Code**;

(b) Electrical work on manufactured dwellings, manufactured structure accessory buildings and structures under the **Oregon Manufactured Dwelling Installation Specialty Code** and the provisions of OAR chapter 918, division 500 or the **Manufactured Home Construction and Safety Standards** located in 24 CFR 3280 and 3282; and

(c) Any portion of a solar PV installation up to 25 Kw.

(4) To qualify to perform work as a residential electrical inspector, individuals must demonstrate compliance with at least one of the following minimum experience, education, or training requirements:

(a) A valid division certification as an **Oregon Electrical Specialty Code** inspector; or

(b) 2 years of experience installing electrical systems as a limited residential journeyman electrician or a general journeyman electricians license or their respective equivalents; or

(c) 2 years of experience as an electrical inspector in another jurisdiction inspecting electrical installations in commercial or residential structures for compliance with a recognized code for electrical installations; or

(d) 90 quarter hours or 60 semester hours education and training in electrical engineering, which includes designing and installing electrical systems, through a college or community college; or

(e) Valid division certification as a one and two family dwelling or residential inspector under one or more provisions of the **Oregon Residential Specialty Code**, and:

(A) 1 year of experience administering and enforcing another provision of the **Oregon Residential Specialty Code**; and

(B) Confirmation by the division that an applicant has completed a one and two family dwelling or residential electrical inspector cross-train-

ADMINISTRATIVE RULES

ing program that meets the minimum requirements established by the division.

(f) Any combination of experience or education listed in subsections (a) through (d) of this section designing, installing, or inspecting electrical systems totaling 3 years.

(5) Persons certified by a nationally recognized certification body to inspect electrical installations in commercial or residential structures according to a recognized code in electrical installations may be granted 1 year of credit toward the experience requirements and may be considered as meeting some requirements of a division approved cross-training program, except the experience listed in subsections (4)(b) and (c) of this rule.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 455.720

Stats. Implemented: ORS 455.622

Hist.: BCD 8-1997, f. & cert. ef. 4-1-97; BCD 38-2000, f. 12-29-00, cert. ef. 1-1-01; BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05, Renumbered from 918-098-0230; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05, Renumbered from 918-098-0230; BCD 4-2006, f. 3-31-06, cert. ef. 4-1-06; BCD 1-2010, f. 3-1-10, cert. ef. 4-1-10; BCD 6-2010, f. 5-14-10, cert. ef. 7-1-10; BCD 7-2011, f. & cert. ef. 3-11-11; BCD 24-2011, f. 7-26-11, cert. ef. 10-1-11; BCD 5-2014, f. & cert. ef. 4-1-14

918-098-1450

Continuing Education Requirements

(1) When the division determines that a code change requires training for individuals to maintain their Oregon Inspector Certification they must complete division-approved continuing education.

(2) Required continuing education courses are established by the division on a periodic basis. The division will provide notification of code change classes and other required classes through the division website. Persons certified under ORS Chapter 455 must take all continuing education in a timely manner in order to remain certified.

(3) Inspectors, including plans examiners, must complete a division-approved code change course related to the scope of work allowed under each certification and all other high priority training determined necessary by the division.

(4) Persons charged by a municipality with the responsibility for administration and enforcement of the state building code as the building official must complete a division-approved course covering administration and enforcement of a building inspection program and new legislation when required. Any person in an "acting" capacity to cover building official duties must also complete this course.

(5) The division may periodically verify that a person is maintaining and recording their continuing education.

Stat. Auth.: ORS 455.715, 455.720, 455.723 & 455.732

Stats. Implemented: ORS 455.715, 455.720, 455.723 & 455.732

Hist.: BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05; BCD 4-2006, f. 3-31-06, cert. ef. 4-1-06; BCD 19-2006, f. 12-29-06, cert. ef. 1-1-07; BCD 6-2010, f. 5-14-10, cert. ef. 7-1-10; BCD 7-2011, f. & cert. ef. 3-11-11; BCD 24-2011, f. 7-26-11, cert. ef. 10-1-11; BCD 5-2014, f. & cert. ef. 4-1-14

918-098-1470

Duties and Responsibilities of Certified Building Officials, Inspectors, and Plans Examiners

(1) Persons who hold an Oregon Inspector Certification or an Oregon Code Certification must act in the public interest in performing their duties as a building official, inspector, or plans examiner, including but not limited to:

(a) Obtaining and maintaining any appropriate national or Oregon Code Certification prior to performing their duties;

(b) Not performing any inspections or plan reviews without holding the appropriate valid certification for the inspection or plan review being performed;

(c) Completing all required continuing education requirements and maintaining records of completion of continuing education courses required for each national and Oregon certification sufficient to demonstrate compliance with OAR 918-098-1450;

(d) Enforcing all appropriate building code statutes, and rules adopted thereunder, including but not limited to specialty codes, including statewide code interpretations, directives, orders, or other building program requirements and allowing the use of alternate method rulings;

(e) Assisting the division in the course of investigations. Failure to provide information upon request may be considered a violation of an order by the Director or an advisory board and may result in action taken under ORS 455.740;

(f) Adhering to all applicable building code statutes and rules adopted thereunder; and

(g) Notifying the division of any changes of name or address in a manner prescribed by the division within 10 business days; and

(h) Implementing a division approved cross-training program for residential electrical inspectors, and residential plumbing inspectors under OAR 918-098-1410.

(2) After a code or code edition is adopted by the division, persons who hold an Oregon Inspector Certificate and hold the national certification for that specialty code must re-certify their national certification to the new code or code edition at the next available renewal cycle of the national certification. If an inspector re-certifies a national certification to the newest edition of the national code(s) before that code edition is adopted in Oregon, such re-certification shall be considered as a current national certification for the purposes of these rules.

(3) If an inspector fails to maintain or does not possess a current national certification, the inspector shall not perform inspections or plan review for that particular specialty code.

Stat. Auth.: ORS 455.720

Stats. Implemented: ORS 455.720

Hist.: BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05; BCD 4-2006, f. 3-31-06, cert. ef. 4-1-06; BCD 5-2014, f. & cert. ef. 4-1-14

918-098-1500

Building Official and Inspector Sanctions Process

(1) Failure to act in the public interest in the performance of their duties in accordance with ORS 455.740 shall include, but not be limited to:

(a) Providing or having knowledge of, false education, work experience or documentation being used to meet certification or continuing education requirements, or during the examination, using unauthorized notes, examinations or examination answers at an examination, copying from another, allowing another to copy or otherwise use unauthorized methods to gain an advantage or give another person an advantage during an examination;

(b) Failing to complete continuing education requirements;

(c) Permitting, allowing or performing plan reviews or inspections without proper certification;

(d) Engaging in a pattern that fails to enforce the specialty code, including statewide code interpretations, site-specific interpretations, directives or other building program requirements and failure to allow the use of alternate method rulings;

(e) After notification, engaging in a pattern of requiring construction or installations to exceed the requirements of the specialty codes, unless otherwise specified by the designer(s);

(f) Requiring an individual to approve structures or installations that do not comply with the specialty codes;

(g) Failing to properly perform inspections or plan reviews;

(h) Engages in unprofessional behavior; or

(i) Any other activity prejudicial to the administration and enforcement of the state building code.

(2) Upon a finding of a violation of section (1) of this rule, the director may, in accordance with the requirements of ORS Chapter 183, place conditions on a certification in lieu of suspension or revocation.

(3) In determining the appropriate sanction any applicable factors shall be taken into account, including, but not limited to:

(a) Prior history of violations;

(b) Extent to which corrective action was taken; and

(c) The element of risk or danger to any person caused by the violation.

(4) A person sanctioned under this rule may re-apply for a certification provided the person waits the specified time period as stated below:

(a) A minimum of one year from the date an application was denied;

(b) A minimum of one year from the date a final order was signed; or

(c) A date specified in a final order.

Stat. Auth.: ORS 455.740

Stats. Implemented: ORS 455.740

Hist.: BCD 13-2001, f. 9-28-01, cert. ef. 10-1-01; BCD 11-2004, f. 8-13-04, cert. ef. 10-1-04; BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05, Renumbered from 918-098-0500; BCD 24-2005, f. 9-30-05, cert. ef. 10-1-05, Renumbered from 918-098-0500; BCD 5-2014, f. & cert. ef. 4-1-14

918-098-1525

ORS 455.732 Inspector Certifications

(1) A building official or a person seeking a certification under ORS 455.732 must submit a request to the division. A request may include, but is not limited to:

(a) Any relevant experience or training;

(b) Any relevant licenses or certifications, including those issued by a national organization or another state; and

(c) The scope of work the person is seeking to perform.

(2) The division may, after evaluation, issue a certification outlining the scope of work the person may perform and any limitations applicable to

ADMINISTRATIVE RULES

the certification. Limitations may include types of structures, geographical area, etc.

(3) The scope of a certification issued under this rule may be expanded upon further training and evaluation by the division.

(4) Evaluations performed for the purposes of issuing a certification under this rule may be performed by a team of professionals knowledgeable in the programs covered by the certification.

(5) A person issued a certification to perform inspections or plan reviews under this rule must obtain an Oregon Inspector Certification prior to performing any work authorized under this certification.

Stat. Auth.: ORS 455.720, 455.723, 455.732 & 455.735
Stats. Implemented: ORS 455.720, 455.723, 455.732 & 455.735
Hist.: BCD 5-2014, f. & cert. ef. 4-1-14

918-098-1550

Specialized Inspector Certification Issuance and Expiration

(1) Upon receiving proof of completion of all requirements listed in these rules, the division may issue the appropriate specialized inspector certification.

(2) The scope of a certification may be tailored to an individual's knowledge level and skill as determined by the division through an independent evaluation, but may not exceed the scope of work allowed under the rules.

(3) A person holding a valid specialized inspector certification may only perform the duties authorized under that certification provided the person is employed or remains employed by a municipality or the division.

(4) All specialized certifications remain valid provided the holder maintains a current Oregon Inspector Certification. Should the holder fail to maintain a valid Oregon Inspector Certification, all certifications, including any specialized certification issued under this rule, become invalid and the holder may not conduct any inspections until the Oregon Inspector Certification is again valid.

Stat. Auth.: ORS 455.715, 455.720, 455.723, 455.730 & 455.735
Stats. Implemented: ORS 455.715, 455.720, 455.723, 455.730 & 455.735
Hist.: BCD 10-2011(Temp), f. 4-15-11, cert. ef. 5-1-11 thru 6-30-11; BCD 15-2011, f. 6-30-11, cert. ef. 7-1-11; BCD 13-2012(Temp), f. & cert. ef. 11-7-12 thru 5-6-13; BCD 18-2012, f. 12-27-12, cert. ef. 1-1-13; BCD 5-2014, f. & cert. ef. 4-1-14

.....

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

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

Adm. Order No.: FCS 2-2014

Filed with Sec. of State: 4-8-2014

Certified to be Effective: 4-8-14

Notice Publication Date: 3-1-2014

Rules Adopted: 441-910-0096

Subject: This permanent rule implements changes to the escrow exemption for debt management service providers established by 2013 House Bill 3489. The permanent rulemaking clarifies that the exemption does not apply if an escrow agent assists an unregistered debt management service provider that is not exempt from registration 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. 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—(503) 947-7484

441-910-0096

Business Activities

Fees for services shall be construed as all fees charged in connection with the debt management service provider transaction or activity, including but not limited to "escrow" fees.

Stat. Auth.: ORS 697.840
Implemented: ORS 697.692
Hist.: FCS 2-2014, f. & cert. ef. 4-8-14

Department of Consumer and Business Services, Insurance Division Chapter 836

Rule Caption: Special Enrollment Period for Individuals Applying for Health Benefit Plans during April 2014

Adm. Order No.: ID 5-2014(Temp)

Filed with Sec. of State: 4-2-2014

Certified to be Effective: 4-2-14 thru 9-24-14

Notice Publication Date:

Rules Amended: 836-053-0431

Subject: The open enrollment period for individual health benefit plans ended on March 31, 2014. Due to ongoing technical problems, delays and resulting confusion, and market issues relating to implementation of the Affordable Care Act, there is a need to establish a special enrollment period to allow Oregonians to submit health benefit plan applications during April 2014. This additional special enrollment period will provide Oregonians an additional opportunity to obtain health insurance coverage and maintain uniformity throughout the market regarding the enrollment period for individual health insurance coverage.

The time required to complete a permanent rule making does not allow the special enrollment period to be put in place in a timely manner. This would hinder the ability of Oregon citizens to obtain necessary coverage.

This temporary rule allows an individual to apply for individual health insurance outside of the Exchange through April 30, 2014.

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.

(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.

ADMINISTRATIVE RULES

(C) 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).

(c) During the month of April 2014, a carrier must allow special enrollment on the basis that an individual who applies during April 2014 has experienced an event described in 45 CFR 155.420(d)(9), if no other basis for special enrollment exists. The effective date of coverage for enrollment under this paragraph must be no less restrictive than those described in 45 CFR 155.420(b)(2)(iii)(B).

(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; ID 5-2014(Temp), f. & cert. ef. 4-2-14 thru 9-24-14

Rule Caption: Relating to pooling and rating of individual and small group transitional health benefit plans.

Adm. Order No.: ID 6-2014(Temp)

Filed with Sec. of State: 4-11-2014

Certified to be Effective: 4-11-14 thru 10-8-14

Notice Publication Date:

Rules Adopted: 836-053-0066

Rules Amended: 836-053-0465

Subject: The amendments to OAR 836-053-0465 require issuers of individual transitional health benefit plans to impose a three to one rate band on these policies, so that the highest rate is no higher than three times the lowest rate, and to pool individual transitional plans with individual grandfathered health benefit plans. OAR 836-053-0066 requires issuers of small group transitional health benefit plans to pool small group transitional plans with individual grandfathered health benefit plans.

Rules Coordinator: Victor Garcia—(503) 947-7260

836-053-0066

Rating for Transitional Health Benefit Plans

The following provisions relating to rating apply to transitional health benefit plans offered to individuals or small employers:

(1) A transitional health benefit plan offered to small employers:

(a) Is subject to the requirements of OAR 836-053-0065 that apply to grandfathered health benefit plans offered to small employers; and

(b) Must be pooled with all of the carrier's grandfathered business in the small employer market to determine its geographic average rate.

(2) An individual transitional health benefit plan:

(a) Is subject to the requirements of OAR 836-053-0465(4)(a) and 836-053-0465(4)(c)(A); and

(b) Must be pooled with all of the carrier's grandfathered business in the individual market to determine its geographic average rate.

Stat. Auth.: ORS 731.244, 743.731 & 743.737 & 2014 OL Ch. 80, Sec. 5

Stats. Implemented: ORS 743.731 & 746.737 & 2014 OL Ch. 80, Sec. 5

Hist.: ID 6-2014(Temp), f. & cert. ef. 4-11-14 thru 10-8-14

836-053-0465

Rating for Individual Health Benefit Plans

(1) Individual health benefit plans must be rated in accordance with the geographic areas specified in OAR 836-053-0065. A carrier must file a single geographic average rate for each health benefit plan that is offered to individuals within a geographic area. The geographic average rate must be determined on a pooled basis, and the pool shall include all of the carrier's business in the Oregon individual health benefit plan market, except for grandfathered health benefit plans, student health benefit plans and transitional health benefit plans.

(2) The variation in geographic average rates among different individual health benefit plans offered by a carrier must be based solely on objective differences in plan design or coverage. The variation shall not include differences based on the risk characteristics or claims experience of the actual or expected enrollees in a particular plan.

(3) A carrier may use the same geographic average rate for multiple rating areas.

(4) For a nongrandfathered health benefit plan:

(a) A carrier must implement premium rate increases on a fixed schedule that applies concurrently to all enrollees in a plan. A carrier may adjust an enrollee's premium during the rating period if the enrollee has a change in family composition.

(b) Premium rates must total the sum of the product of the applicable factors in subsection (c) of this section for each enrollee and dependent 21 years of age and older and the sum of the product of the applicable factors in section (7) of this rule for each of the three oldest dependent children under the age of 21.

(c) As determined by a carrier, variations in rates may be based on one or both of the following factors:

(A) The ages of enrollees and their dependents according to Exhibit 1 to this rule. Variations in rates based on age may not exceed a ratio of three to one; or

ADMINISTRATIVE RULES

(B) A tobacco use factor of no more than one and one-half times the non-tobacco use rate for persons 18 years of age or older except that the factor may not be applied when the person is enrolled in a tobacco cessation program.

(5) For a grandfathered health benefit plan, a carrier must: Implement premium rate increases in a consistent manner for all enrollees in a plan. A carrier may use either of the following methods to schedule premium rate increases for all enrollees in a grandfathered health benefit plan:

(a) A rolling schedule that is based on the anniversary of the date of coverage issued to each enrollee or on another anniversary date established by the carrier; or

(b) A fixed schedule that applies concurrently to all enrollees in a plan. If a fixed schedule is used, a carrier may adjust the premium of an enrollee during the rating period if the enrollee moves into a higher age bracket or has a change in family composition.

(6) In addition to other bases offered by a carrier, an enrollee of an individual health benefit plan must be offered the opportunity to pay premium on a monthly basis.

Stat. Auth.: ORS 731.244, 743.019, 743.020 & 743.769
Stats. Implemented: ORS 743.766-743.769, 746.015 & 746.240
Hist.: ID 12-1996, f. & cert. ef. 9-23-96; Renumbered from 836-053-0420, ID 5-1998, f. & cert. ef. 3-9-98; ID 5-2000, f. & cert. ef. 5-11-00; ID 7-2001(Temp), f. 5-30-01, cert. ef. 5-31-01 thru 11-16-01; ID 14-2001, f. & cert. ef. 11-20-01; ID 5-2010, f. & cert. ef. 2-16-10; ID 12-2013, f. 12-31-13, cert. ef. 1-1-14; ID 6-2014(Temp), f. & cert. ef. 4-11-14 thru 10-8-14

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

Rule Caption: Repeal of requirement to use International Classification of Disease Tenth Revision (ICD-10) codes

Adm. Order No.: WCD 4-2014(Temp)

Filed with Sec. of State: 4-15-2014

Certified to be Effective: 4-15-14 thru 10-11-14

Notice Publication Date:

Rules Amended: 436-009-0010, 436-009-0020

Subject: These temporary rules repeal the requirement that medical providers use ICD-10 codes on billings for services provided on or after Oct. 1, 2014. The current ICD-9 requirements will remain in place.

Rules Coordinator: Fred Bruyns—(503) 947-7717

436-009-0010

Medical Billing and Payment

(1) General.

(a) Only treatment that falls within the scope and field of the medical provider's license to practice will be paid under a worker's compensation claim.

(b) All billings must include the patient's full name, date of injury, and the employer's name. If available, billings must also include the insurer's claim number and the provider's NPI. If the provider does not have an NPI, then the provider must provide its license number and the billing provider's FEIN. For provider types not licensed by the state, "99999" must be used in place of the state license number.

(c) The medical provider must bill their usual fee charged to the general public. The submission of the bill by the medical provider shall serve as a warrant that the fee submitted is the usual fee of the medical provider for the services rendered. The department shall have the right to require documentation from the medical provider establishing that the fee under question is the medical provider's usual fee charged to the general public. For purposes of this rule, "general public" means any person who receives medical services, except those persons who receive medical services subject to specific billing arrangements allowed under the law which require providers to bill other than their usual fee.

(d) Medical providers must not submit false or fraudulent billings, including billing for services not provided. As used in this section, "false or fraudulent" means an intentional deception or misrepresentation with the knowledge that the deception could result in unauthorized benefit to the provider or some other person. A request for pre-payment for a deposition is not considered false or fraudulent.

(e) When a provider treats a patient with two or more compensable claims, the provider must bill individual medical services for each claim separately.

(f) When rebilling, medical providers must indicate that the charges have been previously billed.

(g) If a patient requests copies of medical bills in writing, medical providers must provide copies within 30 days of the request, and provide any copies of future bills during the regular billing cycle.

(2) Billing Timelines. (For payment timelines see OAR 436-009-0030.)

(a) Medical providers must bill within:

(A) 60 days of the date of service;

(B) 60 days after the medical provider has received notice or knowledge of the responsible workers' compensation insurer or processing agent; or

(C) 60 days after any litigation affecting the compensability of the service is final, if the provider receives written notice of the final litigation from the insurer.

(b) If the provider bills past the timelines outlined in subsection (a) of this section, the provider may be subject to civil penalties as provided in ORS 656.254 and OAR 436-010-0340.

(c) When submitting a bill later than outlined in subsection (a) of this section, a medical provider must establish good cause. Good cause may include, but is not limited to, such issues as extenuating circumstances or circumstances considered outside the control of the provider.

(d) When a provider submits a bill within 12 months of the date of service, the insurer may not reduce payment due to late billing.

(e) When a provider submits a bill more than 12 months after the date of service, the bill is not payable, except when a provision of subsection (2)(a) is the reason the billing was submitted after 12 months.

(3) Billing Forms.

(a) All medical providers must submit bills to the insurer unless a contract directs the provider to bill the managed care organization.

(b) Medical providers must submit bills on a completed current UB-04 (CMS 1450) or CMS 1500 form (Versions 08/05 or 02/12 for dates of service prior to Oct. 1, 2014; Version 02/12 for dates of service Oct. 1, 2014 or after) except for:

(A) Dental billings, which must be submitted on American Dental Association dental claim forms;

(B) Pharmacy billings, which must be submitted on a current National Council for Prescription Drug Programs (NCPDP) form; or

(C) Electronic billing transmissions of medical bills.

(c) Medical providers may use computer-generated reproductions of the appropriate forms.

(d) Unless different instructions are provided in the table below, [Table not included. See ED. NOTE.] the provider should use the instructions provided in the National Uniform Claim Committee 1500 Claim Form Reference Instruction Manual.

(4) Billing Codes.

(a) When billing for medical services, a medical provider must use codes listed in CPT® 2014 or Oregon specific codes (OSC) listed in OAR 436-009-0060 that accurately describe the service. If there is no specific CPT® code or OSC, a medical provider must use the appropriate HCPCS or dental code, if available, to identify the medical supply or service. If there is no specific code for the medical service, the medical provider must use the unlisted code at the end of each medical service section of CPT® 2014 or the appropriate unlisted HCPCS code, and provide a description of the service provided. A medical provider must include the National Drug Code (NDC) to identify the drug or biological when billing for pharmaceuticals.

(b) Only one office visit code may be used for each visit except for those code numbers relating specifically to additional time.

(5) Modifiers.

(a) When billing, unless otherwise provided by these rules, medical providers must use the appropriate modifiers found in CPT® 2014, HCPCS' level II national modifiers, or anesthesia modifiers, when applicable.

(b) Modifier 22 identifies a service provided by a medical service provider that requires significantly greater effort than typically required. Modifier 22 may only be reported with surgical procedure codes with a global period of 0, 10 or 90 days listed in Appendix B. The bill must include documentation describing the additional work. It is not sufficient to simply document the extent of the patient's comorbid condition that caused the additional work. When a medical service provider appropriately bills for an eligible procedure with modifier 22, the payment rate is 125% of the fee published in Appendix B, or the fee billed, whichever is less. For all services identified by modifier 22, two or more of the following factors must be present:

(A) Unusually lengthy procedure;

(B) Excessive blood loss during the procedure;

ADMINISTRATIVE RULES

(C) Presence of an excessively large surgical specimen (especially in abdominal surgery);

(D) Trauma extensive enough to complicate the procedure and not billed as separate procedure codes;

(E) Other pathologies, tumors, malformations (genetic, traumatic, surgical) that directly interfere with the procedure but are not billed as separate procedure codes; or

(F) The services rendered are significantly more complex than described for the submitted CPT.

(6) Physician Assistants and Nurse Practitioners. Physician assistants and nurse practitioners must bill using modifier "81" and document in the chart notes that they provided the medical service.

(7) Chart Notes.

(a) All original medical provider billings must be accompanied by legible chart notes. The chart notes must document the services that have been billed and identify the person performing the service.

(b) Chart notes must not be kept in a coded or semi-coded manner unless a legend is provided with each set of records.

(c) When processing electronic bills, the insurer may waive the requirement that bills be accompanied by chart notes. The insurer remains responsible for payment of only compensable medical services. Medical providers may submit their chart notes separately or at regular intervals as agreed with the insurer.

(8) Challenging the Provider's Bill. For services where the fee schedule does not establish a fixed dollar amount, an insurer may challenge the reasonableness of a provider's bill on a case by case basis by asking the director to review the bill under OAR 436-009-0008. If the director determines the amount billed is unreasonable, the director may establish a different fee to be paid to the provider based on at least one of, but not limited to, the following: reasonableness, the usual fees of similar providers, fees for similar services in similar geographic regions, and any extenuating circumstances.

(9) Billing the Patient/Patient Liability.

(a) A patient is not liable to pay for any medical service related to an accepted compensable injury or illness or any amount reduced by the insurer according to OAR chapter 436. However, the patient may be liable, and the provider may bill the patient:

(A) If the patient seeks treatment for conditions not related to the accepted compensable injury or illness;

(B) If the patient seeks treatment for a service that has not been prescribed by the attending physician or authorized nurse practitioner, or a specialist physician upon referral of the attending physician or authorized nurse practitioner. This would include, but is not limited to, ongoing treatment by non-attending physicians in excess of the 30-day/12-visit period or by nurse practitioners in excess of the 180-day period, as set forth in ORS 656.245 and OAR 436-010-0210;

(C) If the insurer notifies the patient that he or she is medically stationary and the patient seeks palliative care that is not authorized by the insurer or the director under OAR 436-010-0290;

(D) If an MCO-enrolled patient seeks treatment from the provider outside the provisions of a governing MCO contract; or

(E) If the patient seeks treatment listed in section (12) of this rule after the patient has been notified that such treatment is unscientific, unproven, outmoded, or experimental.

(b) If the director issues an order declaring an already rendered medical service or treatment inappropriate, or otherwise in violation of the statute or administrative rules, the worker is not liable for such services.

(10) Disputed Claim Settlement (DCS). The insurer must pay a medical provider for any bill related to the claimed condition received by the insurer on or before the date the terms of a DCS were agreed on, but was either not listed in the approved DCS or was not paid to the medical provider as set forth in the approved DCS. Payment must be made by the insurer as prescribed by ORS 656.313(4)(d) and OAR 438-009-0010(2)(g) as if the bill had been listed in the approved settlement or as set forth in the approved DCS, except, if the DCS payments have already been made, the payment must not be deducted from the settlement proceeds. Payment must be made within 45 days of the insurer's knowledge of the outstanding bill.

(11) Payment Limitations.

(a) Insurers do not have to pay providers for the following:

(A) Completing forms 827 and 4909;

(B) Providing chart notes with the original bill;

(C) Preparing a written treatment plan;

(D) Supplying progress notes that document the services billed;

(E) Completing a work release form or completion of a PCE form, when no tests are performed;

(F) A missed appointment "no show" (see exceptions below under section (13) Missed Appointment "No Show"); or

(G) More than three mechanical muscle testing sessions per treatment program or when not prescribed and approved by the attending physician or authorized nurse practitioner.

(b) Mechanical muscle testing includes a copy of the computer print-out from the machine, written interpretation of the results, and documentation of time spent with the patient. Additional mechanical muscle testing shall be paid for only when authorized in writing by the insurer prior to the testing.

(12) Excluded Treatment. The following medical treatments (or treatment of side effects) are not compensable and insurers do not have to pay for:

(a) Dimethyl sulfoxide (DMSO), except for treatment of compensable interstitial cystitis;

(b) Intradiscal electrothermal therapy (IDET);

(c) Surface EMG (electromyography) tests;

(d) Rolting;

(e) Prolotherapy;

(f) Thermography;

(g) Lumbar artificial disc replacement, unless it is a single level replacement with an unconstrained or semi-constrained metal on polymer device and:

(A) The single level artificial disc replacement is between L3 and S1;

(B) The patient is 16 to 60 years old;

(C) The patient underwent a minimum of six months unsuccessful exercise based rehabilitation; and

(D) The procedure is not found inappropriate under OAR 436-010-0230(15) or (16); and

(h) Cervical artificial disc replacement, unless it is a single level replacement with a semi-constrained metal on polymer or a semi-constrained metal on metal device and:

(A) The single level artificial disc replacement is between C3 and C7;

(B) The patient is 16 to 60 years old;

(C) The patient underwent unsuccessful conservative treatment;

(D) There is intraoperative visualization of the surgical implant level; and

(E) The procedure is not found inappropriate under OAR 436-010-0230(17) or (18).

(13) Missed Appointment (No Show). In general, the insurer does not have to pay for "no show" appointments. However, insurers must pay for "no show" appointments for arbiter exams, director required medical exams, independent medical exams, worker requested medical exams, and closing exams. If the patient does not give 48 hours notice, the insurer must pay the provider 50 percent of the exam or testing fee and 100 percent for any review of the file that was completed prior to cancellation or missed appointment.

[ED. NOTE: Tables referenced are available from the agency.]

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 656.245, 656.252, 656.254

Stats. Implemented: ORS 656.245, 656.252, 656.254

Hist.: WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96; WCD 20-1996, f. 10-2-96, cert. ef. 1-1-97; WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2000, f. 3-15-00, cert. ef. 4-1-00; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 8-2001, f. 9-13-01, cert. ef. 9-17-01; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06; WCD 2-2007, f. 5-23-07, cert. ef. 7-1-07; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 1-2009, f. 5-22-09, cert. ef. 7-1-09; WCD 3-2009, f. 12-1-09, cert. ef. 1-1-10; WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10; WCD 1-2011, f. 3-1-11, cert. ef. 4-1-11; WCD 1-2012, f. 2-16-12, cert. ef. 4-1-12; WCD 2-2013, f. 3-11-13, cert. ef. 4-1-13; WCD 3-2014, f. 3-12-14, cert. ef. 4-1-14; WCD 4-2014(Temp), f. & cert. ef. 4-15-14 thru 10-11-14

436-009-0020

Hospitals

(1) Inpatient.

(a) For the purposes of this rule, hospital inpatient services are those services that are billed with codes "0111" through "0118" in form locator #4 on the UB-04 billing form.

(b) Hospital inpatient bills must include:

(A) ICD-9-CM codes;

(B) When applicable, procedural codes;

(C) The hospital's NPI; and

(D) The Medicare Severity Diagnosis Related Group (MS-DRG) code for bills from those hospitals listed in Appendix A.

(c) Unless otherwise provided by contract, the insurer must pay the audited bill for hospital inpatient services by multiplying the amount charged by the hospital's adjusted cost to charge ratio (See Bulletin 290).

ADMINISTRATIVE RULES

The insurer must pay in-state hospitals not listed in Bulletin 290 at 80 percent of billed charges for inpatient services.

(2) Outpatient.

(a) For the purposes of this rule, hospital outpatient services are those services that are billed with codes "0131" through "0138" in form locator #4 on the UB-04 billing form.

(b) Hospital outpatient bills must, when applicable, include the following:

- (A) Revenue codes;
- (B) ICD-9-CM codes;
- (C) CPT® codes and HCPCS codes; and
- (D) The hospital's NPI.

(c) Unless otherwise provided by contract, the insurer must pay for hospital outpatient services as follows: [Appendices not included. See ED. NOTE.]

(3) Specific Circumstances. When a patient is seen initially in an emergency department and is then admitted to the hospital for inpatient treatment, the services provided immediately prior to admission shall be considered part of the inpatient treatment. Diagnostic testing done prior to inpatient treatment shall be considered part of the hospital services subject to the hospital inpatient fee schedule.

(4) Out-of-State Hospitals.

(a) The payment to out-of-state hospitals may be negotiated between the insurer and the hospital.

(b) Any agreement for payment less than the billed amount must be in writing and signed by the hospital and insurer representative.

(c) The agreement must include language that the hospital will not bill the patient any remaining balance and that the negotiated amount is considered payment in full.

(d) If the insurer and the hospital are unable to reach an agreement within 45 days of the insurer's receipt of the bill, either party may bring the issue to the director for resolution. The director may order payment up to the amount billed considering factors such as, but not limited to, reasonableness, usual fees for similar services by facilities in similar geographic areas, case specific services, and any extenuating circumstances.

(5) Calculation of Cost to Charge Ratio Published in Bulletin 290.

(a) Each hospital's CMS 2552 form and financial statement shall be the basis for determining its adjusted cost to charge ratio. If a current form 2552 is not available, then financial statements may be used to develop estimated data. If the adjusted cost to charge ratio is determined from estimated data, the hospital will receive the lower ratio of either the hospital's last published cost to charge ratio or the hospital's cost to charge ratio based on estimated data.

(b) The basic cost to charge ratio shall be developed by dividing the total net expenses for allocation shown on Worksheet A, and as modified in subsection (c), by the total patient revenues from Worksheet G-2.

(c) The net expenses for allocation derived from Worksheet A shall be modified by adding, from Worksheet A-8, the expenses for:

- (A) Provider-based physician adjustment;
- (B) Patient expenses such as telephone, television, radio service, and other expenses determined by the department to be patient-related expenses; and
- (C) Expenses identified as for physician recruitment.

(d) The basic cost to charge ratio shall be further modified to allow a factor for bad debt and the charity care provided by each hospital. The adjustment for bad debt and charity care is calculated in two steps. Step one: Add the dollar amount for net bad debt to the dollar amount for charity care. Divide this sum by the dollar amount of the total patient revenues, from Worksheet G-2, to compute the bad debt and charity ratio. Step two: Multiply the bad debt and charity ratio by the basic cost to charge ratio calculated in subsection (5)(b) to obtain the factor for bad debt and charity care.

(e) The basic cost to charge ratio shall be further modified to allow an adequate return on assets. The director will determine a historic real growth rate in the gross fixed assets of Oregon hospitals from the audited financial statements. This real growth rate and the projected growth in a national fixed weight price deflator will be added together to form a growth factor. This growth factor will be multiplied by the total fund balance, from Worksheet G of each hospital's CMS 2552 to produce a fund balance amount. The fund balance amount is then divided by the total patient revenues from Worksheet G-2, to compute the fund balance factor.

(f) The factors resulting from subsections (5)(d) and (5)(e) of this rule will be added to the ratio calculated in subsection (5)(b) of this rule to obtain the adjusted cost to charge ratio. In no event will the adjusted cost to charge ratio exceed 1.00.

(g) The adjusted cost to charge ratio for each hospital will be revised annually, at a time based on their fiscal year, as described by bulletin. Each hospital must submit a copy of their CMS 2552 and financial statements each year within 150 days of the end of their fiscal year to the Information Technology and Research Section, Department of Consumer and Business Services. The adjusted cost to charge ratio schedule will be published by bulletin twice yearly, effective for the six-month period beginning April 1 and the six-month period beginning October 1.

(h) For newly formed or established hospitals for which no CMS 2552 has been filed or for which there is insufficient data, or for those hospitals that do not file Worksheet G-2 with the submission of their CMS 2552, the division shall determine an adjusted cost to charge ratio for the hospital based upon the adjusted cost to charge ratios of a group of hospitals of similar size or geographic location.

(i) If the financial circumstances of a hospital unexpectedly or dramatically change, the division may revise the hospital's adjusted cost to charge ratio to allow equitable payment.

(j) If audit of a hospital's CMS 2552 by the CMS produces significantly different data from that obtained from the initial filing, the division may revise the hospital's adjusted cost to charge ratio to reflect the data developed subsequent to the initial calculation.

(k) Notwithstanding sections (1)(c), (2)(b), and (2)(c) of this rule, the director may exclude rural hospitals from imposition of the adjusted cost to charge ratio based upon a determination of economic necessity. The rural hospital exclusion will be based on the financial health of the hospital reflected by its financial flexibility index. All rural hospitals having a financial flexibility index at or below the median for critical access hospitals nationwide will qualify for the rural exemption. Rural hospitals that are designated as critical access hospitals under the Oregon Medicare Rural Hospital Flexibility Program are automatically exempt from imposition of the adjusted cost to charge ratio.

[ED. NOTE: Appendices referenced are available from the agency.]

[Publications: Publications & forms referenced are available from the agency.]

Stat. Auth.: ORS 656.726(4), also see 656.012, 656.236(5), 656.327(2), 656.313(4)(d)

Stats. Implemented: ORS 656.248; 656.252; 656.256

Hist.: WCD 5-1982(Admin), f. 2-23-82, ef. 3-1-82; WCD 1-1984(Admin), f. & ef. 1-16-84; WCD 2-1985(Admin), f. 4-29-85, ef. 6-3-85; Renumbered from 436-069-0701, 5-1-85; WCD 3-1985(Admin)(Temp), f. & ef. 9-4-85; WCD 4-1985(Admin)(Temp), f. & ef. 9-11-85; WCD 6-1985(Admin), f. 12-10-85, ef. 1-1-86; WCD 1-1986(Admin)(Temp), f. 2-5-86, ef. 2-6-86; WCD 2-1986(Admin), f. 3-10-86, ef. 3-17-86; WCD 2-1987(Admin), f. 2-20-87, ef. 3-16-87; WCD 1-1988, f. 1-20-88, cert. ef. 2-1-88; WCD 6-1988, f. 9-6-88, cert. ef. 9-15-88; WCD 2-1989, f. 8-21-89, cert. ef. 9-1-89; WCD 1-1990, f. 1-5-90, cert. ef. 2-1-90; WCD 12-1990(Temp), f. 6-20-90, cert. ef. 7-1-90; WCD 15-1990, f. & cert. ef. 8-7-90; WCD 30-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 11-1992, f. 6-11-92, cert. ef. 7-1-92; WCD 13-1994, f. 12-20-94, cert. ef. 2-1-95; WCD 18-1995(Temp), f. & cert. ef. 12-4-95; WCD 12-1996, f. 5-6-96, cert. ef. 6-1-96, Renumbered from 436-010-0090; WCD 20-1996, f. 10-2-96, cert. ef. 1-1-97; WCD 5-1997, f. 4-21-97, cert. ef. 7-1-97; Administrative correction 6-18-97; WCD 8-1997(Temp), f. & cert. ef. 7-9-97; WCD 16-1997, f. & cert. ef. 12-15-97; WCD 5-1998, f. 4-3-98, cert. ef. 7-1-98; WCD 9-1999, f. 5-27-99, cert. ef. 7-1-99; WCD 2-2001, f. 3-8-01, cert. ef. 4-1-01; WCD 3-2002, f. 2-25-02 cert. ef. 4-1-02; WCD 6-2003, f. 5-28-03, cert. ef. 7-1-03; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 2-2005, f. 3-24-05, cert. ef. 4-1-05; WCD 3-2006, f. 3-14-06, cert. ef. 4-1-06; WCD 2-2007, f. 5-23-07, cert. ef. 7-1-07; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 3-2008(Temp), f. & cert. ef. 7-7-08 thru 1-2-09; WCD 5-2008, f. 12-15-08, cert. ef. 1-1-09; WCD 1-2009, f. 5-22-09, cert. ef. 7-1-09; WCD 3-2010, f. 5-28-10, cert. ef. 7-1-10; WCD 1-2011, f. 3-1-11, cert. ef. 4-1-11; WCD 2-2013, f. 3-11-13, cert. ef. 4-1-13; WCD 3-2014, f. 3-12-14, cert. ef. 4-1-14; WCD 4-2014(Temp), f. & cert. ef. 4-15-14 thru 10-11-14

Department of Energy Chapter 330

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

Adm. Order No.: DOE 3-2014

Filed with Sec. of State: 4-1-2014

Certified to be Effective: 4-1-14

Notice Publication Date: 3-1-2014

Rules Amended: 330-090-0133

Subject: Although the 2011 Oregon Legislature replaced the Business Energy Tax Credit (BETC) program with the new Energy Incentives Program, the Oregon Department of Energy still must carry out its obligations to BETC participants before that program officially ends July 1, 2014. The rule amends the final certification rule section. The 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 adds an energy performance reporting requirement. The 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

ADMINISTRATIVE RULES

reporting requirement may apply to projects receiving BETC final certification after January 1, 2014.

Rules Coordinator: Elizabeth Ross—(503) 373-8534

330-090-0133

Final Certification

(1) Processing the Final Certification: To qualify for a Final Certification, the facility must be completed as described in the Application for Preliminary Certification and the Preliminary Certificate. Any changes to the Preliminary Certificate and/or Application for Preliminary Certification must complete the amendment process outlined in these rules prior to the project completion date. Failure to obtain approval through the amendment process may result in denial of the Final Certification Application.

(a) Applications shall be considered received for the purposes of ORS 469B.167 on the date marked received by the department, unless the application is incomplete. If the application for final certification is not complete, the date on which all of the required information has been received is the date upon which the department will consider a completed application received by the department.

(A) When a facility owner chooses to transfer the tax credit under ORS 469B.148, the Department may hold the application for final certification until pass-through partner(s) information is received by the Department. Except for a facility using or producing renewable energy resources with a certified cost that exceeds \$10 million, any application in which the facility owner has indicated a choice to transfer the tax credit under 469B.148 is not a “completed application” until the Department receives both the completed final certification application form from the facility owner, the pass-through fee and the completed pass-through partner agreement form for the tax credit, or portion of the tax credit, being transferred to that pass-through partner. The receipt of the completed application by the Department begins the certification period, as provided in 469B.167.

(B) As provided in ORS 469B.167(2)(c), a facility using or producing renewable energy resources with a certified cost that exceeds \$10 million and that receives final certification under ORS 469B.161 after January 1, 2010, a final certification application shall be considered complete without the identification of a transferee for purposes of ORS 469B.148 or 469B.154.

(C) If more than one pass-through partner is being transferred the credit, facility owners may have up to 18 months from the date the first pass-through partner agreement form is received by the Department to begin each certification period of the tax credit. For pass-through partner(s) agreement forms received by the Department after the 18-month period, the certification period begins 18 months from the date the first pass-through partner agreement form was received by the Department.

(D) For purposes of administering the sunset of the program, the Department may issue a Final Certificate to a facility owner who previously indicated a choice to transfer a tax credit to a pass-through partner under ORS 469B.148, if the Department has not received a completed application that includes the pass-through fee and the signed pass-through partner agreement form at least sixty days prior to the sunset date for the BETC program provided under ORS 315.357. The Final Certificate will be issued to a facility owner if the only piece causing the application for final certification to be incomplete is the pass-through partner(s) agreement form and pass-through fee.

(b) Within 30 days after a final certification application is received, the Director will determine whether the application is complete. An application is incomplete if it does not include information needed to demonstrate substantive compliance with the provisions of ORS 469B.130 to 469B.169 and any applicable rules or standards and preliminary certification conditions adopted by the Director. If it is not complete, the applicant will be provided a written explanation describing deficiencies. If it is complete, the Director will process the application. Within 60 days after a completed final certification application is received the director will either approve or deny the final certification.

(c) If the Director approves the application, the Director will issue final certification, which will state the amount of certified costs and the amount of the tax credit approved. The final certification may contain additional criteria and conditions that must be met in order to retain tax credit benefits or the tax credit certificate may be subject to revocation. If the facility fails to meet any of the criteria, conditions and requirements established in the final certification, the facility owner must notify the Department within 30 days.

(d) For efficient truck technology facilities the department may, upon the request of the applicant, issue no more than two final certificates for

each preliminary certification, up to the amount of the preliminary certification.

(2) Basis for Denying Tax Credit Benefits

(a) If the Director does not approve the application, the Director will provide written notice of the action, including a statement of the findings and reasons for the denial by regular and certified mail.

(b) A final certification application that is denied can be submitted again. A final certification application can be amended or withdrawn by the applicant. If an application is submitted again or amended, the time within which final certification review occurs starts over.

(c) If the Director does not issue a final certification within 60 days after an application is filed, the application is denied pursuant to ORS 469B.161(4).

(d) The Director may deny a final certificate if:

(A) The applicant does not provide information about the facility in a reasonable time after the Director requests it;

(B) The facility is significantly different than the proposed facility for which the preliminary certification was issued;

(C) The applicant misrepresents or fails to construct or operate the facility;

(D) The applicant fails to demonstrate that the facility described in the application is separate and distinct from previous or current applications reviewed by the Department;

(E) The facility does not meet all of the conditions and requirements contained in the preliminary certificate; or

(F) The applicant is unable to demonstrate that the facility complies with all applicable provisions of ORS Chapter 469B and the rules adopted thereunder.

(3) Basis for Revoking Tax Credit Benefits

(a) The Director may revoke certificates as provided in ORS 469B.169 and ORS 315.354 (5). For the purposes of this section, “fraud or misrepresentation” means any misrepresentation made by an applicant for a preliminary or final certification, including but not limited to, misrepresentations as to the applicant’s financial viability, facility construction and operation, or any other information provided as part of an application for a preliminary or final certification.

(b) After the Director issues a final certificate, an applicant must notify the director in writing of any of the following conditions:

(A) The facility has been moved;

(B) Title to the facility has been conveyed;

(C) The facility is subject to or part of a bankruptcy proceeding;

(D) The facility is not operating; or

(E) The term of a leased facility has ended.

(c) Pursuant to ORS 469B.169, upon receiving information that a BETC certification was obtained by fraud or misrepresentation, or that the facility has not been constructed or operated in compliance with the requirements in the certificate, the Director shall revoke the certificate for the facility.

(d) A revocation of the final certification or portion of a certification due to fraud or misrepresentation results in the loss of all prior and future tax credits in connection with that facility. If all or a part of the tax credit certificate has been transferred to a Pass-through partner under ORS 469B.148, the certificate is not considered revoked as to the Pass-through partner, but the facility owner is liable for the amount of tax credits claimed or that could be claimed.

(e) The revocation of a certificate due to failure to construct or operate the facility in compliance with the certificate results in the loss of any tax credits not yet claimed by the facility owner. If all or a part of the tax credit certificate has been transferred to a Pass-through partner under ORS 469B.148, the certificate is not considered revoked as to the Pass-through partner.

(4) Sale or Disposition of the Facility after Final Certification: As provided in ORS 315.354(5), the department may issue a new tax credit final certificate after the sale, termination of the lease or contract, exchange or other disposition of the facility where the original facility owner did not transfer the tax credit to a pass-through partner.

(a) The original facility owner or representative must give notice to the department of the sale or transfer of the facility and the department will revoke the certificate covering the facility as of the date of such disposition. The original facility owner or representative must provide.

(A) The name of the new owner or new lessor who will be applying for any previously unclaimed portion of the tax credit.

(B) A signed power of attorney authorizing the Oregon Department of Revenue to disclose to the Oregon Department of Energy information regarding the portion, if any, of the tax credit already claimed.

ADMINISTRATIVE RULES

(b) The new owner, or upon re-leasing of the facility, the new lessor, may apply for a new final certificate under ORS 469B.161 by submitting:

(A) Satisfactory evidence of facility ownership by the new owner or the new lessor, along with information demonstrating that the facility is currently operating and will continue to operate during the remainder of the tax credit period, unless continued operation is waived by the department.

(B) A Tax Credit Recipient Statement, on a form prescribed by the department, which includes the new owner or lessor's name, tax identification number and address.

(c) To be eligible to receive a new final certificate, the facility must meet the requirements of ORS 469B.130 to 469B.169, and any applicable administrative rules, and the new owner or lessor may claim a tax credit under this section only if all moneys owed to the State of Oregon have been paid, the facility continues to operate, unless continued operation is waived by the department, and all conditions in the new final certification are met.

(5) Request for Reconsideration: No later than 60 days after the Director issues an order on a preliminary certification, amendment to a preliminary certification, final certification, or canceling or revoking a final certificate under these rules, the applicant or certificate holder may request reconsideration in writing.

(6) Inspections: After an application is filed under ORS 469B.145 or ORS 469B.161 or a tax credit is claimed under these rules, the Department may inspect the facility. The Department will schedule the inspection during normal working hours, following reasonable notice to the facility operator.

(7) Energy Performance Reporting Requirements: The department may require a facility owner to report on a project's energy performance after receiving final certification. This requirement will apply to projects receiving final certification on or after January 1, 2014.

(a) The department will select projects to report energy performance when the operational data would further the energy goals of the department and the legislative policy described in ORS 469B.133. Facilities required to report energy performance may include those that use or produce renewable energy resources, sustainable building practices facilities and new technologies.

(b) If required to report, an energy performance reporting agreement will be included as a condition of the final certification.

(c) The energy performance reporting agreement will require facility owners to report on an annual basis for up to five years after receiving final certification.

(d) The energy performance reporting agreement will specify the data the facility owner must provide annually. The agreement may also specify energy performance goals.

(e) The department will not require facilities receiving one year tax credits to enter an energy performance reporting agreement.

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

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

Hist.: DOE 2-2009(Temp), f. & cert. ef. 11-3-09 thru 5-1-10; DOE 3-2010, f. & cert. ef. 4-30-10; DOE 4-2010(Temp), f. 5-21-10, cert. ef. 5-27-10 thru 11-2-10; Administrative correction 11-23-10; DOE 14-2010, f. & cert. ef. 11-23-10; DOE 3-2011(Temp), f. 4-15-11, cert. ef. 4-18-11 thru 10-14-11; DOE 6-2011, f. & cert. ef. 9-29-11; DOE 7-2011, f. & cert. ef. 10-25-11; DOE 10-2011, f. & cert. ef. 11-30-11; DOE 8-2012, f. & cert. ef. 7-10-12; DOE 1-2013, f. & cert. ef. 5-13-13; DOE 3-2014, f. & cert. ef. 4-1-14

.....

Department of Environmental Quality Chapter 340

Rule Caption: Align Diesel Grant Program with Federal Guidelines

Adm. Order No.: DEQ 3-2014

Filed with Sec. of State: 3-31-2014

Certified to be Effective: 3-31-14

Notice Publication Date: 1-1-2014

Rules Amended: 340-259-0010

Subject: The Environmental Quality Commission amended clean diesel grant and loan program rules to implement Senate Bill 249 (2013). The commission approved these changes by temporary rule Oct. 16, 2013, to allow DEQ to administer federal grants received for clean diesel projects during the current federal grant cycle. The temporary rules expire April 27, 2014.

Brief history:

The 2013 Oregon Legislature unanimously adopted Senate Bill 249. The bill authorized DEQ to administer federal grants for clean diesel projects and to complete the projects according to federal grant guidelines rather than the more limited state guidelines. Authority to

administer clean diesel grants was first provided to DEQ in 2007. Projects that qualified for grants were limited to retrofitting diesel exhaust controls, non-road engine repowers and scrapping pre-1994 trucks. The federal program guidelines provide for many other eligible activities including idle reduction, aerodynamic enhancements and vehicle replacement.

Although the legislation included an emergency clause making it effective upon filing, DEQ must adopt implementing rules. Failure to adopt the rules would have prevented DEQ from offering the broader range of projects that are now more attractive to Oregon's potential applicants interested in reducing harmful emissions from diesel engines.

Regulated parties:

Participation in the grant program is voluntary. The rules affect owners of diesel powered vehicles and equipment as sub-recipients of DEQ-secured grant funds. The successful implementation of projects supported by grants authorized by the rules affects Oregonians by reducing harmful emissions.

Rules Coordinator: Maggie Vandehey — (503) 229-6878

340-259-0010

Purpose and Scope

(1) The purpose of the clean diesel grant and loan rules is to make grants and loans available to the owners or operators of diesel engines for the retrofit of an Oregon diesel engine, for the repower of a non-road Oregon diesel engine, or for the scrapping of an Oregon truck engine.

(2) The rules in this division do not apply to DEQ grants or loans using moneys received from the federal government for initiatives to reduce emissions from diesel engines. DEQ may exercise its discretion to issue such grants and awards as it deems appropriate, consistent with and subject to federal law.

Stat. Auth.: OL 2007, Ch. 855 (2007 HB 2172), ORS 468.020, 468A.803

Stats. Implemented: OL 2007, Ch. 855 (2007 HB 2172), 468A.803

Hist.: DEQ 9-2008, f. & cert. ef. 7-11-08; DEQ 10-2013(Temp), f. 10-28-13, cert. ef. 10-29-13 thru 4-27-14; DEQ 3-2014, f. & cert. ef. 3-31-14

.....

Rule Caption: Incorporate Lane Regional Air Protection Agency Rules for open burning into State Implementation Plan

Adm. Order No.: DEQ 4-2014

Filed with Sec. of State: 3-31-2014

Certified to be Effective: 3-31-14

Notice Publication Date: 1-1-2014

Rules Amended: 340-200-0040

Subject: The Environmental Quality Commission amended rules to incorporate Lane Regional Air Protection Agency revised regulations for open burning into Oregon's State Implementation Plan in Oregon Administrative Rule 340-200-0040. The LRAPA Board of Directors adopted open burning rules revisions in an effort to meet federal air quality standards for fine particulate matter, to bring LRAPA in line with state rules and better coordinate with state and federal requirements. LRAPA revised its rules to:

- Clarify when and where small recreational fires such as patio fireplace could occur and identify acceptable fuels for these fires,
- Include Hazeldell and Siuslaw Rural Fire Protection Districts in the special open-burning control area at the districts' request,
- Allow daily end time on burn days to be set earlier than sunset,
- Restrict the open burning season in the outlying areas of Lane County, and
- Correct the meaning of the LRAPA acronym to Lane Regional Air Protection Agency.

Brief history

LRAPA, in consultation with DEQ and the U.S. Environmental Protection Agency, is responsible for ensuring that Lane County communities comply with federal air quality health standards, including enacting plans to restore healthy air quality in any area violating standards. LRAPA conducts air monitoring, permitting and compliance, inspection and enforcement, and regulates open burning and asbestos abatement throughout Lane County. It also has a woodstove advisory program, an open burning advisory program and conducts special projects focused on air quality. Funding sources for LRAPA

ADMINISTRATIVE RULES

include dues from Lane County and cities in Lane County and fees from industrial and other permitted sources. Additionally, LRAPA coordinates with DEQ to obtain EPA funding and state general funds.

On March 14, 2008, the LRAPA Board of Directors adopted amendments to the Title 47 open burning rules, and the rules have been in effect in Lane County since their adoption. The Environmental Quality Commission and DEQ have oversight authority to ensure LRAPA meets Clean Air Act requirements.

The State Implementation Plan is the State of Oregon Clean Air Act Implementation Plan that EQC adopts under OAR 340-200-0040 and EPA approves. EQC reviews LRAPA rules to determine if they comply with state law and the Clean Air Act. If they comply, EQC approves the LRAPA rules and revisions to OAR 340-200-0040 and directs DEQ to submit the approved rules to EPA for federal approval as State Implementation Plan amendments.

Typically, DEQ presents LRAPA rules to EQC for consideration immediately upon adoption by the LRAPA board. EPA's public notice requirements are above and beyond Oregon's requirements and several years ago, DEQ and LRAPA held a joint public notice that met Oregon requirements, but determined that process did not meet EPA's requirements for State Implementation Plan rules. Performing rulemaking is resource intensive and DEQ was unable to perform the additional public notice requirements until now.

Regulated parties

The rule amendments do not change the regulated parties or requirements for regulated parties from the rules that LRAPA's board adopted in 2008. The 2008 rules affect residential open burning in Lane County.

Rules Coordinator: Maggie Vandehey—(503) 229-6878

340-200-0040

State of Oregon Clean Air Act Implementation Plan

(1) This implementation plan, consisting of Volumes 2 and 3 of the State of Oregon Air Quality Control Program, contains control strategies, rules and standards prepared by DEQ and is adopted as the state implementation plan (SIP) of the State of Oregon pursuant to the federal Clean Air Act, 42 U.S.C.A 7401 to 7671q.

(2) Except as provided in section (3), revisions to the SIP will be made pursuant to the Commission's rulemaking procedures in division 11 of this chapter and any other requirements contained in the SIP and will be submitted to the United States Environmental Protection Agency for approval. The State Implementation Plan was last modified by the Commission on March 20, 2014.

(3) Notwithstanding any other requirement contained in the SIP, DEQ may:

(a) Submit to the Environmental Protection Agency any permit condition implementing a rule that is part of the federally-approved SIP as a source-specific SIP revision after DEQ has complied with the public hearings provisions of 40 CFR 51.102 (July 1, 2002); and

(b) Approve the standards submitted by a regional authority if the regional authority adopts verbatim any standard that the Commission has adopted, and submit the standards to EPA for approval as a SIP revision.

NOTE: Revisions to the State of Oregon Clean Air Act Implementation Plan become federally enforceable upon approval by the United States Environmental Protection Agency. If any provision of the federally approved Implementation Plan conflicts with any provision adopted by the Commission, DEQ shall enforce the more stringent provision.

Stat. Auth.: ORS 468.020, 468.065, 468A.035 & 468A.070

Stats. Implemented: ORS 468A.035 & 468A.135

Hist.: DEQ 35, f. 2-3-72, ef. 2-15-72; DEQ 54, f. 6-21-73, ef. 7-1-73; DEQ 19-1979, f. & ef. 6-25-79; DEQ 21-1979, f. & ef. 7-2-79; DEQ 22-1980, f. & ef. 9-26-80; DEQ 11-1981, f. & ef. 3-26-81; DEQ 14-1982, f. & ef. 7-21-82; DEQ 21-1982, f. & ef. 10-27-82; DEQ 1-1983, f. & ef. 1-21-83; DEQ 6-1983, f. & ef. 4-18-83; DEQ 18-1984, f. & ef. 10-16-84; DEQ 25-1984, f. & ef. 11-27-84; DEQ 3-1985, f. & ef. 2-1-85; DEQ 12-1985, f. & ef. 9-30-85; DEQ 5-1986, f. & ef. 2-21-86; DEQ 10-1986, f. & ef. 5-9-86; DEQ 20-1986, f. & ef. 11-7-86; DEQ 21-1986, f. & ef. 11-7-86; DEQ 4-1987, f. & ef. 3-2-87; DEQ 5-1987, f. & ef. 3-2-87; DEQ 8-1987, f. & ef. 4-23-87; DEQ 21-1987, f. & ef. 12-16-87; DEQ 31-1988, f. 12-20-88, cert. ef. 12-23-88; DEQ 2-1991, f. & cert. ef. 2-14-91; DEQ 19-1991, f. & cert. ef. 11-13-91; DEQ 20-1991, f. & cert. ef. 11-13-91; DEQ 21-1991, f. & cert. ef. 11-13-91; DEQ 22-1991, f. & cert. ef. 11-13-91; DEQ 23-1991, f. & cert. ef. 11-13-91; DEQ 24-1991, f. & cert. ef. 11-13-91; DEQ 25-1991, f. & cert. ef. 11-13-91; DEQ 1-1992, f. & cert. ef. 2-4-92; DEQ 3-1992, f. & cert. ef. 2-4-92; DEQ 7-1992, f. & cert. ef. 3-30-92; DEQ 19-1992, f. & cert. ef. 8-11-92; DEQ 20-1992, f. & cert. ef. 8-11-92; DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 26-1992, f. & cert. ef. 11-2-92; DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 15-1993, f. & cert. ef. 11-4-93; DEQ 16-1993, f. & cert. ef. 11-4-93; DEQ 17-1993, f. & cert. ef. 11-4-93; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 1-1994, f. & cert. ef. 1-3-94; DEQ 5-1994, f. & cert. ef. 3-21-94; DEQ 14-1994, f. & cert. ef. 5-31-94; DEQ 15-1994, f. 6-8-94,

cert. ef. 7-1-94; DEQ 25-1994, f. & cert. ef. 11-2-94; DEQ 9-1995, f. & cert. ef. 5-1-95; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 14-1995, f. & cert. ef. 5-25-95; DEQ 17-1995, f. & cert. ef. 7-12-95; DEQ 19-1995, f. & cert. ef. 9-1-95; DEQ 20-1995 (Temp), f. & cert. ef. 9-14-95; DEQ 8-1996(Temp), f. & cert. ef. 6-3-96; DEQ 15-1996, f. & cert. ef. 8-14-96; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 23-1996, f. & cert. ef. 11-4-96; DEQ 24-1996, f. & cert. ef. 11-26-96; DEQ 10-1998, f. & cert. ef. 6-22-98; DEQ 15-1998, f. & cert. ef. 9-23-98; DEQ 16-1998, f. & cert. ef. 9-23-98; DEQ 17-1998, f. & cert. ef. 9-23-98; DEQ 20-1998, f. & cert. ef. 10-12-98; DEQ 21-1998, f. & cert. ef. 10-12-98; DEQ 1-1999, f. & cert. ef. 1-25-99; DEQ 5-1999, f. & cert. ef. 3-25-99; DEQ 6-1999, f. & cert. ef. 5-21-99; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-020-0047; DEQ 15-1999, f. & cert. ef. 10-22-99; DEQ 2-2000, f. 2-17-00, cert. ef. 6-1-01; DEQ 6-2000, f. & cert. ef. 5-22-00; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 13-2000, f. & cert. ef. 7-28-00; DEQ 16-2000, f. & cert. ef. 10-25-00; DEQ 17-2000, f. & cert. ef. 10-25-00; DEQ 20-2000 f. & cert. ef. 12-15-00; DEQ 21-2000, f. & cert. ef. 12-15-00; DEQ 2-2001, f. & cert. ef. 2-5-01; DEQ 4-2001, f. & cert. ef. 3-27-01; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 15-2001, f. & cert. ef. 12-26-01; DEQ 16-2001, f. & cert. ef. 12-26-01; DEQ 17-2001, f. & cert. ef. 12-28-01; DEQ 4-2002, f. & cert. ef. 3-14-02; DEQ 5-2002, f. & cert. ef. 5-3-02; DEQ 11-2002, f. & cert. ef. 10-8-02; DEQ 5-2003, f. & cert. ef. 2-6-03; DEQ 14-2003, f. & cert. ef. 10-24-03; DEQ 19-2003, f. & cert. ef. 12-12-03; DEQ 1-2004, f. & cert. ef. 4-14-04; DEQ 10-2004, f. & cert. ef. 12-15-04; DEQ 1-2005, f. & cert. ef. 1-4-05; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 7-2005, f. & cert. ef. 7-12-05; DEQ 9-2005, f. & cert. ef. 9-9-05; DEQ 2-2006, f. & cert. ef. 3-14-06; DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06; DEQ 3-2007, f. & cert. ef. 4-12-07; DEQ 4-2007, f. & cert. ef. 6-28-07; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 5-2008, f. & cert. ef. 3-20-08; DEQ 11-2008, f. & cert. ef. 8-29-08; DEQ 12-2008, f. & cert. ef. 9-17-08; DEQ 14-2008, f. & cert. ef. 11-10-08; DEQ 15-2008, f. & cert. ef. 12-31-08; DEQ 3-2009, f. & cert. ef. 6-30-09; DEQ 8-2009, f. & cert. ef. 12-16-09; DEQ 2-2010, f. & cert. ef. 3-5-10; DEQ 5-2010, f. & cert. ef. 5-21-10; DEQ 14-2010, f. & cert. ef. 12-10-10; DEQ 1-2011, f. & cert. ef. 2-24-11; DEQ 2-2011, f. 3-10-11, cert. ef. 3-15-11; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11; DEQ 18-2011, f. & cert. ef. 12-21-11; DEQ 1-2012, f. & cert. ef. 5-17-12; DEQ 7-2012, f. & cert. ef. 12-10-12; DEQ 10-2012, f. & cert. ef. 12-11-12; DEQ 4-2013, f. & cert. ef. 3-27-13; DEQ 11-2013, f. & cert. ef. 11-7-13; DEQ 12-2013, f. & cert. ef. 12-19-13; DEQ 1-2014, f. & cert. ef. 1-6-14; DEQ 4-2014, f. & cert. ef. 3-31-14

Rule Caption: Incorporate Lane Regional Air Protection Agency Rules for permit streamlining into State Implementation Plan

Adm. Order No.: DEQ 5-2014

Filed with Sec. of State: 3-31-2014

Certified to be Effective: 3-31-14

Notice Publication Date: 1-1-2014

Rules Amended: 340-200-0040

Subject: The Environmental Quality Commission adopted rule amendments to incorporate Lane Regional Air Protection Agency revised regulations for permit streamlining into Oregon's State Implementation Plan in Oregon Administrative Rule 340-200-0040. The LRAPA Board of Directors adopted permit streamlining rules revisions in an effort to maximize efficiencies in LRAPA's permitting program while maintaining the existing level of environmental protection, bring LRAPA in line with state rules, and better coordinate with state and federal requirements.

The LRAPA rules contain:

- State and federal National Emission Standards for Hazardous Air Pollutants and New Source Performance Standards that were in effect at the time of LRAPA's rule adoption.

- Streamlined and improved permitting processes comparable to DEQ rules adopted in 2001 and 2007.

- Narrowing of an agriculture exemption comparable to DEQ rules adopted in 2008.

- Minor corrections and adjustments adopted by LRAPA's Board in January 2010 to the regulations previously adopted by LRAPA's Board in October 2008.

Brief history

LRAPA, in consultation with DEQ and the U.S. Environmental Protection Agency, is responsible for ensuring that Lane County communities comply with federal air quality health standards, including enacting plans to restore healthy air quality in any area violating standards. LRAPA conducts air monitoring, permitting and compliance, inspection and enforcement, and regulates open burning and asbestos abatement throughout Lane County. It also has a woodstove advisory program, an open burning advisory program and conducts special projects focused on air quality. Funding sources for LRAPA include dues from Lane County and cities in Lane County and fees from industrial and other permitted sources. Additionally, LRAPA coordinates with DEQ to obtain EPA funding and state general funds.

On October 14, 2008 and January 12, 2010, the LRAPA Board of Directors adopted amendments to the permit rules, and the rules have been in effect in Lane County since their adoption. The Environ-

ADMINISTRATIVE RULES

mental Quality Commission and DEQ have oversight authority to ensure LRAPA meets Clean Air Act requirements.

The State Implementation Plan is the State of Oregon Clean Air Act Implementation Plan that EQC adopts under OAR 340-200-0040 and EPA approves. EQC reviews LRAPA rules to determine if they comply with state law and the Clean Air Act. If they comply, EQC approves the LRAPA rules and revisions to OAR 340-200-0040 and directs DEQ to submit the approved rules to EPA for federal approval as State Implementation Plan amendments.

Typically, DEQ presents LRAPA rules to EQC for consideration immediately upon adoption by the LRAPA board. EPA's public notice requirements are above and beyond Oregon's requirements and several years ago, DEQ and LRAPA held a joint public notice that met Oregon requirements, but determined that process did not meet EPA's requirements for State Implementation Plan rules. Performing rulemaking is resource intensive and DEQ was unable to perform the additional public notice requirements until now.

Regulated parties

The rule amendments do not change the regulated parties or requirements for regulated parties from the rules that LRAPA's board adopted in 2008 and 2010. The regulated parties include businesses in LRAPA's jurisdiction subject to Air Contaminant Discharge Permits and Title V Operating Permits.

Rules Coordinator: Maggie Vandehey—(503) 229-6878

340-200-0040

State of Oregon Clean Air Act Implementation Plan

(1) This implementation plan, consisting of Volumes 2 and 3 of the State of Oregon Air Quality Control Program, contains control strategies, rules and standards prepared by DEQ and is adopted as the state implementation plan (SIP) of the State of Oregon pursuant to the federal Clean Air Act, 42 U.S.C.A 7401 to 7671q.

(2) Except as provided in section (3), revisions to the SIP will be made pursuant to the Commission's rulemaking procedures in division 11 of this chapter and any other requirements contained in the SIP and will be submitted to the United States Environmental Protection Agency for approval. The State Implementation Plan was last modified by the Commission on March 20, 2014.

(3) Notwithstanding any other requirement contained in the SIP, DEQ may:

(a) Submit to the Environmental Protection Agency any permit condition implementing a rule that is part of the federally-approved SIP as a source-specific SIP revision after DEQ has complied with the public hearings provisions of 40 CFR 51.102 (July 1, 2002); and

(b) Approve the standards submitted by a regional authority if the regional authority adopts verbatim any standard that the Commission has adopted, and submit the standards to EPA for approval as a SIP revision.

NOTE: Revisions to the State of Oregon Clean Air Act Implementation Plan become federally enforceable upon approval by the United States Environmental Protection Agency. If any provision of the federally approved Implementation Plan conflicts with any provision adopted by the Commission, DEQ shall enforce the more stringent provision.

Stat. Auth.: ORS 468.020, 468.065, 468A.035 & 468A.070

Stats. Implemented: ORS 468A.035 & 468A.135

Hist.: DEQ 35, f. & cert. ef. 2-15-72; DEQ 54, f. 6-21-73, ef. 7-1-73; DEQ 19-1979, f. & ef. 6-25-79; DEQ 21-1979, f. & ef. 7-2-79; DEQ 22-1980, f. & ef. 9-26-80; DEQ 11-1981, f. & ef. 3-26-81; DEQ 14-1982, f. & ef. 7-21-82; DEQ 21-1982, f. & ef. 10-27-82; DEQ 1-1983, f. & ef. 1-21-83; DEQ 6-1983, f. & ef. 4-18-83; DEQ 18-1984, f. & ef. 10-16-84; DEQ 25-1984, f. & ef. 11-27-84; DEQ 3-1985, f. & ef. 2-1-85; DEQ 12-1985, f. & ef. 9-30-85; DEQ 5-1986, f. & ef. 2-21-86; DEQ 10-1986, f. & ef. 5-9-86; DEQ 20-1986, f. & ef. 11-7-86; DEQ 21-1986, f. & ef. 11-7-86; DEQ 4-1987, f. & ef. 3-2-87; DEQ 5-1987, f. & ef. 3-2-87; DEQ 8-1987, f. & ef. 4-23-87; DEQ 21-1987, f. & ef. 12-16-87; DEQ 31-1988, f. 12-20-88, cert. ef. 12-23-88; DEQ 2-1991, f. & cert. ef. 2-14-91; DEQ 19-1991, f. & cert. ef. 11-13-91; DEQ 20-1991, f. & cert. ef. 11-13-91; DEQ 21-1991, f. & cert. ef. 11-13-91; DEQ 22-1991, f. & cert. ef. 11-13-91; DEQ 23-1991, f. & cert. ef. 11-13-91; DEQ 24-1991, f. & cert. ef. 11-13-91; DEQ 25-1991, f. & cert. ef. 11-13-91; DEQ 1-1992, f. & cert. ef. 2-4-92; DEQ 3-1992, f. & cert. ef. 2-4-92; DEQ 7-1992, f. & cert. ef. 3-30-92; DEQ 19-1992, f. & cert. ef. 8-11-92; DEQ 20-1992, f. & cert. ef. 8-11-92; DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 26-1992, f. & cert. ef. 11-2-92; DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 15-1993, f. & cert. ef. 11-4-93; DEQ 16-1993, f. & cert. ef. 11-4-93; DEQ 17-1993, f. & cert. ef. 11-4-93; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 1-1994, f. & cert. ef. 1-3-94; DEQ 5-1994, f. & cert. ef. 3-21-94; DEQ 14-1994, f. & cert. ef. 5-31-94; DEQ 15-1994, f. 6-8-94, cert. ef. 7-1-94; DEQ 25-1994, f. & cert. ef. 11-2-94; DEQ 9-1995, f. & cert. ef. 5-1-95; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 14-1995, f. & cert. ef. 5-25-95; DEQ 17-1995, f. & cert. ef. 7-12-95; DEQ 19-1995, f. & cert. ef. 9-1-95; DEQ 20-1995 (Temp), f. & cert. ef. 9-14-95; DEQ 8-1996(Temp), f. & cert. ef. 6-3-96; DEQ 15-1996, f. & cert. ef. 8-14-96; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 23-1996, f. & cert. ef. 11-4-96; DEQ 24-1996, f. & cert. ef. 11-26-96; DEQ 10-1998, f. & cert. ef. 6-22-98; DEQ 15-1998, f. & cert. ef. 9-23-98; DEQ 16-1998, f. & cert. ef. 9-23-98; DEQ 17-1998, f. & cert. ef. 9-23-98; DEQ 20-1998, f. & cert. ef. 10-12-98; DEQ 21-1998, f. & cert. ef. 10-12-98;

DEQ 1-1999, f. & cert. ef. 1-25-99; DEQ 5-1999, f. & cert. ef. 3-25-99; DEQ 6-1999, f. & cert. ef. 5-21-99; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99. Renumbered from 340-020-0047; DEQ 15-1999, f. & cert. ef. 10-22-99; DEQ 2-2000, f. 2-17-00, cert. ef. 6-1-01; DEQ 6-2000, f. & cert. ef. 5-22-00; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 13-2000, f. & cert. ef. 7-28-00; DEQ 16-2000, f. & cert. ef. 10-25-00; DEQ 17-2000, f. & cert. ef. 10-25-00; DEQ 20-2000 f. & cert. ef. 12-15-00; DEQ 21-2000, f. & cert. ef. 12-15-00; DEQ 2-2001, f. & cert. ef. 2-5-01; DEQ 4-2001, f. & cert. ef. 3-27-01; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 15-2001, f. & cert. ef. 12-26-01; DEQ 16-2001, f. & cert. ef. 12-26-01; DEQ 17-2001, f. & cert. ef. 12-28-01; DEQ 4-2002, f. & cert. ef. 3-14-02; DEQ 5-2002, f. & cert. ef. 5-3-02; DEQ 11-2002, f. & cert. ef. 10-8-02; DEQ 5-2003, f. & cert. ef. 2-6-03; DEQ 14-2003, f. & cert. ef. 10-24-03; DEQ 19-2003, f. & cert. ef. 12-12-03; DEQ 1-2004, f. & cert. ef. 4-14-04; DEQ 10-2004, f. & cert. ef. 12-15-04; DEQ 1-2005, f. & cert. ef. 1-4-05; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 7-2005, f. & cert. ef. 7-12-05; DEQ 9-2005, f. & cert. ef. 9-9-05; DEQ 2-2006, f. & cert. ef. 3-14-06; DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06; DEQ 3-2007, f. & cert. ef. 4-12-07; DEQ 4-2007, f. & cert. ef. 6-28-07; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 5-2008, f. & cert. ef. 3-20-08; DEQ 11-2008, f. & cert. ef. 8-29-08; DEQ 12-2008, f. & cert. ef. 9-17-08; DEQ 14-2008, f. & cert. ef. 11-10-08; DEQ 15-2008, f. & cert. ef. 12-31-08; DEQ 3-2009, f. & cert. ef. 6-30-09; DEQ 8-2009, f. & cert. ef. 12-16-09; DEQ 2-2010, f. & cert. ef. 3-5-10; DEQ 5-2010, f. & cert. ef. 5-21-10; DEQ 14-2010, f. & cert. ef. 12-10-10; DEQ 1-2011, f. & cert. ef. 2-24-11; DEQ 2-2011, f. 3-10-11, cert. ef. 3-15-11; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11; DEQ 18-2011, f. & cert. ef. 12-21-11; DEQ 1-2012, f. & cert. ef. 5-17-12; DEQ 7-2012, f. & cert. ef. 12-10-12; DEQ 10-2012, f. & cert. ef. 12-11-12; DEQ 4-2013, f. & cert. ef. 3-27-13; DEQ 11-2013, f. & cert. ef. 11-7-13; DEQ 12-2013, f. & cert. ef. 12-19-13; DEQ 1-2014, f. & cert. ef. 1-6-14; DEQ 4-2014, f. & cert. ef. 3-31-14; DEQ 5-2014, f. & cert. ef. 3-31-14

Rule Caption: Incorporate Lane Regional Air Protection Agency Rules for permitting requirements into State Implementation Plan
Adm. Order No.: DEQ 6-2014

Filed with Sec. of State: 3-31-2014

Certified to be Effective: 3-31-14

Notice Publication Date: 1-1-2014

Rules Amended: 340-200-0040

Subject: The Environmental Quality Commission adopted rule amendments to incorporate Lane Regional Air Protection Agency revised regulations for air quality permits into Oregon's State Implementation Plan in Oregon Administrative Rule 340-200-0040. The LRAPA Board of Directors adopted the rules revisions in an effort to bring LRAPA in line with state rules and better coordinate with state and federal requirements.

The LRAPA rules contain:

- U.S. Environmental Protection Agency's thresholds for New Source Review and Prevention of Significant Deterioration for fine particulate matter (PM_{2.5}) and greenhouse gases

- New and amended federal New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants applicable to non-major or area sources including aluminum, copper, and other nonferrous foundries; chemical manufacturing; ferroalloy production; metal fabrication and finishing; paint stripping and miscellaneous surface coating operations; and plating and polishing operations

- Permitting requirements necessary to implement the federal standards

- Registration options as an alternative to permitting

- Exemptions to permitting for emergency-use and small electrical power generating units

- Statutory requirements for small scale local energy projects

- Corrections to rule citations and definitions of terms

Brief history

LRAPA, in consultation with DEQ and the U.S. Environmental Protection Agency, is responsible for ensuring that Lane County communities comply with federal air quality health standards, including enacting plans to restore healthy air quality in any area violating standards. LRAPA conducts air monitoring, permitting and compliance, inspection and enforcement, and regulates open burning and asbestos abatement throughout Lane County. It also has a woodstove advisory program, an open burning advisory program and conducts special projects focused on air quality. Funding sources for LRAPA include dues from Lane County and cities in Lane County and fees from industrial and other permitted sources. Additionally, LRAPA coordinates with DEQ to obtain EPA funding and state general funds.

On April 25, 2011, the LRAPA Board of Directors adopted amendments to the permitting rules, and the rules have been in effect in

ADMINISTRATIVE RULES

Lane County since their adoption. The Environmental Quality Commission and DEQ have oversight authority to ensure LRAPA meets Clean Air Act requirements.

The State Implementation Plan is the State of Oregon Clean Air Act Implementation Plan that EQC adopts under OAR 340-200-0040 and EPA approves. EQC reviews LRAPA rules to determine if they comply with state law and the Clean Air Act. If they comply, EQC approves the LRAPA rules and revisions to OAR 340-200-0040 and directs DEQ to submit the approved rules to EPA for federal approval as State Implementation Plan amendments.

Typically, DEQ presents LRAPA rules to EQC for consideration immediately upon adoption by the LRAPA board. EPA's public notice requirements are above and beyond Oregon's requirements and several years ago, DEQ and LRAPA held a joint public notice that met Oregon requirements, but determined that process did not meet EPA's requirements for State Implementation Plan rules. Performing rulemaking is resource intensive and DEQ was unable to perform the additional public notice requirements until now.

Regulated parties

The rule amendments do not change the regulated parties or requirements for regulated parties from the rules that LRAPA's board adopted in 2011. The regulated parties are subject to LRAPA's Air Contaminant Discharge Permit and Title V Operating Permit requirements. The 2011 LRAPA rules:

- Affect facilities in Lane County.
- Regulate emissions of PM_{2.5} and greenhouse gases at all stationary sources emitting more than the 'de minimis' level of these pollutants.
- Regulate motor vehicle and mobile equipment surface coating and metal fabrication facilities subject to new and modified National Emission Standards for Hazardous Air

Pollutants.

Rules Coordinator: Maggie Vandehey—(503) 229-6878

340-200-0040

State of Oregon Clean Air Act Implementation Plan

(1) This implementation plan, consisting of Volumes 2 and 3 of the State of Oregon Air Quality Control Program, contains control strategies, rules and standards prepared by DEQ and is adopted as the state implementation plan (SIP) of the State of Oregon pursuant to the federal Clean Air Act, 42 U.S.C.A 7401 to 7671q.

(2) Except as provided in section (3), revisions to the SIP will be made pursuant to the Commission's rulemaking procedures in division 11 of this chapter and any other requirements contained in the SIP and will be submitted to the United States Environmental Protection Agency for approval. The State Implementation Plan was last modified by the Commission on March 20, 2014.

(3) Notwithstanding any other requirement contained in the SIP, DEQ may:

(a) Submit to the Environmental Protection Agency any permit condition implementing a rule that is part of the federally-approved SIP as a source-specific SIP revision after DEQ has complied with the public hearings provisions of 40 CFR 51.102 (July 1, 2002); and

(b) Approve the standards submitted by a regional authority if the regional authority adopts verbatim any standard that the Commission has adopted, and submit the standards to EPA for approval as a SIP revision.

NOTE: Revisions to the State of Oregon Clean Air Act Implementation Plan become federally enforceable upon approval by the United States Environmental Protection Agency. If any provision of the federally approved Implementation Plan conflicts with any provision adopted by the Commission, DEQ shall enforce the more stringent provision.

Stat. Auth.: ORS 468.020, 468.065, 468A.035 & 468A.070
Stats. Implemented: ORS 468A.035 & 468A.135

Hist.: DEQ 35, f. 2-3-72, ef. 2-15-72; DEQ 54, f. 6-21-73, ef. 7-1-73; DEQ 19-1979, f. & ef. 6-25-79; DEQ 21-1979, f. & ef. 7-2-79; DEQ 22-1980, f. & ef. 9-26-80; DEQ 11-1981, f. & ef. 3-26-81; DEQ 14-1982, f. & ef. 7-21-82; DEQ 21-1982, f. & ef. 10-27-82; DEQ 1-1983, f. & ef. 1-21-83; DEQ 6-1983, f. & ef. 4-18-83; DEQ 18-1984, f. & ef. 10-16-84; DEQ 25-1984, f. & ef. 11-27-84; DEQ 3-1985, f. & ef. 2-1-85; DEQ 12-1985, f. & ef. 9-30-85; DEQ 5-1986, f. & ef. 2-21-86; DEQ 10-1986, f. & ef. 5-9-86; DEQ 20-1986, f. & ef. 11-7-86; DEQ 21-1986, f. & ef. 11-7-86; DEQ 4-1987, f. & ef. 3-2-87; DEQ 5-1987, f. & ef. 3-2-87; DEQ 8-1987, f. & ef. 4-23-87; DEQ 21-1987, f. & ef. 12-16-87; DEQ 31-1988, f. 12-20-88, cert. ef. 12-23-88; DEQ 2-1991, f. & cert. ef. 2-14-91; DEQ 19-1991, f. & cert. ef. 11-13-91; DEQ 20-1991, f. & cert. ef. 11-13-91; DEQ 21-1991, f. & cert. ef. 11-13-91; DEQ 22-1991, f. & cert. ef. 11-13-91; DEQ 23-1991, f. & cert. ef. 11-13-91; DEQ 24-1991, f. & cert. ef. 11-13-91; DEQ 25-1991, f. & cert. ef. 11-13-91; DEQ 1-1992, f. & cert. ef. 2-4-92; DEQ 3-1992, f. & cert. ef. 2-4-92; DEQ 7-1992, f. & cert. ef. 3-30-92; DEQ 19-1992, f. & cert. ef. 8-11-92; DEQ 20-1992, f. & cert. ef. 8-11-92; DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ

26-1992, f. & cert. ef. 11-2-92; DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 15-1993, f. & cert. ef. 11-4-93; DEQ 16-1993, f. & cert. ef. 11-4-93; DEQ 17-1993, f. & cert. ef. 11-4-93; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 1-1994, f. & cert. ef. 1-3-94; DEQ 5-1994, f. & cert. ef. 3-21-94; DEQ 14-1994, f. & cert. ef. 5-31-94; DEQ 15-1994, f. 6-8-94, cert. ef. 7-1-94; DEQ 25-1994, f. & cert. ef. 11-2-94; DEQ 9-1995, f. & cert. ef. 5-1-95; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 14-1995, f. & cert. ef. 5-25-95; DEQ 17-1995, f. & cert. ef. 7-12-95; DEQ 19-1995, f. & cert. ef. 9-1-95; DEQ 20-1995 (Temp), f. & cert. ef. 9-14-95; DEQ 8-1996(Temp), f. & cert. ef. 6-3-96; DEQ 15-1996, f. & cert. ef. 8-14-96; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 23-1996, f. & cert. ef. 11-4-96; DEQ 24-1996, f. & cert. ef. 11-26-96; DEQ 10-1998, f. & cert. ef. 6-22-98; DEQ 15-1998, f. & cert. ef. 9-23-98; DEQ 16-1998, f. & cert. ef. 9-23-98; DEQ 17-1998, f. & cert. ef. 9-23-98; DEQ 20-1998, f. & cert. ef. 10-12-98; DEQ 21-1998, f. & cert. ef. 10-12-98; DEQ 1-1999, f. & cert. ef. 1-25-99; DEQ 5-1999, f. & cert. ef. 3-25-99; DEQ 6-1999, f. & cert. ef. 5-21-99; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99; Renumbered from 340-020-0047; DEQ 15-1999, f. & cert. ef. 10-22-99; DEQ 2-2000, f. 2-17-00, cert. ef. 6-1-01; DEQ 6-2000, f. & cert. ef. 5-22-00; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 13-2000, f. & cert. ef. 7-28-00; DEQ 16-2000, f. & cert. ef. 10-25-00; DEQ 17-2000, f. & cert. ef. 10-25-00; DEQ 20-2000 f. & cert. ef. 12-15-00; DEQ 21-2000, f. & cert. ef. 12-15-00; DEQ 2-2001, f. & cert. ef. 2-5-01; DEQ 4-2001, f. & cert. ef. 3-27-01; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 15-2001, f. & cert. ef. 12-26-01; DEQ 16-2001, f. & cert. ef. 12-26-01; DEQ 17-2001, f. & cert. ef. 12-28-01; DEQ 4-2002, f. & cert. ef. 3-14-02; DEQ 5-2002, f. & cert. ef. 5-3-02; DEQ 11-2002, f. & cert. ef. 10-8-02; DEQ 5-2003, f. & cert. ef. 2-6-03; DEQ 14-2003, f. & cert. ef. 10-24-03; DEQ 19-2003, f. & cert. ef. 12-12-03; DEQ 1-2004, f. & cert. ef. 4-14-04; DEQ 10-2004, f. & cert. ef. 12-15-04; DEQ 1-2005, f. & cert. ef. 1-4-05; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 7-2005, f. & cert. ef. 7-12-05; DEQ 9-2005, f. & cert. ef. 9-9-05; DEQ 2-2006, f. & cert. ef. 3-14-06; DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06; DEQ 3-2007, f. & cert. ef. 4-12-07; DEQ 4-2007, f. & cert. ef. 6-28-07; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 5-2008, f. & cert. ef. 3-20-08; DEQ 11-2008, f. & cert. ef. 8-29-08; DEQ 12-2008, f. & cert. ef. 9-17-08; DEQ 14-2008, f. & cert. ef. 11-10-08; DEQ 15-2008, f. & cert. ef. 12-31-08; DEQ 3-2009, f. & cert. ef. 6-30-09; DEQ 8-2009, f. & cert. ef. 12-16-09; DEQ 2-2010, f. & cert. ef. 3-5-10; DEQ 5-2010, f. & cert. ef. 5-21-10; DEQ 14-2010, f. & cert. ef. 12-10-10; DEQ 1-2011, f. & cert. ef. 2-24-11; DEQ 2-2011, f. 3-10-11, cert. ef. 3-15-11; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11; DEQ 18-2011, f. & cert. ef. 12-21-11; DEQ 1-2012, f. & cert. ef. 5-17-12; DEQ 7-2012, f. & cert. ef. 12-10-12; DEQ 10-2012, f. & cert. ef. 12-11-12; DEQ 4-2013, f. & cert. ef. 3-27-13; DEQ 11-2013, f. & cert. ef. 11-7-13; DEQ 12-2013, f. & cert. ef. 12-19-13; DEQ 1-2014, f. & cert. ef. 1-6-14; DEQ 4-2014, f. & cert. ef. 3-31-14; DEQ 5-2014, f. & cert. ef. 3-31-14; DEQ 6-2014, f. & cert. ef. 3-31-14

Department of Fish and Wildlife Chapter 635

Rule Caption: Tiger Muskie Modified to Authorize Catch and Release Only

Adm. Order No.: DFW 26-2014(Temp)

Filed with Sec. of State: 3-21-2014

Certified to be Effective: 4-1-14 thru 8-31-14

Notice Publication Date:

Rules Amended: 635-056-0075

Subject: This amended rule authorizes allowable catch and release only of Tiger muskellunge in Phillips Reservoir (Baker County). Modifications are consistent with The Introduction Proposal adopted by the Oregon Fish and Wildlife Commission on December 6, 2012 and Phillips Reservoir Fishery Management Plan.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-056-0075

Controlled Fish Species

(1) Controlled Fish

(a) Grass carp (*Ctenopharyngodon idella*): Grass carp may be released into water bodies within Oregon only pursuant to the issuance of a permit from the Department. Complete permit applications shall be submitted to Department headquarters at least 60 days before proposed stocking. A fee of \$100.00 (plus a \$2.00 license agent fee) shall be charged for each Grass carp permit issued. The following restrictions and standards will govern the issuance of grass carp permits:

(A) Stocking will occur only in water bodies which are:

(i) Completely within private land; or

(ii) On land owned or controlled by irrigation districts or drainage districts.

(B) Stocking will occur only in the following types of water bodies:

(i) Lakes, ponds, or reservoirs less than 10 acres; or

(ii) Ditches and canals.

(C) Public use of the water body must be restricted to prevent removal of grass carp (by angling or otherwise) by unauthorized persons. At a minimum, the water body must be closed to angling and other use by the general public.

(D) Stocking shall not detrimentally affect any population of species listed as threatened or endangered by the federal or state government.

(E) Stocking shall occur only in water bodies with fish screens approved by the Department. Such screens shall have screen openings 1 inch or less for fish 12–19 inches total length and screen openings 2 inch-

ADMINISTRATIVE RULES

es or less for fish over 19 inches total length. Screens shall be inspected and approved by the Department before a permit will be issued. The applicant must comply with fish passage requirements (OAR 635, division 412); given grass carp screening requirements, this entails applying for and receiving a waiver or exemption from passage requirements if grass carp will be stocked into waters where native migratory fish are or were historically present.

(F) Stocking will not be allowed in water bodies within 100-year floodplains (as delineated by the Federal Emergency Management Agency on federal Flood Insurance Rate Maps) during times of potential flood. Times of potential flood are January 1 through July 31 in watersheds east of the Cascades and October 15 through May 31 in watersheds west of the Cascades. Grass carp will be removed from water bodies in a 100-year floodplain and held or disposed of during times of potential flood. If grass carp will be held and not disposed of, they shall be held at a permitted site outside the 100-year floodplain. Applications for sites within a 100-year floodplain shall contain a detailed removal plan which shall receive Department approval.

(G) Grass carp may only be purchased and imported from approved suppliers outside Oregon. Grass carp may not be propagated or held for further distribution within Oregon. Department pathologists shall approve suppliers. Approval will be based on ability to provide grass carp free of Asian tapeworms and meet health and disease requirements according to OAR 635-007-0555 through 635-007-0585.

(H) Grass carp imported into Oregon shall be:

(i) Sterile triploids. Documentation from the U.S. Fish and Wildlife Service that each fish is triploid must be submitted to the Department prior to release;

(ii) At least 12 inches long;

(iii) Tagged with a Passive Integrated Transponder (PIT) tag of frequency 134.2-kilohertz. Each tag shall be programmed with a unique identification number. A list of unique tag numbers shall be submitted to the Department prior to release; and

(iv) Stocked at a rate not exceeding 22 per affected acre.

(I) In addition to documentation relating to the restrictions above, each permit application shall include:

(i) Applicant's name, address and daytime telephone number. All property owners of the water body to which grass carp will have unrestricted access must be party to the application and permit;

(ii) Location of the water body, including township, range, section and quarter section, with map including written directions for access;

(iii) Map of the water body including, vegetation present in the water body, all inlets and outlets, and screen locations;

(iv) Description of emergency procedures for responding to fish escapes from approved sites;

(v) Description of how fish will be removed and disposed of at the end of the proposed project.

(J) An application becomes the management plan upon approval. Permits and management plans shall be specific to particular sites and particular stocking projects. Permittees shall not deviate from permit conditions and management plans without prior written approval from the Department. No person may remove grass carp from one site (as identified in a management plan) and transport them to any other site without prior written approval from the Department.

(K) An Oregon Department of Fish and Wildlife fish transport permit shall accompany grass carp imported into and transported within Oregon. If transport is required within the management plan and occurs entirely on the permittee's property, a transport permit is not needed. Any other permit or documentation required for fish import, transport, or stocking shall also be obtained prior to importation and stocking.

(L) Permittees shall, as a condition of the permit, allow employees of the Department or the Oregon State Police to inspect at reasonable times the permitted water body, permit, and associated records. Inspection may take place without warrant or notice, but, unless prompted by emergency or other exigent circumstances, shall be limited to regular and usual business hours, including weekends. Nothing in these rules is intended to authorize or allow the warrantless search or inspection of property other than the water bodies or fish holding facilities on the permittee's property.

(M) Permits are revocable at any time for violation of any wildlife statute or rule of the Department. Upon revocation, if stocking has already occurred, the permittee shall remove all grass carp within two weeks at her/his own cost.

(N) Grass carp which escape a permitted water body are subject to seizure or destruction by the Department at the expense of the permit hold-

er. The permit holder shall be held liable for incidental kill of any other species due to or during destruction of escaped grass carp.

(O) The Commission may grant an exception to OAR 635-056-0075(2)(a)(B) or (2)(a)(F). Exception requests must be submitted in writing in addition to the normal application and must address the requirements in this section. Unless the Commission determines that an alternative provides equivalent protection to fish and wildlife resources and their habitats, exceptions shall have the following additional requirements:

(i) If the water body into which grass carp will be stocked is greater than or equal to 10 acres a professional topographic survey by a licensed surveyor must be provided for the entire perimeter of the water body showing all points of water movement in and out of the water body. A topographic survey completed by a state or federal agency within five years from the date of application for the water body may be used. The Department shall determine screening requirements from the survey;

(ii) Grass carp may remain in a water body within the 100-year floodplain year-round if a professional plan or drawing that is certified by a licensed engineer is provided which indicates that the entire perimeter of the water body is protected from 100-year floods. In order to prevent grass carp escape, screens, dikes, and devices protecting the water body must be able to remain structurally sound within 100-year floods and not be overtopped by a 100-year flood. The Department reserves the right to have a licensed engineer retained by the agency review and approve or deny the plan or drawing submitted by the applicant.

(b) Tilapia (Mozambique tilapia *Oreochromis mossambicus*, Nile tilapia *O. niloticus*, Wami tilapia *O. urolepis*, Blackchin tilapia *Sarotherodon melanotheron*, and hybrids thereof): The possession, propagation, transportation, sale, purchase, exchange and disposition of these tilapia is controlled according to the following restrictions and standards:

(A) A person intending to sell, barter or exchange must apply for and receive an approved propagation license from the Oregon Department of Fish and Wildlife Fish Propagation Program prior to commencing production. A person may raise tilapia in-doors (a house, greenhouse, or other enclosed structure capable of excluding predators) for personal consumption without an Oregon Department of Fish and Wildlife-Fish Propagation license;

(B) Propagation outdoors must occur in ponds or tanks covered with nets or screens adequate to prevent the capture or transport of cultured fish by predators or other animals;

(C) Access to production facilities must be through secure locked gates;

(D) Only animals certified as disease-free by the vendor may be purchased;

(E) Permittees must provide adequate veterinary care to identify and minimize the spread of diseases originating from the animals being held;

(F) No live tilapia or their gametes, fertilized eggs, or larvae may be released into waters of this State, as defined in ORS 506.006; and

(G) An Oregon Department of Fish and Wildlife fish transport permit shall accompany live tilapia imported into and transported within Oregon. If transport occurs entirely on the permittee's property, a transport permit is not needed.

(c) Tiger muskellunge (*Esox lucius* X *Esox masquinongy*): tiger muskellunge are classified as a controlled species for the specific purpose of stocking into Phillips Reservoir (Baker County) for fish management purposes according to the following restrictions and standards:

(A)(i) Stocking will occur only in Phillips Reservoir located in Baker County. No other public or private water bodies will be stocked with tiger muskellunge unless approved by the Commission.

(ii) Tiger muskellunge will be stocked into Phillips Reservoir at a rate not to exceed the adult

density required to achieve the objectives of the introduction; control abundance of yellow perch to restore the rainbow trout fishery.

(B) Tiger muskellunge may only be obtained and imported from approved suppliers outside of Oregon. Tiger muskellunge may not be propagated or held for further distribution within Oregon. Department pathologists shall approve suppliers. Approval will be based on the ability to provide tiger muskellunge which meet health and disease requirements according to OAR 635-007-0960 through 635-007-0995

(C) Allowable catch and release only based on management objectives.

(D) Department will establish a monitoring plan and program prior to release which shall include:

(i) Creel monitor.

(ii) Population monitoring.

ADMINISTRATIVE RULES

(iii) Plans to eradicate or suppress any illegal introductions of pike or muskellunge introductions to Phillips Reservoir.

(iv) Education and outreach.

(E) In conjunction with fish monitoring activities all live tiger muskellunge handled of suitable marking size shall be tagged with a Passive Integrated Transponder (PIT) tag. Each tag shall be programmed with identification number. A list of the PIT tag identification numbers shall be maintained by the District Fish Biologist and submitted to the Invasive Species Wildlife Integrity Coordinator.

(F) Any permit(s) or documentation(s) required for fish import, transport, or stocking shall be obtained prior to and accompany importation and stocking.

(G)(i) Department will develop an environmental monitoring plan for Phillips Reservoir which should include:

(ii) Basic limnological characterization of the reservoir (nutrient concentrations, light penetration, Mauri vertical profiles of physical and chemical characteristics of reservoir water, zooplankton, and phytoplankton composition and densities).

(2) Controlled Mollusks:

(a) Suminoe oysters (*Crassostrea ariakensis*), Pacific oysters (*C. gigas*), Kumamoto oysters (*C. sikamea*), Eastern oysters (*C. virginica*), and European flat oysters (*Ostrea edulis*) may be purchased and imported from outside Oregon (or from other estuaries within Oregon) for release into estuaries in Oregon pursuant to the terms of a permit issued by the department. Complete permit applications must be submitted to the department's Marine Resources Program Headquarters (2040 SE Marine Science Drive, Newport, Oregon 97365) at least 15 days before proposed stocking. Oysters may be commercially harvested and sold pursuant to OAR 635-005.

(b) Softshell clam (*Mya arenaria*), Japanese varnish clam (*Nuttalia obscuratai*), and Japanese littleneck clam (*Venerupis philippinarum*) may be harvested, possessed and sold commercially pursuant to OAR 635-005 or harvested and possessed recreationally pursuant to OAR 635-039.

(3) Controlled Crustaceans:

(a) Green crabs (*Carcinus maenas*) may be harvested recreationally pursuant to OAR 635-039. Once harvested, it is unlawful to return green crab to state waters. It is unlawful to take green crab for commercial purposes.

(b) Whiteleg shrimp (*Litopenaeus vannamei*): The possession, propagation, transportation, sale, purchase, exchange and disposition of whiteleg shrimp is controlled according to the following restrictions and standards:

(A) A person must apply for and receive an approved propagation license from the Oregon Department of Fish and Wildlife Fish Propagation Program prior to commencing production;

(B) Propagation must occur in ponds covered with nets or screens adequate to prevent the capture or transport of cultured shrimp by predators or other animals;

(C) Access to production facilities must be through secure locked gates;

(D) Only animals certified as disease-free by the vendor may be purchased;

(E) Permittees must provide adequate veterinary care to identify and minimize the spread of diseases originating from the animals being held;

(F) No live whiteleg shrimp or their gametes, fertilized eggs, or larvae may be released into waters of this State, as defined in ORS 506.006; and

(G) An Oregon Department of Fish and Wildlife fish transport permit shall accompany live whiteleg shrimp imported into and transported within Oregon. If transport occurs entirely on the permittee's property, a transport permit is not needed.

(c) Giant river prawns (*Macrobrachium rosenbergii*): The possession, propagation, transportation, sale, purchase, exchange and disposition of giant river prawns is controlled according to the following restrictions and standards:

(A) A person must apply for and receive an approved propagation license from the Oregon Department of Fish and Wildlife Fish Propagation Program prior to commencing production;

(B) Propagation must occur in ponds covered with nets or screens adequate to prevent the capture or transport of cultured prawns by predators or other animals;

(C) Access to production facilities must be through secure locked gates;

(D) Only animals certified as disease-free by the vendor may be purchased;

(E) Permittees must provide adequate veterinary care to identify and minimize the spread of diseases originating from the animals being held;

(F) No giant river prawns or their gametes, fertilized eggs, or larvae may be released into waters of this State, as defined in ORS 506.006; and

(G) An Oregon Department of Fish and Wildlife fish transport permit shall accompany live giant river prawns imported into and transported within Oregon. If transport occurs entirely on the permittee's property, a transport permit is not needed.

Stat. Auth.: ORS 496.012, 496.138 & 496.146

Stats. Implemented: ORS 497.308, 497.318, 498.022, 498.052 & 498.222

Hist.: DFW 63-1998, f. & cert. ef. 8-10-98; DFW 94-1999, f. & cert. ef. 12-23-99; DFW 79-2000, f. & cert. ef. 12-22-00; DFW 116-2001, f. & cert. ef. 12-18-01; DFW 64-2003, f. & cert. ef. 7-17-03; DFW 53-2008(Temp), f. & cert. ef. 5-28-08 thru 9-19-08; DFW 114-2008, f. & cert. ef. 9-19-08; DFW 142-2009, f. 11-12-09, cert. ef. 1-1-10; DFW 15-2011, f. & cert. ef. 2-15-11; DFW 131-2012, f. & cert. ef. 10-11-12; DFW 148-2012, f. & cert. ef. 12-18-12; DFW 26-2014(Temp), f. 3-21-14, cert. ef. 4-1-14 thru 8-31-14

Rule Caption: Columbia River Recreational Sturgeon Season Set for the Bonneville Pool

Adm. Order No.: DFW 27-2014(Temp)

Filed with Sec. of State: 3-28-2014

Certified to be Effective: 5-1-14 thru 7-31-14

Notice Publication Date:

Rules Amended: 635-023-0095

Rules Suspended: 635-023-0095(T)

Subject: This amended rule sets a summer white sturgeon retention fishery in the Bonneville Pool beginning Friday, June 13 thru June 14, and Friday, June 20 through Saturday June 21, 2014. The amendment also establishes a closed fishing area to protect spawning sturgeon. Revisions are consistent with action taken March 27, 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 Friday, June 13, Saturday June 14, Friday June 20, and Saturday June 21, 2014, 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.

(3) Effective January 1, 2014, the annual bag limit for white sturgeon is two (2) fish.

(4) Angling for sturgeon is prohibited from:

(a) Bonneville Dam downstream 9 miles to a line crossing the Columbia River from Navigation Marker 82 on the Oregon shore westerly to a boundary marker on the Washington shore upstream of Fir Point from May 1 through August 31;

(b) Highway 395 Bridge upstream to McNary Dam; and

(c) From the west end of the grain silo at Rufus upstream to John Day Dam during May 1 through July 31.

(d) From the Dalles Dam downstream 1.8 miles to the east (upstream) dock at the Port of The Dalles boat ramp on the the Oregon shore straight across to a marker on the Washington shore from May 1 through July 31.

(e) The upper and lower ends of Sand Island and corresponding markers on the Oregon shoreline (slough at Rooster Rock State Park) from January 1 through April 30.

(5) The mainstem Columbia River from McNary Dam upstream to the Oregon-Washington border at river mile 309.5 is open to retention of white sturgeon with a fork length of 43-54 inches, seven days per week from February 1 through July 31.

(6) Retention of green sturgeon is prohibited all year in all areas.

(7) Catch-and-release angling is allowed year-round except as described above in sections (4)(a) through (4)(e).

(8) Effective January 1, 2014, the mainstem Columbia River from the mouth at Buoy 10 upstream to Bonneville including Oregon tributaries upstream to the mainline railroad bridges, is closed to the retention of white sturgeon.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

ADMINISTRATIVE RULES

Hist.: DFW 129-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 2-28-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 22-2005(Temp), f. 4-1-05, cert. ef. 4-30-05 thru 7-31-05; DFW 50-2005(Temp), f. 6-3-05, cert. ef. 6-11-05 thru 11-30-05; DFW 60-2005(Temp), f. 6-21-05, cert. ef. 6-24-05 thru 12-21-05; DFW 65-2005(Temp), f. 6-30-05, cert. ef. 7-10-05 thru 12-31-05; DFW 76-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 145-2005(Temp), f. 12-21-05, cert. ef. 1-1-06 thru 3-31-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 19-2006(Temp), f. 4-6-06, cert. ef. 4-8-06 thru 7-31-06; DFW 54-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 12-27-06; DFW 62-2006(Temp), f. 7-13-06, cert. ef. 7-24-06 thru 12-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 20-2007(Temp), f. 3-26-07, cert. ef. 3-28-07 thru 7-30-07; DFW 38-2007(Temp), f. & cert. ef. 5-31-07 thru 11-26-07; DFW 59-2007(Temp), f. 7-18-07, cert. ef. 7-29-07 thru 12-31-07; DFW 75-2007(Temp), f. 8-17-07, cert. ef. 8-18-07 thru 12-31-07; DFW 102-2007(Temp), f. 9-28-07, cert. ef. 10-1-07 thru 12-31-07; DFW 135-2007(Temp), f. 12-28-07, cert. ef. 1-1-08 thru 6-28-08; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 8-2008, f. & cert. ef. 2-11-08; DFW 23-2008(Temp), f. 3-12-08, cert. ef. 3-15-08 thru 9-10-08; DFW 28-2008(Temp), f. 3-24-08, cert. ef. 3-26-08 thru 9-10-08; DFW 72-2008(Temp), f. 6-30-08, cert. ef. 7-10-08 thru 12-31-08; DFW 78-2008(Temp), f. 7-9-08, cert. ef. 7-12-08 thru 12-31-08; DFW 86-2008(Temp), f. & cert. ef. 7-25-08 thru 12-31-08; DFW 148-2008(Temp), f. 12-19-08, cert. ef. 1-1-09 thru 6-29-09; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 18-2009, f. & cert. ef. 2-26-09; DFW 33-2009(Temp), f. 4-2-09, cert. ef. 4-13-09 thru 10-9-09; DFW 63-2009(Temp), f. 6-3-09, cert. ef. 6-6-09 thru 10-9-09; DFW 83-2009(Temp), f. 7-8-09, cert. ef. 7-9-09 thru 12-31-09; DFW 86-2009(Temp), f. 7-22-09, cert. ef. 7-24-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 13-2010(Temp), f. 2-16-10, cert. ef. 2-21-10 thru 7-31-10; DFW 19-2010(Temp), f. 2-26-10, cert. ef. 3-1-10 thru 8-27-10; DFW 34-2010, f. 3-16-10, cert. ef. 4-1-10; DFW 49-2010(Temp), f. 4-27-10, cert. ef. 4-29-10 thru 7-31-10; DFW 50-2010(Temp), f. 4-29-10, cert. ef. 5-6-10 thru 11-1-10; DFW 88-2010(Temp), f. 6-25-10, cert. ef. 6-26-10 thru 7-31-10; DFW 91-2010(Temp), f. 6-29-10, cert. ef. 8-1-10 thru 12-31-10; DFW 99-2010(Temp), f. 7-13-10, cert. ef. 7-15-10 thru 12-31-10; DFW 165-2010(Temp), f. 12-28-10, cert. ef. 1-1-11 thru 6-29-11; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 11-2011(Temp), f. 2-10-11, cert. ef. 2-11-11 thru 7-31-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 26-2011(Temp), f. 4-5-11, cert. ef. 4-10-11 thru 9-30-11; DFW 74-2011(Temp), f. 6-24-11, cert. ef. 6-27-11 thru 7-31-11; DFW 87-2011(Temp), f. 7-8-11, cert. ef. 7-9-11 thru 7-31-11; DFW 96-2011(Temp), f. 7-20-11, cert. ef. 7-30-11 thru 12-31-11; DFW 129-2011(Temp), f. 9-15-11, cert. ef. 9-30-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 1-2012(Temp), f. & cert. ef. 1-5-12 thru 7-2-12; DFW 10-2012, f. & cert. ef. 2-7-12; DFW 16-2012(Temp), f. 2-14-12, cert. ef. 2-18-12 thru 7-31-12; DFW 44-2012(Temp), f. 5-1-12, cert. ef. 5-20-12 thru 7-31-12; 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; DFW 14-2014(Temp), f. 2-20-14, cert. ef. 2-24-14 thru 7-31-14; DFW 27-2014(Temp), f. 3-28-14, cert. ef. 5-1-14 thru 7-31-14

Rule Caption: 2014 Commercial Spring Chinook Fishery in the Mainstem Columbia River

Adm. Order No.: DFW 28-2014(Temp)

Filed with Sec. of State: 3-31-2014

Certified to be Effective: 4-1-14 thru 7-31-14

Notice Publication Date:

Rules Amended: 635-042-0022

Subject: This amended rule allows a non-Indian commercial spring Chinook fishery in the mainstem Columbia River to commence on April 1, 2014 from the mouth of the Columbia River upstream to Beacon Rock (Zones 1 thru 5). The authorized fishing period is from 10 a.m. to 6 p.m. Tuesday April 1, 2014 (8 hours). Modifications were made consistent with Joint State Action taken March 31, 2014 at a meeting of the Columbia River Compact agencies of the states of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-042-0022

Spring Chinook Gillnet and Tangle Net Fisheries

(1) Adipose fin-clipped Chinook salmon, and shad may be taken by tangle net for commercial purposes from the mouth of the Columbia River upstream to Beacon Rock (Zones 1-5) during the period: Tuesday April 1, 2014 from 10 a.m. to 6 p.m. (8 hours).

(2) An adipose fin clip salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin. The adipose fin is the small fatty fin on salmonids located between the dorsal fin and tail.

(3) During the spring Chinook tangle net fishery:

(a) It is unlawful to use other than a single-wall multi-filament net. Monofilament tangle nets are not allowed. Maximum mesh size is 4 1/4 inches stretched taut. Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is

defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Other permanent gear regulations remain in effect.

(b) Mesh size is determined by placing three consecutive meshes under hand tension and the measurement is taken from the inside of one vertical knot to the outside of the opposite vertical knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact.

(4) Nets shall not exceed 900 feet (150 fathoms) in length. A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25 fathom intervals must be in color contrast to the corks used in the remainder of the net.

(5) On tangle nets, an optional use of a steelhead excluder panel of mesh may be hung between the corkline and the 4 1/4 inch maximum mesh size tangle net. The excluder panel web must be a minimum mesh size of 12 inches when stretched taut under hand tension. Monofilament mesh is allowed for the excluder panel. The excluder panel (including any associated hangings) must be a minimum of 5 linear feet in depth and not exceed 10 linear feet in depth, as measured from the corkline to the upper margin of the tangle net mesh as the net hangs naturally from a taut corkline. Weedlines or droppers (bobber-type) may be used in place of the steelhead excluder panel. A weedline-type excluder means the net is suspended below the corkline by lines of no less than five feet in length between the corkline and the upper margin of the tangle net. A dropper-type excluder means the entire net is suspended below the surface of the water by lines of no less than five feet in length extending from individual surface floats to a submersed corkline. The corkline cannot be capable of floating the net in its entirety (including the leadline) independent of the attached floats. Weedlines or droppers must extend a minimum of 5 feet above the 4 1/4 inch maximum mesh size tangle net.

(a) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, may extend to a maximum length of 1,050 feet (175 fathoms).

(b) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, along with a red cork every 25 fathoms as required in section (5) above, must have two red corks at each end of the net.

(6) There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net. The hang ratio is determined by the length of the web per length of the corkline.

(7) There are no restrictions on the use of slackers or stringers to slacken the net vertically.

(8) Nets shall be fished for no longer than 45 minutes per set. The time of fishing is measured from when the first mesh of the net is deployed into the water until the last mesh of the net is fully retrieved from the water.

(9) Sturgeon, nonadipose fin-clipped Chinook salmon, and steelhead must be released immediately with care and the least possible injury to the fish to the river without violence or into an operating recovery box.

(a) One operating recovery box with two chambers or two operating recovery boxes with one chamber each to aid survival of released fish must be on board each fishing vessel participating in the fishery. Recovery boxes shall be operating during any time that a net is being retrieved or picked.

(b) Non-adipose fin-clipped salmon and all steelhead that arbleeding, in lethargic condition, or appearing dead must be placed in the recovery box for rehabilitation purposes prior to release to the river.

(c) Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39 1/2 to 48 inches, the inside width measurement must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches.

(d) Each chamber of the recovery box must include an operating water pumping system capable of delivering a minimum flow of 16 gallons per minute not to exceed 20 gallons per minute of fresh river water into each chamber. The fisher must demonstrate to the Department and Washington Department of Fish and Wildlife employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

(e) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1 3/4 inches from the floor of the chamber.

(f) Each chamber of the recovery box must include a water outlet that is at least 1 1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber, on either the same or opposite end as the inlet.

ADMINISTRATIVE RULES

(g) All fish placed in recovery boxes must be released to the river prior to landing or docking.

(10) At least one fisher on each boat engaged in the fishery must have attended a one-day workshop hosted by the Department or Washington Department of Fish and Wildlife to educate fishers on regulations and best methods for conduct of the fishery.

(11) Nothing in this section sets any precedent for any future spring Chinook fishery. The fact that an individual has attended a live capture training workshop does not entitle the individual to participate in any other fishery. If the Department authorizes a Live Capture fishery in the spring or at any other time, the Department may establish qualifications and requirements that are different from those already established. In particular, the Department may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future Live Capture fisheries.

(12) As authorized by OAR-635-006-0140 owners or operators of commercial fishing vessels must cooperate with Department fishery observers, or observers collecting data for the Department, when asked by the Department to carry and accommodate an observer on fishing trips for observation and sampling during an open fishery. In addition, cooperation with department personnel prior to a fishing period is expected.

(13) Closed waters, as described in OAR 635-042-0005 for Grays River, Elokomin-B, Abernathy Creek, Cowlitz River, Kalama-B, Lewis-B, Sandy and Washougal sanctuaries are in effect during the open fishing periods identified.

Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 496.162, 506.129 & 507.030
Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 12-2004(Temp), f. & cert. ef. 3-1-04, thru 7-31-04; DFW 13-2004(Temp), f. & cert. ef. 3-3-04 thru 7-31-04; DFW 16-2004(Temp), f. & cert. ef. 3-8-04 thru 7-31-04; DFW 18-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 20-2004(Temp) f. & cert. ef. 3-15-04 thru 7-31-04; DFW 21-2004(Temp), f. & cert. ef. 3-18-04 thru 7-31-04; DFW 25-2004(Temp), f. 3-22-04, cert. ef. 3-23-04 thru 7-31-04; DFW 26-2004(Temp), f. & cert. ef. 3-25-04 thru 7-31-04; DFW 27-2004(Temp), f. & cert. ef. 3-29-04 thru 7-31-04; Administrative correction 8-19-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 9-2005(Temp), f. & cert. ef. 3-1-05 thru 7-31-05; DFW 11-2005(Temp), f. 3-2-05, cert. ef. 3-3-05 & 7-31-05; DFW 13-2005(Temp), f. & cert. ef. 3-7-05 thru 7-31-05; DFW 14-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; DFW 20-2005(Temp), f. & cert. ef. 3-29-05 thru 3-30-05; DFW 21-2005(Temp), f. & cert. ef. 3-31-05 thru 4-1-05; Administrative correction, 4-20-05; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 7-2006(Temp), f. & cert. ef. 2-23-06 thru 7-31-06; DFW 9-2006(Temp), f. 3-1-06, cert. ef. 3-2-06 thru 7-31-06; DFW 10-2006(Temp), f. 3-6-06, cert. ef. 3-7-06 thru 7-31-06; DFW 11-2006(Temp), f. & cert. ef. 3-9-06 thru 7-31-06; DFW 12-2006(Temp), f. 3-13-06, cert. ef. 3-14-06 thru 7-31-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 30-2006(Temp), f. & cert. ef. 5-18-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; Administrative correction 8-22-06; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 17-2007(Temp), f. & cert. ef. 3-20-07 thru 9-15-07; DFW 19-2007(Temp), f. & cert. ef. 3-22-07 thru 9-17-07; DFW 44-2007(Temp), f. & cert. ef. 6-14-07 thru 9-17-07; Administrative correction 9-18-07; DFW 31-2008(Temp), f. 3-31-08, cert. ef. 4-1-08 thru 9-27-08; DFW 33-2008(Temp), f. 4-7-08, cert. ef. 4-8-08 thru 9-27-08; DFW 34-2008(Temp), f. 4-14-08, cert. ef. 4-15-08 thru 9-27-08; Suspended by DFW 71-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 8-31-08; Administrative correction 10-21-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 30-2009(Temp), f. 3-23-09, cert. ef. 3-27-09 thru 4-30-09; DFW 34-2009(Temp), f. 4-6-09, cert. ef. 4-7-09 thru 4-30-09; DFW 36-2009(Temp), f. 4-13-09, cert. ef. 4-14-09 thru 4-30-09; Administrative correction 5-20-09; DFW 38-2010(Temp), f. & cert. ef. 3-30-10 thru 4-30-10; DFW 41-2010(Temp), f. 4-6-10, cert. ef. 4-7-10 thru 4-30-10; Administrative correction 5-19-10; DFW 25-2011(Temp), f. & cert. ef. 3-29-11 thru 4-1-11; DFW 27-2011(Temp), f. 4-5-11, cert. ef. 4-6-11 thru 4-10-11; Administrative correction, 4-25-11; DFW 45-2011(Temp), f. & cert. ef. 5-12-11 thru 6-30-11; DFW 51-2011(Temp), f. & cert. ef. 5-18-11 thru 6-30-11; Administrative correction 7-22-11; DFW 29-2012(Temp), f. 4-2-12, cert. ef. 4-3-12 thru 4-30-12; DFW 32-2012(Temp), f. 4-9-12, cert. ef. 4-10-12 thru 4-30-12; Administrative correction, 5-25-12; DFW 27-2013(Temp), f. 4-8-13, cert. ef. 4-9-13 thru 4-30-13; DFW 34-2013(Temp), f. 5-14-13, cert. ef. 5-15-13 thru 7-31-13; DFW 37-2013(Temp), f. & cert. ef. 5-22-13 thru 5-31-13; DFW 45-2013(Temp), f. & cert. ef. 5-29-13 thru 6-15-13; Administrative correction, 7-18-13; DFW 28-2014(Temp), f. 3-31-14, cert. ef. 4-1-14 thru 7-31-14

.....

Rule Caption: Columbia River Recreational Spring Chinook and Steelhead Seasons Amended.

Adm. Order No.: DFW 29-2014(Temp)

Filed with Sec. of State: 4-3-2014

Certified to be Effective: 4-4-14 thru 6-15-14

Notice Publication Date:

Rules Amended: 635-023-0125

Rules Suspended: 635-023-0125(T)

Subject: This rule amends 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 April 3, 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 14, 2014, except closed Tuesday March 25, Tuesday April 1, and Tuesday April 8 from the mouth at Buoy 10 upstream to 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. 5-16-07 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-

ADMINISTRATIVE RULES

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; DFW 29-2014(Temp), f. 4-3-14, cert. ef. 4-4-14 thru 6-15-14

Rule Caption: Amend Rules to Restore Species to the Non-Controlled Species Classification

Adm. Order No.: DFW 30-2014(Temp)

Filed with Sec. of State: 4-15-2014

Certified to be Effective: 4-16-14 thru 10-10-14

Notice Publication Date:

Rules Amended: 635-056-0060

Subject: This temporary rule amendment is necessary to add non-controlled species to Division 56. These were inadvertently left off a previous filing.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-056-0060

Noncontrolled Species

Except as otherwise provided in these rules or other rules of the commission, wildlife listed below may be imported, possessed, sold, purchased, exchanged or transported in the state without a permit:

(1) Noncontrolled Mammals: Common Name — Family — Genus/species:

(a) Order Artiodactyla:

(A) Antelope and buffalo — Bovidae — All species except subfamily Caprinae and Procprca species;

(B) Giraffe and okapi — Giraffidae — All species;

(C) Pygmy hippopotamus — Hippopotamidae — Hexaprotodon liberiensis;

(D) Hippopotamus — Hippopotamidae — Hippopotamus amphibius;

(E) Peccary — Tayassuidae — All species;

(F) Chevrotains — Tragulidae — All species.

(b) Order Carnivora:

(A) Aardwolf — Hyaenidae — Proteles cristatus;

(B) Seals and sea lions — Otariidae — All nonnative species.

(C) Red/Lesser Panda — Procyonidae — Ailurus fulgens;

(D) Olingos — Procyonidae — Bassaricyon All species;

(E) Coatimundis — Procyonidae — Nasua All species;

(F) Kinkajou — Procyonidae — Potos flavus;

(G) Binturong — Viverridae — Arctictis binturong.

(c) Order Cetacea: Whales and dolphins — All families — All species.

(d) Order Chiroptera: Old World fruit bats — Pteropodidae — All species.

(e) Order Dasyuromorphia: Numbat — Myrmecobiidae — Myrmecobius fasciatus.

(f) Order Dermoptera: Flying lemurs or colugos — Cynocephalidae — All species.

(g) Order Didelphimorphia: Short-tailed opossums — Didelphinae — Monodelphis All species.

(h) Order Diprotodontia:

(A) Feathertail glider — Acrobatidae — Acrobatates pygmaeus;

(B) Kangaroos and wallabies — Macropodidae — All species;

(C) Striped possums -- Petauridae -- Dactylopsila All species;

(D) Sugar glider — Petauridae — Petaurus breviceps;

(E) Cuscuses — Phalangeridae — Phalanger All species.

(i) Order Erinaceomorpha: Four-toed hedgehog — Erinaceidae — Atelerix albiventris.

(j) Order Hyracoidea: Hyraxes — Procaviidae — All species.

(k) Order Monotremata: Echidnas — Tachyglossidae — All species.

(l) Order Peramelemorphia:

(A) Dry country bandicoots — Peramelidae — All species except Isoodon obesulus, Perameles gunnii, and P. nasuta;

(B) Rainforest bandicoots — Peramelidae — All species.

(m) Order Perissodactyla:

(A) Zebra and Asses — Equidae — Equus All species;

(B) Rhinoceros — Rhinocerotidae — All species;

(C) Tapirs — Tapiridae — All species.

(n) Order Pholidota: Pangolins — Manidae — All species.

(o) Order Pilosa:

(A) Three-toed tree sloths — Bradypodidae — All species;

(B) Two-toed tree sloths — Megalonychidae — All species;

(C) Anteaters — Myrmecophagidae — All species.

(p) Order Proboscidea: Elephants — Elephantidae — All species.

(q) Order Rodentia:

(A) Scaly-tailed squirrels — Anomaluridae — All species;

(B) Hutias — Capromyidae — All species;

(C) Mara (Patagonian hare) — Caviidae — Dolichotis All species;

(D) Mountain viscachas — Chinchillidae — Lagidium All species;

(E) Dwarf hamsters — Cricetidae — Phodopus All species

(F) Paca — Cuniculidae — Cuniculus paca;

(G) Agoutis — Dasyproctidae — Dasyprocta All species;

(H) Acouchis — Dasyproctidae — Myoprocta All species;

(I) Pacarana — Dinomyidae — Dinomys branickii;

(J) Prehensile-tailed Porcupines — Erethizontidae — Coendou All species;

(K) Kangaroo Rats — Heteromyidae — Dipodomys deserti and D. spectabilis;

(L) Brush-tailed porcupines — Hystricidae — Atherurus All species;

(M) Old world porcupines — Hystricidae — Hystrix All species except H. africaeustralis, H. cristata, and H. indica;

(N) Spiny mice — Muridae — Acomys All species;

(O) Crateromys (Bushy tailed cloud rats) — Muridae — Crateromys All species;

(P) African giant pouched rats — Muridae — Cricetomys All species;

(Q) African White-tailed rat — Muridae — Mystromys albicaudatus;

(R) Phloeomys (Slender tailed rats) — Muridae — Phloeomys All species;

(S) Degus — Octodontidae — Octodon All species;

(T) South African Springhare — Pedetidae — Pedetes capensis;

(U) Prevost's squirrel — Sciuridae — Callosciurus prevostii;

(V) African palm squirrels — Sciuridae — Epixerus All species;

(W) Pygmy flying squirrels — Sciuridae — Petaurillus All species;

(X) Oil palm squirrels — Sciuridae — Protoxerus All species;

(Y) Giant squirrels — Sciuridae — Ratufa All species.

(r) Order Sirenia: Manatees — All families — All species.

(s) Order Tubulidentata: Aardvark — Orycteropodidae — Orycteropus afer.

(2) Noncontrolled Birds: Nothing in this subsection authorizes the importation, possession, sale, confinement or transportation of birds protected by the federal Migratory Bird Treaty Act: Common Name — Family — Genus/species:

(a) Order Charadriiformes:

(A) Senegal thick-knee — Burhinidae — Burhinus senegalensis;

(B) Water thick-knee — Burhinidae — Burhinus vermiculatus.

(b) Order Coliiformes: Mousebirds and Collies — Coliidae — All species.

(c) Order Coraciiformes:

(A) Blue-winged kookaburra — Alcedinidae — Dacelo leachii;

(B) Woodland kingfisher — Alcedinidae — Halcyon senegalensis;

(C) African pygmy kingfisher — Alcedinidae — Ispidina picta;

(D) Hornbills — Bucerotidae — All species;

(E) Rollers — Coraciidae — All species;

(F) Bee-eaters — Meropidae — All species except Merops apiaster, M. oreobates, M. pusillus, and Nyctornis athertoni;

(G) Motmots — Momotidae — All species.

(d) Order Cuculiformes:

(A) White browed coucal — Centropodidae — Centropus superciliosus burchelli;

(B) Pheasant coucal — Centropodidae — Centropus phasianinus;

(C) Senegal coucal — Centropodidae — Centropus senegalensis;

(D) Greater coucal — Centropodidae — Centropus sinensis.

(E) Turacos, Plainstain eaters and Go-away birds — Musophagidae — All Species

(e) Order Galliformes:

(A) Curassows, guans, and chachalacas — Cracidae — All species except Chamaepetes goudotii, Penelope montagnii, and P. superciliaris;

(B) Megapodes — Megapodiidae — All species.

(f) Order Gruiformes:

(A) Trumpeters — Psophiidae — All species;

ADMINISTRATIVE RULES

- (B) Buttonquails and hemipodes — Turnicidae — All species.
(g) Order Passeriformes:
(A) Orange-breasted bunting — Cardinalidae — Passerina leclancherii;
(B) Cotingas — Cotingidae — All species;
(C) Red-crested finch — Emberizidae — Coryphospingus cucullatus;
(D) Pileated finch — Emberizidae — Coryphospingus pileatus;
(E) Yellow-breasted bunting — Emberizidae — Emberiza aureola;
(F) Golden-breasted bunting — Emberizidae — Emberiza flaviventris;
(G) Cinnamon-breasted bunting — Emberizidae — Emberiza tahapisi;
(H) Yellow cardinal — Emberizidae — Gubernatrix cristata;
(I) Black-crested finch — Emberizidae — Lophospingus pusillus;
(J) Crested bunting — Emberizidae — Melophus lathamii;
(K) Yellow-billed cardinal — Emberizidae — Paroaria capitata;
(L) Red-crested cardinal — Emberizidae — Paroaria coronata;
(M) Black-capped warbling finch — Emberizidae — Poospiza melanoleuca;
(N) Saffron finch — Emberizidae — Sicalis flaveola;
(O) Double-collared seedeater — Emberizidae — Sporophila caerulescens;
(P) Rusty-collared seedeater — Emberizidae — Sporophila collaris;
(Q) Parrot-billed seedeater — Emberizidae — Sporophila peruviana;
(R) Slate-colored seedeater — Emberizidae — Sporophila schistacea;
(S) Swallow tanager — Emberizidae — Tersina viridis;
(T) Cuban grassquit — Emberizidae — Tiaris canorus;
(U) Blue-back grassquit — Emberizidae — Volatinia jacarina;
(V) Waxbills, mannikins, munias — Estrilidae — All species;
(W) Broadbills — Eurylaimidae — All species;
(X) Black siskin — Fringillidae — Carduelis atrata;
(Y) Linnet — Fringillidae — Carduelis cannabina;
(Z) European goldfinch — Fringillidae — Carduelis carduelis;
(AA) Red siskin — Fringillidae — Carduelis cucullata;
(BB) Hooded siskin — Fringillidae — Carduelis magellanica;
(CC) Yellow-breasted greenfinch — Fringillidae — Carduelis spinoides;
(DD) European siskin — Fringillidae — Carduelis spinus;
(EE) Yellow-rumped siskin — Fringillidae — Carduelis uropygialis;
(FF) Yellow-bellied siskin — Fringillidae — Carduelis xanthogastra;
(GG) Yellow-billed grosbeak — Fringillidae — Eophona migratoria;
(HH) Japanese grosbeak — Fringillidae — Eophona personata;
(II) Oriole finch — Fringillidae — Linurgus olivaceus;
(JJ) Brown bullfinch — Fringillidae — Pyrrhula nipalensis;
(KK) Eurasian bullfinch — Fringillidae — Pyrrhula pyrrhula;
(LL) Black-throated island canary — Fringillidae — Serinus atrogularis;
(MM) Island canary — Fringillidae — Serinus canaria;
(NN) Yellow crowned canary — Fringillidae — Serinus flaviventris;
(OO) White-rumped seedeater — Fringillidae — Serinus leucopygius;
(PP) Yellow-fronted canary — Fringillidae — Serinus mozambicus;
(QQ) European serin — Fringillidae — Serinus serinus;
(RR) Long-tailed rosefinch — Fringillidae — Uragus sibiricus;
(SS) Troupials and Allies — Icteridae — All nonnative species;
(TT) Leafbirds and fairy bluebirds — Irenidae — All species;
(UU) Honeyeaters — Meliphagidae — All species;
(VV) Old World Flycatchers — Muscipidae — Copyschus All species;
(WW) Sunbirds — Nectariniidae — All species;
(XX) Sudan sparrow — Passeridae — Passer luteus;
(YY) Red-headed weaver — Ploceidae — Anaplectes rubriceps;
(ZZ) Yellow-crowned bishop — Ploceidae — Euplectes afer;
(AAA) Red-collared widowbird — Ploceidae — Euplectes ardens;
(BBB) Black-winged bishop — Ploceidae — Euplectes hordeaceus;
(CCC) Jackson's widowbird — Ploceidae — Euplectes jacksoni;
(DDD) Yellow-shouldered widowbird — Ploceidae — Euplectes macrourus;
(EEE) Red bishop — Ploceidae — Euplectes orix;
(FFF) Long-tailed widowbird — Ploceidae — Euplectes prognus;
(GGG) Red fody — Ploceidae — Foudia madagascariensis;
(HHH) Orange weaver — Ploceidae — Ploceus aurentius;
(III) Village weaver — Ploceidae — Ploceus cucullatus;
(JJJ) Lesser masked weaver — Ploceidae — Ploceus intermedius;
(KKK) Little weaver — Ploceidae — Ploceus luteolus;
(LLL) Baya weaver — Ploceidae — Ploceus philippinus;
(MMM) Vitelline-masked weaver — Ploceidae — Ploceus vitellinus;
(NNN) Speckle-fronted weaver — Ploceidae — Sporopipes frontalis;
(OOO) Scaly weaver — Ploceidae — Sporopipes squamifrons;
(PPP) Sugarbirds — Promeropidae — All species;
(QQQ) Golden-crested myna — Sturnidae — Ampeliceps coronatus;
(RRR) Violet-backed starling — Sturnidae — Cinnycinclus leucogaster;
(SSS) Emerald starling — Sturnidae — Lamprotornis iris;
(TTT) Golden-breasted starling — Sturnidae — Lamprotornis regius;
(UUU) Common hill myna — Sturnidae — Gracula religiosa;
(VVV) Long-tailed glossy-starling — Sturnidae — Lamprotornis caudatus;
(WWW) Bronze-tailed glossy-starling — Sturnidae — Lamprotornis chalcurus;
(XXX) Greater blue-eared glossy-starling — Sturnidae — Lamprotornis chalybaeus;
(YYY) Lesser blue-eared glossy-starling — Sturnidae — Lamprotornis chloropterus;
(ZZZ) Hildebrandt's starling — Sturnidae — Lamprotornis hildebrandti;
(AAAA) Chestnut-bellied starling — Sturnidae — Lamprotornis pulcher;
(BBBB) Purple-headed glossy-starling — Sturnidae — Lamprotornis purpureiceps;
(CCCC) Purple glossy-starling — Sturnidae — Lamprotornis purpureus;
(DDDD) Rueppell's glossy-starling — Sturnidae — Lamprotornis purpuroptera;
(EEEE) Splendid glossy-starling — Sturnidae — Lamprotornis splendidus;
(FFFF) Superb starling — Sturnidae — Lamprotornis superbus;
(GGGG) Bali myna — Sturnidae — Leucopsar rothschildi;
(HHHH) Golden myna — Sturnidae — Mino anais;
(IIII) Yellow-faced myna — Sturnidae — Mino dumontii;
(JJJJ) Tanagers and Allies — Thraupidae — All nonnative species;
(KKKK) Babblers — Timaliidae — All species;
(LLLL) White-eyes — Zosteropidae — All species.
(h) Order Piciformes:
(A) Barbets — Capitonidae — All species;
(B) Toucans — Ramphastidae — All species.
(i) Order Sphenisciformes: Penguins — Spheniscidae — All species.
(j) Order Tinamiformes: Tinamous — Tinamidae — All species.
(k) Order Trogoniformes: Trogons — Trogonidae — All species.
(3) Noncontrolled Amphibians: Common Name — Family — Genus/species:
(a) Order Anura:
(A) Allophrynid tree frog — Allophryidae — Allophryne All species;
(B) Hairy frogs — Arthroleptidae — Trichobatrachus All species;
(C) Cane toad — Bufonidae — Bufo marinus;
(D) African tree toads — Bufonidae — Nectophryne All species;
(E) Live-bearing toads — Bufonidae — Nectophrynoides All species;
(F) Glass frogs — Centrolenidae — All species;
(G) Poison arrow frogs — Dendrobatidae — All species;
(H) Ghost frogs — Heleophrynidae — Heleophryne All species;
(I) Shovel-nosed frogs — Hemisotidae — Hemisus All species;
(J) Leaf frogs — Hylidae — Agalychnis All species;
(K) Casque-headed frogs — Hylidae — Aparashpenodon All species;
(L) Water-holding frogs — Hylidae — Cyclorana All species;
(M) Marsupial frogs — Hylidae — Gastrotheca All species;
(N) Marbled tree frogs — Hylidae — Hyla marmorata
(O) Australian giant tree frogs — Hylidae — Litoria chlorus and L. infrafrenata;
(P) Slender-legged tree frogs — Hylidae — Osteocephalus All species;
(Q) Cuban tree frogs — Hylidae — Osteopilus All species;
(R) White's tree frog — Hylidae — Pelodytes caerulea;
(S) Golden-eyed tree frogs — Hylidae — Phrynohyas All species;
(T) Monkey frogs — Hylidae — Phyllomedusa All species;
(U) Burrowing frogs — Hylidae — Pterohyla All species;
(V) Casque-headed tree frogs — Hylidae — Trachycephalus All species;
(W) Shovel-headed tree frogs — Hylidae — Triprion All species;
(X) Banana frogs — Hyperoliidae — Afrixalus All species;

ADMINISTRATIVE RULES

- (Y) Reed frogs — Hyperoliidae — *Hyperolius* All species;
(Z) Running frogs — Hyperoliidae — *Kassina* All species;
(AA) Forest tree frogs — Hyperoliidae — *Leptopelis* All species;
(BB) New Zealand frogs — Leiopelmatidae — *Leiopelma* All species;
(CC) Common horned frogs — Leptodactylidae — *Ceratophrys* All species;
(DD) Rain or robber frogs — Leptodactylidae — *Eleutherodactylus* All species;
(EE) Paraguay horned toads — Leptodactylidae — *Lepidobatrachus* All species;
(FF) Asian horned toad — Megophryidae — *Megophrys montana* (nasuta);
(GG) Tomato frogs — Microhylidae — *Dyscophus* All species;
(HH) Narrow-mouthed frogs — Microhylidae — *Gastrophryne* All species;
(II) Sheep frogs — Microhylidae — *Hypopachus* All species;
(JJ) Malaysian narrowmouth toad — Microhylidae — *Kaloula pulchra*;
(KK) Tusked frog — Myobatrachidae — *Adelotus brevis*;
(LL) Pouched frog — Myobatrachidae — *Assa darlingtoni*;
(MM) Giant burrowing frogs — Myobatrachidae — *Heleioporus* All species;
(NN) Cannibal frogs — Myobatrachidae — *Lechriodus* All species;
(OO) Turtle frog — Myobatrachidae — *Myobatrachus gouldii*;
(PP) Australian spadefoot toads — Myobatrachidae — *Notaden* All species;
(QQ) Crowned tMauri oadlets — Myobatrachidae — *Pseudophryne* All species;
(RR) Gastric brooding frog — Myobatrachidae — *Rheobatrachus* All species;
(SS) Torrent frogs — Myobatrachidae — *Taudactylus* All species;
(TT) Australian toadlets — Myobatrachidae — *Uperoleia* All species;
(UU) Parsley frogs — Pelodytidae — *Pelodytes* All species;
(VV) Dwarf clawed frogs — Pipidae — *Hymenochirus* All species;
(WW) Surinam frogs — Pipidae — *Pipa* All species;
(XX) Mantella frogs — Ranidae — *Mantella* All species;
(YY) Foam nest tree frogs — Rhacophoridae — *Chiromantis* All species;
(ZZ) Gliding or flying frogs — Rhacophoridae — *Rhacophorus* All species;
(AAA) Tonkin Bug-eyed frog — Rhacophoridae — *Theloderma corticale*;
(BBB) Mexican burrowing frog — Rhinodermatidae — *Rhinophrynus dorsalis*;
(CCC) Seychelles frogs — Sooglossidae — All species.
(b) Order Caudata:
(A) Axolotl — Ambystomatidae — *Ambystoma mexicanum*;
(B) Gold-striped salamander — Salamandridae — *Chioglossa lusitanica*;
(C) Black-spotted and striped newts — Salamandridae — *Notophthalmus meridionalis* and *N. perstriatus*;
(D) Spectacled salamander — Salamandridae — *Salamandrina terdigitata*.
(c) Order Gymnophiona: Caecilians — All species.
(4) Noncontrolled Reptiles: Common Name — Family — Genus/species;
(a) Order Squamata (Suborder Amphisbaenia): Worm lizards — All species.
(b) Order Squamata (Suborder Lacertilia):
(A) Pricklenapes — Agamidae — *Acanthosaura* All species;
(B) Common or rainbow agama — Agamidae — *Agama agama*;
(C) Frilled dragon — Agamidae — *Chlamydosaurus kingii*;
(D) Humphead forest dragons — Agamidae — *Gonocephalus* All species;
(E) Sailfin lizards — Agamidae — *Hydrosaurus* All species;
(F) Anglehead forest dragons — Agamidae — *Hypsilurus* All species;
(G) Splendid Japalure — Agamidae — *Japalura splendida*
(H) Water dragons — Agamidae — *Lophognathus* All species;
(I) Water dragons — Agamidae — *Physignathus* All species;
(J) Bearded dragons — Agamidae — *Pogona* All species;
(K) Mastigures — Agamidae — *Uromastix* All species;
(L) Strange Agamas — Agamidae — *Xenagama* All species;
(M) Chameleons — *Chamaeleonidae* — All species;
(N) Plated lizards — Cordylidae — *Gerrhosaurus* All species;
(O) Flat lizards — Cordylidae — *Platysaurus* All species;
(P) Geckos — Gekkonidae — All species;
(Q) Gila monster, beaded lizard — Helodermatidae — All species;
(R) Iguanid lizards — Iguanidae — All nonnative species except: *Crotaphytus* spp., *Gambelia* spp., *Sceloporus* spp., *Uta* spp., *Phrynosoma* spp.
(S) Asian Grass Lizard — Lacertidae — *Takydromus sexlineatus*
(T) Skinks — Scincidae — All nonnative species except *Eumeces* spp.;
(U) Ameivas — Teiidae — *Ameiva* All species;
(V) Tegus — Teiidae — *Tupinambis* All species;
(W) Monitor lizards — Varanidae — All species except *Varanus griseus*;
(X) Night lizards — Xantusiidae — All species;
(Y) American knob-scaled lizards — Xenosauridae — *Xenosaurus* All species.
(c) Order Squamata (Suborder Serpentes):
(A) File snakes — Acrochordidae — All species;
(B) Pythons and Boas — Boidae — All nonnative species;
(C) Milk, Pine, Corn, Rat, Garter snakes — Colubridae — All nonnative species except *Boiga irregularis*, *Lampropeltis getula*, *L. zonata*, and *Pituophis catenifer*;
(D) Kingsnakes and gopher (bull) snakes — Colubridae — Individuals of *Lampropeltis getula*, *L. zonata* and *Pituophis catenifer* that are morphologically distinct from native species.
(E) Egyptian cobra — Elapidae — *Naja haje*;
(F) Black & white cobra — Elapidae — *Naja melanoleuca*;
(G) Indian cobra — Elapidae — *Naja naja*;
(H) Red spitting cobra — Elapidae — *Naja pallida*;
(I) King cobra — Elapidae — *Ophiophagus hannah*;
(J) Bush vipers — Viperidae — *Atheris* All species;
(K) Gaboon viper — Viperidae — *Bitis gabonica*;
(L) Rhinoceros viper — Viperidae — *Bitis nasicornis*;
(M) Horned vipers — Viperidae — *Cerastes* All species;
(N) Rattlesnakes — Viperidae — *Crotalus aquilus*, *C. basiliscus*, *C. durissus*, *C. intermedius*, *C. polystictus*, *C. pusillus*, *C. tortugensis*, *C. triseriatus*, *C. unicolor*, and *C. vengrandis*;
(O) Saw-scaled vipers — Viperidae — *Echis* All species;
(P) Bushmaster — Viperidae — *Lachesis muta*;
(Q) False horned vipers — Viperidae — *Pseudocerastes* All species;
(R) Pygmy rattlesnakes — Viperidae — *Sistrurus miliarius* and *S. ravus*.
(d) Order Testudines:
(A) Pignose turtles — Carettochelyidae — All species;
(B) Austro-American side-necked turtles — Chelidae — All species;
(C) Marine turtles — Cheloniidae — All species;
(D) River turtles — Dermatemydidae — All species;
(E) Leatherback turtles — Dermochelyidae — All species;
(F) Pond and box turtles — Emydidae — All nonnative species except *Pseudemys* spp., *Trachemys* spp., *Chinemys* spp., *Clemmys* spp., *Chrysemys* spp., *Graptemys* spp., *Emys orbicularis*, *Emydoidea blandingii* and *Mauremys* spp.;
(G) American mud and musk turtles — Kinosternidae — All species except *Kinosternon subrubrum* and *K. odoratum*;
(H) Afro-American side-necked turtles — Pelomedusidae — All species;
(I) Bighead turtles — Platysternidae — All species;
(J) Tortoises — Testudinidae — All species;
(K) Softshell turtles — Trionychidae — All species except *Apolone* spp. and *Trionyx triunguis*.
(5) Noncontrolled Fish: Common Name — Family — Genus/species:
Aquaria fish and Live Foodfish — All species.
Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242
Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242
Hist.: FWC 69-1996, f. & cert. ef. 12-20-96; FWC 59-1997, f. & cert. ef. 9-3-97; Administrative correction 10-27-97; FWC 72-1997, f. & cert. ef. 12-29-97; DFW 21-1998, f. & cert. ef. 3-13-98; DFW 63-1998, f. & cert. ef. 8-10-98; DFW 99-1998, f. & cert. ef. 12-22-98; DFW 94-1999, f. & cert. ef. 12-23-99; DFW 79-2000, f. & cert. ef. 12-22-00; DFW 116-2001, f. & cert. ef. 12-18-01; DFW 15-2011, f. & cert. ef. 2-15-11; DFW 69-2011, f. 6-15-11, cert. ef. 7-1-11; DFW 20-2014, f. & cert. ef. 3-11-14; DFW 30-2014(Temp), f. 4-15-14, cert. ef. 4-16-14 thru 10-10-14

ADMINISTRATIVE RULES

Department of Geology and Mineral Industries Chapter 632

Rule Caption: Amend OAR chapter 632, divisions 35 and 37 to Implement HB 2248 (2013)

Adm. Order No.: DGMI 1-2014

Filed with Sec. of State: 4-2-2014

Certified to be Effective: 4-2-14

Notice Publication Date: 11-1-2013

Rules Amended: 632-035-0005, 632-035-0010, 632-035-0015, 632-035-0016, 632-035-0017, 632-035-0020, 632-035-0025, 632-035-0030, 632-035-0035, 632-035-0040, 632-035-0045, 632-035-0050, 632-035-0055, 632-035-0060, 632-037-0005, 632-037-0010, 632-037-0015, 632-037-0020, 632-037-0025, 632-037-0030, 632-037-0035, 632-037-0040, 632-037-0045, 632-037-0050, 632-037-0055, 632-037-0060, 632-037-0075, 632-037-0077, 632-037-0080, 632-037-0085, 632-037-0095, 632-037-0100, 632-037-0105, 632-037-0110, 632-037-0115, 632-037-0118, 632-037-0120, 632-037-0125, 632-037-0130, 632-037-0135, 632-037-0140, 632-037-0145, 632-037-0150, 632-037-0155

Rules Repealed: 632-037-0117

Subject: The proposed rule amendments implement HB 2248 (2013). The rules expand the application of the consolidated permitting process (in Division 37) to metal mines (other than placer mines) that use processing methods other than gravity separation and modify the fees and expense recovery provisions in the consolidated application process to be consistent with the statute. Also reflecting the changes from HB 2248, the proposed amendments (in Division 35) alter procedures for permitting of mines regulated under ORS 517.901 to 951 and make conforming amendments to provisions relating to fees and financial security for such mines. The proposed amendments in both rule divisions also address other relevant legislation enacted after the rules were adopted or last amended and make the rule language internally consistent and correct punctuation and grammar.

Rules Coordinator: Gary Lynch—(541) 967-2053

632-035-0005

Purpose of These Rules

(1) These rules implement ORS 517.750 to 517.951, 517.990, and 517.992 with respect to placer mines, coal mines and metal mines using only gravity separation. These rules do not apply to aggregate mines.

(2) Applicants seeking operating permits from the Department should be aware that other state, federal and local agencies may require the applicant to obtain approval prior to operation. For example, the Department of Environmental Quality (DEQ) may require air contaminant discharge permits, wastewater discharge permits, and solid waste management permits. Where feasible the Department shall coordinate with other agencies to avoid duplication on the part of applicants. An operating permit from the Department does not constitute authorization to proceed without approval of other agencies if required. It is the applicant's responsibility to obtain other necessary permits.

Stat. Auth.: ORS 517

Stats. Implemented: ORS 517.517, 517.760 & 517.905

Hist.: GMI 2-1982, f. & ef. 8-13-82; GMI 3-1984, f. & ef. 12-12-84; GMI 2-1985, f. 11-19-85, ef. 11-20-85; GMI 2-1988, f. 5-12-88, cert. ef. 5-2-88; DGMI 1-2014, f. & cert. ef. 4-2-14

632-035-0010

Definitions

The definitions in ORS 517.750 and 517.910 apply to these rules. In addition, the following definitions apply:

(1) "Affected," as used in ORS 517.750(15)(a) means disturbed by excavation or any other surface mining or milling on any land surface during any stage of mineral production, or the covering of any land surface by surface mining refuse.

(2) A "Period of 12 Consecutive Calendar Months" as used in ORS 517.750(15)(a) begins on the date surface mining begins.

(3) "Disturbed Area" is any area within the permit area boundary where surface or ground water resources are impacted as a result of mining, milling or mine facilities.

(4) "Expansion" as used in these rules means lateral expansion consequential to surface mining into land surfaces previously not affected by surface mining.

(5) "Operating Permit" means a permit issued by the Department under ORS 517.901.

(6) "Ore Processing" means milling or other mineral concentration process.

(7) "Permit Area" is the geographical location of surface mining as defined in ORS 517.750(15). Permit area is defined by boundaries submitted on a map acceptable to the Department and means the area to be covered by an operating permit. The permit area will generally be a parcel or contiguous parcels available to the permittee for surface mining. Areas used for the storage or disposition of any product or waste material from the surface mining operation even though separate from the area of extraction shall be included in the permit area. The permit area may be redefined as mining progresses. In the case of exploration conducted under an operating permit, the permit area includes, but is not limited to, areas proposed for surface disturbance by drilling, drill pad construction, trenches and any roads newly constructed or improved with heavy equipment other than the road used to access the permit area.

(8) "Pre-Mine Use" when used in reference to surface or ground water means pre-mine uses that include but are not limited to:

- (a) Drinking water;
- (b) Fishery;
- (c) Agriculture;
- (d) Recreation.

(9) "Total Exemption" means surface mining that is exempted from the requirements of these rules. The Department may require certain information to be provided under OAR 632-035-0016(2) to establish exemptions.

Stat. Auth.: ORS 517

Stats. Implemented: ORS 517.910

Hist.: GMI 2-1982, f. & ef. 8-13-82; GMI 3-1984, f. & ef. 12-12-84; GMI 2-1985, f. 11-19-85, ef. 11-20-85; GMI 2-1988, f. 5-12-88, cert. ef. 5-2-88; DGMI 1-2014, f. & cert. ef. 4-2-14

632-035-0015

General Information

(1) Information Requirements. The Department may require any information needed to determine the status of any surface mining. Information subject to ORS 517.901 will be held confidential. Information concerning the location and the identity of mine owners and operators are matters of public record, as are actions taken by the Department with regard to any mining operation or permit application.

(2) Inspections. As provided by ORS 517.850 the Department may, after reasonable notice, inspect any surface mining site to determine status or compliance. The Department will report the results of these inspections to the permittee in writing.

(a) Initial inspections may be conducted by the Department. Reasons for the inspections include but are not limited to:

- (A) Determining existing environmental conditions;
- (B) Reviewing the proposed mine operation;
- (C) Reviewing the proposed reclamation plan;
- (D) Collecting data to calculate a bond;
- (E) Monitoring the construction of facilities.

(b) Annual and non-scheduled inspections may be conducted by the Department. Reasons for the inspection include but are not limited to:

- (A) Reviewing operating permit compliance;
- (B) Investigating public complaints;
- (C) Evaluating the site bond level.

(3) Surface Mining on Federal Lands. Surface mining conducted on federal lands is subject to these rules. The Department shall coordinate with agencies of the federal government to minimize conflict or duplication in operating, reclamation and security requirements. The Board may enter into formal agreements with federal agencies to establish the means by which these rules are carried out.

(4) Fees. Application fees for an operating permit issued under this rule division are established by the Department as authorized by ORS 517.920. Other fees, including annual fees, are established by ORS 517.800.

(a) The application fee must accompany the application for an operating permit.

(b) Each permittee or certificate holder shall pay the required annual fee and any other accrued fees on or before the last day of the month shown on the permit as the anniversary month. Each permittee or certificate holder shall submit an annual report to the Department on a form approved by the Department by the last day of the anniversary month. As a courtesy, the

ADMINISTRATIVE RULES

Department may notify the permittee with a notice of these requirements at least 45 days prior to the due date. Failure of the permittee to pay the fee may result in the issuance of a suspension or closure order by the Department.

(c) Application fees are not refundable.

(d) Fees may be prorated at the applicant's request in order to adjust the anniversary date. The prorated fee will be on the basis of one twelfth (1/12) of the annual fee per month.

(5) Closure Orders and Invalidation.

(a) The Department may issue a closure or suspension order when it finds that an operator is conducting surface mining:

(A) For which a permit is required but has not been obtained;

(B) Where a site has expanded outside the approved permit area without approval by the Department;

(C) That is in violation of ORS 517.750 to 517.951 and the rules adopted thereunder, the reclamation plan, or permit conditions; or

(D) Without having submitted the annual fee.

(b) An operating permit may be terminated if the fees and annual report form have not been received by the Department in a timely manner, or at any time if any bond or alternate security has expired, or has been cancelled without replacement, but reclamation obligations continue until the site is reclaimed and reclamation is approved by the Department;

(c) A limited exemption certificate becomes invalid upon the expiration date if renewal has not been made.

(6) Reclamation by the Department:

(a) If the permittee fails to comply with reclamation obligations established by reclamation plan or departmental order, the Department may perform the reclamation outlined in the reclamation plan to the extent possible. The Department may perform alternative reclamation depending on site conditions and any need to reclaim to the secondary beneficial use designated in the reclamation plan.

(b) The Department may reclaim the site to:

(A) Eliminate or minimize hazards to the health and safety of the public;

(B) Eliminate or minimize any pollution or erosion;

(C) Rectify abuses of natural resources, including fish and wildlife habitat and restoring drainage;

(D) Reach a condition compatible with local comprehensive plan and with federal and state laws.

(7) Applicability of Laws and Rules. Permittees, at all times during the terms of the permit, are subject to the provisions of statutes and rules in effect at that time.

Stat. Auth.: ORS 517

Stats. Implemented: ORS 517.775, 517.800, 517.850 & 517.920

Hist.: GMI 2-1982, f. & ef. 8-13-82; GMI 3-1984, f. & ef. 12-12-84; GMI 2-1985, f. 11-19-85, ef. 11-20-85; GMI 2-1988, f. 5-12-88, cert. ef. 5-2-88; DGMI 1-2014, f. & cert. ef. 4-2-14

632-035-0016

Total Exemptions

(1) The following excavation, processing or grading activities are exempt from these rules and do not require the payment of fees, posting of bonds or submittal of reclamation plans:

(a) Beds and Banks. Excavations of materials from the beds and banks of any waters of this state are exempt from these rules when conducted pursuant to a permit issued under ORS 196.800 to 196.900;

(b) Operations producing less than 5,000 cubic yards of material per year and disturbing less than one acre of land are exempt from these rules but may require a permit from DEQ and other government agencies;

(c) Exploration. Mineral exploration activities subject to ORS 517.702 to 517.740:

(2) Applications for a total exemption certificate if desired shall be made to the Department using the established form. The Department may require the applicant claiming this exemption to provide data to establish the validity of the exemption. The data required may include but are not limited to, the name of the operator, location of the surface mine, size of the site, date of commencement of the surface mining, a summary of the preceding 12 months of surface mining, and an estimate of the activity for the succeeding 12 months.

Stat. Auth.: ORS 517

Stats. Implemented: ORS 517.750

Hist.: GMI 2-1982, f. & ef. 8-13-82; GMI 3-1984, f. & ef. 12-12-84; GMI 2-1985, f. 11-19-85, ef. 11-20-85; GMI 2-1986, f. 9-19-86, ef. 9-22-86; GMI 2-1988, f. 5-12-88, cert. ef. 5-2-88; DGMI 1-2014, f. & cert. ef. 4-2-14

632-035-0017

Limited Exemptions

(1) Limited exempt status is available only for operations that have received and maintained a certificate of limit exemption as provided in ORS 517.770 and 517.775.

(2) Operations under a certificate of limited exemption are subject to the provisions in OAR 632-030-0017.

Stat. Auth.: ORS 517

Stats. Implemented: ORS 517.770 & 517.775

Hist.: GMI 2-1982, f. & ef. 8-13-82; GMI 3-1984, f. & ef. 12-12-84; GMI 2-1985, f. 11-19-85, ef. 11-20-85; GMI 2-1988, f. 5-12-88, cert. ef. 5-2-88; DGMI 1-2014, f. & cert. ef. 4-2-14

632-035-0020

Procedures for Applying for an Operating Permit

Obtaining an Operating Permit:

(1) The applicant shall submit an operating permit application as defined in OAR 632-035-0025.

(2)(a) The Department may require any information needed to ascertain whether surface mining has occurred or is occurring and the status of any proposed or existing permit.

(b) The applicant shall survey the permit area, all excavation areas, setbacks, and buffers, and provide a map that shows all areas of excavation, setbacks, buffers, buildings, haul roads, stockpiles, wells, ponds, and floodways. Surveys must be conducted by a professional land surveyor as required by ORS chapter 672.

(3) The application for an operating permit must be accompanied by the fees authorized in ORS 517.800 and 517.920 as determined by the Department.

Stat. Auth.: ORS 517

Stats. Implemented: ORS 517.790

Hist.: GMI 2-1982, f. & ef. 8-13-82; GMI 3-1984, f. & ef. 12-12-84; GMI 2-1985, f. 11-19-85, ef. 11-20-85; GMI 2-1988, f. 5-12-88, cert. ef. 5-2-88; DGMI 1-2014, f. & cert. ef. 4-2-14

632-035-0025

Requirements for an Operating Permit Application

(1) Prior to initiating any permitting action the applicant is encouraged to meet with the Department and with the Department of Environmental Quality (DEQ). These rules apply to mine areas with ore processing facilities at or removed from the mine site, and apply to monitoring facilities. The Department shall closely coordinate its permit requirements with DEQ so as to avoid duplication of effort and unnecessary delay.

(2) An operating permit application shall contain five sections. Those sections are: Existing Environment, General Information, Operating Plan, Reclamation Plan, and Financial Security.

(a) Existing Environment:

(A) The Department may require environmental baseline information including characterization of the following:

(i) Vegetation;

(ii) Soil/overburden;

(iii) Climate/air quality;

(iv) Fish and aquatic biology*;

(v) Wildlife* (terrestrial, avian);

(vi) Surface and ground water;

(vii) Area seismicity;

(viii) Geology and geographic hazards;

(ix) Mineralogy and chemistry;

(x) Noise.

NOTE: *These characterizations may be necessary for determinations by the Oregon Department of Fish and Wildlife.

(B) Other state and federal agencies may have similar baseline requirements. Where possible the Department shall coordinate with agencies that have similar baseline needs, in order to avoid duplication for the applicant;

(C) The level of detail required by paragraph (2)(a)(A)(i-ix) of this rule may vary depending on location, size, scope, and type of mining operation. The applicant should contact the Department prior to baseline data collection to determine the level of detail necessary for the applicant's proposal.

(b) General Information:

(A) The name(s) and address(es) of all owners of the surface estate and mineral estate;

(B) The legal structure (e.g., corporation, partnership, individual) of the applicant;

(C) The name and mailing address of the facility for correspondence;

(D) The name and mailing address of the applicant's resident agent;

ADMINISTRATIVE RULES

(E) The proposed starting date and expected life of the proposed operation;

(F) A description of the present land use and the proposed post-mine use of the site following mining. The proposed post-mine use must be compatible with the local comprehensive plan as determined by local land use planning agencies;

(G) Maps, aerial photographs or design drawings of appropriate scale may be required by the Department. Information that typically may be required on maps, aerial photographs or design drawings includes but is not limited to:

- (i) Permit area boundary;
- (ii) Mine location;
- (iii) Waste rock or overburden stockpiles;
- (iv) Processing facilities location(s);
- (v) Ancillary facilities location(s);
- (vi) Topsoil stockpile locations;
- (viii) Typical cross sections;
- (ix) Plan views and profiles;
- (x) Existing watercourses and ponds;
- (xi) Interim watercourses and ponds;
- (xii) Reconstructed watercourses and ponds;
- (xiii) Post-mining topography;
- (xiv) Property lines;
- (xv) General ore body location.

(H) The applicant should contact the Department for recommendations regarding scale and amount of detail required. The applicant may be required to submit extra copies of materials to be circulated to other agencies;

(I) Written evidence that the surface estate and mineral estate owners concur with the reclamation plan and the proposed use after reclamation and that they will allow the Department access to complete reclamation within the permit area if the permittee fails to comply with the approved reclamation plan. If the applicant can document a legal right to mine without consent of the surface estate owner, and the applicant can demonstrate to the Department's satisfaction that the Department will have a right to enter upon the permit area to complete the reclamation within the permit area if the permittee fails to complete the approved reclamation, the Department may issue an operating permit.

(c) Operating Plan. The Department may require the following in an operating plan:

- (A) A detailed description of the proposed mining methods;
- (B) A general list of equipment required for operation;
- (C) A general schedule of construction and operation starting with the beginning of construction and ending with the completion of mining;
- (D) General design assumptions plus plans profile, typical cross sections and capacities for mine facilities including but not limited to:
 - (i) Impoundments;
 - (ii) Ponds;
 - (iii) Diversion systems;
 - (iv) Disposal systems;
 - (v) Stockpiles and dumps;
 - (vi) Pits;
 - (vii) Tailing disposal facilities.

(E) A plan for the conservation of the pre-mine quantity and maintenance of the pre-mine quality of the surface and ground water resource so as to not degrade the pre-mine use. Any discharge of ore processing solutions off-site would be required to meet DEQ discharge permit standards;

(F) A water budget analysis including but not limited to:

- (i) Precipitation/evaporation data;
- (ii) Make-up water needs;
- (iii) Make-up water source;
- (iv) Procedures to dispose of precipitation water in excess of designed capacities, to include but not be limited to solution treatment facilities or proposed irrigation strategies. This section should be coordinated with procedures for seasonal closure and decommissioning of the operation;

(v) Surface water runoff determination for the watershed containing the mine operation;

(vi) At a minimum, projects shall be designed to handle the 100-year, 24-hour precipitation event.

(G) Seasonal closure procedures if applicable including but not limited to:

- (i) Target seasonal storage volumes;
- (ii) Total system storage capacity;
- (iii) Procedures to handle volumes of water in excess of seasonal storage capacities;

(iv) Estimated target dates for closure.

(H) Credible accident contingency plan including but not limited to:

- (i) Accidental discharge scenarios;
- (ii) Immediate response strategy;
- (iii) Procedures to mitigate impacts to ground water;
- (iv) Procedures to mitigate impacts to surface water;
- (v) Procedures to mitigate impacts to soil/overburden;
- (vi) Procedures to mitigate impacts to living resources;
- (vii) Notification procedures;

(I) Operational monitoring programs including but not limited to, surface and ground water monitoring systems within and outside the permit boundary, water balance of the process system and leak detection systems. Monitoring may be required after cessation of mining or milling operations to ensure compliance with decommissioning performance standards;

(J) Surface water management procedures to provide for protection against contamination of ground water and the off-site discharge of sediments into adjacent waterways;

(K) Stable storage of overburden. A vegetative cover of overburden stockpiles may be required to prevent erosion of the overburden storage or spoils area;

(L) Isolation and stable storage of the topsoil or equivalent growth media material maintained for use in revegetation;

(M) Stable storage of mine dumps. The pre-dump topography, ground preparation, method of emplacement of dump material, height of lifts, total height and final slopes shall be described. The Department may require design and review by a registered professional engineer or certified engineering geologist;

(N) Stable storage of mill tailings. Plans and specifications of all dams or impoundments proposed to be constructed for the purpose of storing mill tailings or other materials consequent to the mining and milling operation may be required by the Department to be prepared by a registered professional engineer or certified engineering geologist. Plans shall be reviewed by the Department and other regulatory agencies. Construction of such dams may be required to be reviewed by a registered professional engineer. Procedures to prevent pollution of air, water, and land shall be described. Depending upon the commodity to be mined, tailings impoundments must meet various requirements of the Department of Environmental Quality, the Health Division of the Department of Human Resources, the Department of Fish and Wildlife, the Oregon Department of Energy Department of Water Resources, Army Corps of Engineers and the U.S. Nuclear Regulatory Commission. Details on how each tailings disposal facility will be reclaimed must be submitted;

(O) Stable storage of mined ore. Plans and specifications prepared by a registered professional engineer or certified engineering geologist of all ore storage facilities may be required by the Department. Storage facilities as used in this paragraph include but are not limited to stored ore, ore stockpiles, storage bins and silos;

(P) Subsidence Control Plan for Underground Mines.

(i) At the discretion of the Department an application for underground mining activities must include an inventory that shows whether structures, renewable or nonrenewable resources, or water resources exist within the proposed permit area and adjacent area and whether subsidence might damage, or interfere with the reasonably foreseeable uses of, such structures or resources;

(ii) If the Department finds, after reviewing the survey, that no structure or renewable or nonrenewable resources exists or no material damage or diminution could be caused in the event of mine subsidence, no further information needs to be provided under this subsection;

(iii) If the Department finds, after reviewing the survey, that any structure, renewable or nonrenewable resource, or water resource exists and that subsidence could cause material damage or diminution of value of foreseeable use of the land, then the applicant shall submit a subsidence control plan that contains:

(I) A detailed description of all proposed methods of operation that may cause subsidence, including:

(I-a) The technique of ore removal; and

(II-b) The extent, if any, to which planned and controlled subsidence is intended.

(II) A detailed description of the measures to be taken to prevent subsidence from causing material damage or lessening the value or reasonably foreseeable use of the surface including:

(II-a) The anticipated effects of planned subsidence, if any;

(II-b) Measures to be taken inside the mine to reduce the likelihood of subsidence; and

ADMINISTRATIVE RULES

(III) Measures to be taken on the surface to prevent material damage to or diminution of value of reasonably foreseeable use of the surface;

(IV) A detailed description of measures to be taken to determine the degree of material damage to or diminution of value of foreseeable use of the surface, including measures such as:

(IV-a) The results of pre-subsidence surveys of all structures and surface features that might be materially damaged by subsidence; and

(IV-b) Monitoring, if any, proposed to measure deformations near specified structures or features or otherwise as appropriate for the operations.

(Q) A list of and procedures for the handling and storage of any chemicals, acid-forming materials or radioactive material generated from or required for mining or processing at the proposed operation.

(d) Reclamation Plan. The Department may require the following in a reclamation plan:

(A) Provisions for re-contouring, stabilization and/or topsoil replacement of all disturbed areas;

(B) Provisions for the revegetation of all disturbed areas consistent with future use, including seedbed preparation, mulching, fertilizing, species selection, and seeding or planting rates and schedules. The Department may consider revegetation successful if it is comparable in stability and utility to adjacent analogous areas. In arid or semi-arid regions, the Department may allow three years of growth prior to evaluation of revegetation. Otherwise revegetation will be evaluated after one growing season. Vegetation test plots and chemical/physical soil and subsoil analysis may be required to ensure establishment feasibility. If applicable the applicant must include a plan for the control of noxious weeds;

(C) Provisions for protection of public health and safety;

(D) Provisions specifying adequate setbacks;

(E) Procedures for all stream channels and stream banks to be rehabilitated so as to minimize bank erosion, channel scour, and siltation. Disturbance within the beds and banks of streams may require a permit from the Department of State Lands;

(F) The Department may require the applicant to provide for the prevention of stagnant water;

(G) Final slopes shall be stable;

(H) Reclaimed cut banks shall not have slopes exceeding 1½ horizontal to 1 vertical (1½:1). The Department may grant exceptions for steeper slopes where the applicant can document that the slopes will be stable and if the steeper slopes:

(i) Blend into adjacent terrain features; or

(ii) Existed prior to mining; or

(iii) Are consistent with approved subsequent beneficial use.

(I) Fill slopes shall be 2:1 or flatter unless steeper slopes are approved by the Department. Technical data supporting steeper slope stability may be required by the Department;

(J) Procedures for the salvage, storage and replacement of topsoil or acceptable substitute;

(K) Provisions for the establishment of 3:1 in-water slopes to six feet below water level for permanent water impoundments. Reasonable alternatives may be approved by the Department when they are consistent with the reclamation plan. For example, safety benches no more than two feet below low water level and five-feet wide may be substituted for the slope requirement where the Department determines that sloping is not practical;

(L) Visual screening of the proposed operation may be required, if economically practical, when the operating area is visible from a public highway or residential area. Techniques for visual screening include, but are not limited to, vegetation, fencing or berms;

(M) Procedures for the removal or disposal of all equipment, refuse, structures and foundations from the permit area. Permanent structures may remain if they are part of an approved reclamation plan;

(N) Provisions to maintain access to utilities when a utility company right-of-way exists;

(O) Procedures for decommissioning mine facilities including but not limited to:

(i) Procedures for ore storage sites to meet decommissioning performance standards for protection of surface and ground water quality and living resources and to achieve revegetation requirements;

(ii) Procedures for tailing disposal facilities to meet decommissioning performance standards for long-term stability, protection of surface and ground water quality and living resources and provide for attainment of site land use objectives;

(iii) Procedures for solutions to meet decommissioning performance standards for discharge, containment and evaporation, or other ultimate disposal methods;

(iv) Removal of all process chemicals;

(v) Appropriate isolation or removal of waste material;

(vi) Monitoring system by which the success of the proposed reclamation can be measured for bond release.

(e) Financial Security:

(A) The applicant shall submit a permit bond or other adequate financial security for the purpose of ensuring completion of the reclamation plan, other requirements of ORS 517.750 to 517.951, and all rules and permit conditions. The financial security amount shall be determined and transmitted to the operator after comments by reviewing agencies on the proposed reclamation plan have been received and evaluated. All land shall have Department-approved and accepted financial security prior to disturbance. The Department must determine the amount of the bond or other security required by estimating the cost of reclamation if the Department were to perform the reclamation;

(B) Factors the Department will consider in determining the amount of security may include, but are not limited to, the following:

(i) Supervision;

(ii) Mobilization;

(iii) Costs of equipment;

(iv) Equipment capability;

(v) Costs of labor;

(vi) Removal or disposition of debris, junk, equipment, structures, foundations and unwanted chemicals;

(vii) Reduction of hazards such as: in-water slopes, highwalls, and landslides or other mass failure;

(viii) Disposition of oversize, rejects, scalplings, and overburden;

(ix) Backfilling, contouring or re-grading and topsoil replacement;

(x) Draining, establishment of drainage, and erosion control;

(xi) Soil tests;

(xii) Seedbed preparation, seeding, mulching, fertilizing, netting, tackifiers or other stabilizing agents;

(xiii) Tree and shrub planting;

(xiv) Fencing;

(xv) Liability insurance;

(xvi) Long-term stabilization, control, containment or disposal of waste solids and liquids;

(xvii) Final engineering design;

(xviii) Costs of remedial measures identified to clean up releases of contaminants associated with mining, processing or beneficiation that are reasonably likely to cause a threat to public health, safety, or the environment.

(C) Cost estimate information shall be derived from sources such as:

(i) Comparable costs from similar projects;

(ii) Catalog prices;

(iii) Guides and cost estimates obtained from appropriate government and private sources;

(iv) Operator estimates;

(v) Equipment handbooks;

(D) Seed mixes, fertilizer rates, and other requirements will be derived from departmental experience combined with advice from such sources as the Oregon Department of Agriculture, Soil Conservation Service, Oregon State University Extension Service, the Department of Transportation, the Bureau of Land Management or United States Forest Service and private sector experts;

(E) The security amount shall be based on the cost of reclamation at the time of an inspection plus the predicted disturbance within the next 12 months. Security amounts shall not account for construction of structures or comparable features such as housing developments or industrial construction even if included in a reclamation plan;

(F) The Department, in consultation with DEQ, shall make a determination of whether a threat to public health or the environment is reasonably likely to exist from a concentration of metals or minerals resulting from mining, processing or beneficiation at the proposed project.

(G) The applicant may be required to submit reclamation/decommissioning cost estimates and/or estimated costs for mitigation, reclamation and/or disposal associated with a credible accident for consideration by the Department;

(H) No permit shall be issued or renewed until all financial security for a surface mining site is on file with the Department. Financial security must be maintained until operations have ceased, reclamation has been completed, and all decommissioning performance standards have been met. Financial security must be provided by surety companies authorized to do business in Oregon and acceptable to the Department. A security submitted for multiple surface mining sites under the provisions of ORS 517.810(4)

ADMINISTRATIVE RULES

must be accompanied by a list showing the permits covered by the security, the amount of the bond applicable to each surface mining site, and the number of acres bonded at each site.

Stat. Auth.: ORS 517
Stats. Implemented: ORS 517.810, 517.870, 517.890, 517.915 & 517.950
Hist.: GMI 2-1982, f. & ef. 8-13-82; GMI 3-1984, f. & ef. 12-12-84; GMI 2-1985, f. 11-19-85, ef. 11-20-85; GMI 2-1986, f. 9-19-86, ef. 9-22-86; GMI 2-1988, f. 5-12-88, cert. ef. 5-2-88; GMI 3-1990, f. & cert. ef. 8-9-90; DGMI 1-2014, f. & cert. ef. 4-2-14

632-035-0030

Department Action on Operating Permit Application

(1) The Department shall approve or deny a complete application in writing within 120 days of receipt. If an application is incomplete, the Department shall notify the applicant of that fact in writing within 30 days of receipt and the Department will specify the deficiencies therein. Within 60 days of receipt of a notice of incompleteness the applicant may appeal the determination of incompleteness or may resubmit the application with deficiencies corrected.

(2) The Department will submit the draft operating permit to local planning authorities and other appropriate public agencies for review. If the operating permit cannot be reviewed and accepted or rejected by the Department within 120 days after receipt the Department will notify the applicant.

(3) If the Department refuses to approve the operating permit for any reason, the Department will notify the applicant in writing within five days of refusal stating the reasons for refusal and identifying additional requirements as may be prescribed by the Department for inclusion in the reclamation plan. Within 60 days after the receipt of such a deficiency list or permit conditions, the applicant shall comply with the additional requirements prescribed by the Department or file a written notice of appeal of the decision to the Department in accordance with OAR 632-035-0056. Failure to comply with the additional requirements or file a notice of appeal within the 60-day period, unless an extension is granted by the Department, may result in the application for an operating permit being denied.

(4)(a) The Department will approve the applicant's operating permit if the application adequately provides for reclamation of surface mined lands and complies with the applicable statutes and these rules;

(b) If the Department finds that reclamation cannot be accomplished it shall not issue an operating permit. The applicant shall be notified in writing within five days of the decision.

(5) The Department may attach conditions to the operating permit. These conditions may be added to reflect special concerns that are not adequately addressed in the reclamation plan and fall within the scope of these rules. The permittee may appeal these conditions by filing a written notice of appeal in accordance with OAR 632-035-0056.

(6) The approval of the reclamation plan and the issuance of the operating permit by the Department do not constitute a finding of compliance with statewide planning goals or local regulations implementing acknowledged comprehensive land use plans. The operating permit may be issued prior to the local land use agency making such a determination. The permittee is responsible for obtaining local land use approval before commencing the proposed surface mining activity. When issuing the permit, the Department will inform the permittee that:

(a) Issuance of the operating permit is not a finding of compliance with the Statewide Planning Goals (ORS 197.225) or the acknowledged comprehensive plan; and

(b) The applicant is responsible for compliance with the requirements of all other agencies including land use determination by local government and compliance with the Statewide Planning Goals before commencing surface mining under the approved operating permit.

Stat. Auth.: ORS 517
Stats. Implemented: ORS 517.740, 517.810 & 517.925
Hist.: GMI 2-1982, f. & ef. 8-13-82; GMI 3-1984, f. & ef. 12-12-84; GMI 2-1985, f. 11-19-85, ef. 11-20-85; GMI 2-1988, f. 5-12-88, cert. ef. 5-2-88; DGMI 1-2014, f. & cert. ef. 4-2-14

632-035-0035

Modification of an Operating Permit

Modification may be initiated at any time by the permittee or by the Department. An operating permit may be modified by approval of the Department after timely notice and opportunity for review as provided by ORS 517.830(4) in order to modify the requirements so that they comply with existing laws, or to accommodate unforeseen developments that may affect the reclamation plan as previously approved. Expansion of an operation beyond original permit area or significant intensification of activity may require recirculation to interested agencies for additional comment.

Stat. Auth.: ORS 517
Stats. Implemented: ORS 517.740 & 517.800

Hist.: GMI 2-1982, f. & ef. 8-13-82; GMI 2-1985, f. 11-19-85, ef. 11-20-85; GMI 2-1988, f. 5-12-88, cert. ef. 5-2-88; DGMI 1-2014, f. & cert. ef. 4-2-14

632-035-0040

Maintaining an Operation Permit

(1) Within 30 days after completion of construction and prior to operation, the permittee shall submit a signed registered engineer's or certified engineering geologist's report, complete with accurate drawings and specifications depicting the actual construction. Alternatively, if the construction proceeded in substantial compliance with the approved plans and specifications, a statement to that effect may be submitted by the registered professional engineer or certified engineering geologist. In either case, the permittee shall make specific arrangements for inspection by the Department during construction or installation of mine facilities.

(2)(a) After issuance of the permit and prior to mining, the permittee must mark the boundaries for all excavation areas, stockpiles, setbacks, and buffers. Unless otherwise authorized by the Department in writing, the marking must be accomplished by placing clearly visible markers, approved by the Department, at a distance of no more than 200 feet on center. The Department may grant extensions for marking areas that are subject to a phased operation plan. The Department may waive marking requirements or allow greater distances where topography or other conditions make marking unreasonable. Any extension or waiver must be approved by the Department in writing.

(b) Operators of previously permitted operations with a total disturbed area in excess of 20 acres must survey the permit area and provide a map that complies with the requirements in subsection (2)(a) of this rule. The survey must be completed and submitted to the Department for review upon adoption of these rules and within 12 months after the permit anniversary date. Upon receipt of a written request from a permittee, the Department may grant extensions to this requirement for good cause shown. Extensions must be authorized by the Department in writing. Within three months after the Department notifies the permittee that the survey is adequate, the permittee must mark boundaries in the permit area as provided in subsection (2)(a) of this rule.

(c) The Department may require any operator of a previously permitted operation that is not subject to subsection (2)(b) of this rule to provide a survey or marking or both if the Department determines that surveying or marking is needed for effective or efficient implementation or enforcement of the permit, reclamation plan, Department rules or the Act. The permittee will be notified of such requirement in writing and will be allowed a reasonable time to accomplish the survey or marking requirements.

(d) The Department may require a permittee to update the surveys or maps required under this rule if the operation is subject to a notice of violation under ORS 517.860, a suspension order under ORS 517.880, or a significant modification of the operating permit.

(3) Subject to the limitations in ORS 517.862, an operating permit issued by the Department will remain in effect for the period of time necessary to mine and reclaim the land described in the permit and subject to the requirements of the law. Each operating permit is to be renewed prior to the anniversary date by submitting the required annual fee, any other accrued fees, and filing the annual report. As a courtesy, the Department may notify the permittee by mail at least 45 days prior to the anniversary date of the permit and provide the necessary renewal forms and fee schedule for permit renewal. In cases of nonrenewal, a second notice may be sent prior to issuance of a closure order. The permittee shall maintain an operating permit until mining and reclamation, including revegetation (if required), have been completed.

(4)(a) If the Department determines from inspections conducted pursuant to ORS 517.850, or from any other source, that the operation is not in compliance with the approved operating permit, ORS 517.750 to 517.900, or the rules adopted thereunder, the Department shall give written notice of noncompliance to the permittee;

(b) The permittee must begin rectifying all deficiencies within 30 days of receipt of the notice of noncompliance as required in ORS 517.860(1), or file a written appeal to the notice of noncompliance in accordance with OAR 632-035-0056. If the permittee appeals the notice within 30 days of receipt, the Department will not issue a closure order or revoke the permit pending the appeal, except in cases of reasonable probability of danger to human life, property, water resources, or the environment. The Department will provide the permittee a written statement of the specific facts leading to that finding and corrective action for the elimination of such danger.

(c) The Department will notify the permittee in writing within ten days of verification of compliance.

Stat. Auth.: ORS 517

ADMINISTRATIVE RULES

Stats. Implemented: ORS 517.740 & 517.800
Hist.: GMI 2-1982, f. & ef. 8-13-82; GMI 3-1984, f. & ef. 12-12-84; GMI 2-1985, f. 11-19-85, ef. 11-20-85; GMI 2-1988, f. 5-12-88, cert. ef. 5-2-88; DGMI 1-2014, f. & cert. ef. 4-2-14

632-035-0045

Obtaining Bond Release

(1) The permittee shall notify the Department when the reclamation has been completed.

(2) The Department shall inspect the reclaimed site. If the Department determines that the permittee has fulfilled the requirements of the approved reclamation plan or decommissioning performance standards, the bonds or other securities will be released. The Department may authorize bond or other security reduction if the reclamation or decommissioning is partially completed.

Stat. Auth.: ORS 517
Stats. Implemented: ORS 517.740
Hist.: GMI 2-1982, f. & ef. 8-13-82; GMI 3-1984, f. & ef. 12-12-84; GMI 2-1985, f. 11-19-85, ef. 11-20-85; GMI 2-1988, f. 5-12-88, cert. ef. 5-2-88; DGMI 1-2014, f. & cert. ef. 4-2-14

632-035-0050

Appeals

(1) Prior to the initiation of a formal appeal of any departmental order, notice, or other action, made pursuant to ORS 517.750 to 517.950 or the rules adopted thereunder, the applicant or permittee shall first request that the State Geologist informally review and resolve the matter. The State Geologist will provide a written decision within 20 days of receipt of such an informal request. If the State Geologist is unable to resolve the informal request, the applicant or permittee may request a contested case hearing. Appeals must be filed within 30 days of receipt of the State Geologist's written decision except as otherwise provided by ORS 183.435.

(2) An applicant or permittee requesting a hearing for consideration of any appeal shall state the reasons for requesting the hearing and the objections to the Department's order, notice, or other action.

Stat. Auth.: ORS 517
Stats. Implemented: ORS 517.890 & 517.992
Hist.: GMI 2-1982, f. & ef. 8-13-82; GMI 2-1985, f. 11-19-85, ef. 11-20-85; ; DGMI 1-2014, f. & cert. ef. 4-2-14

632-035-0055

Penalties

(1) Any landowner or operator who conducts a surface mining operation, for coal or a metal-bearing ore, without a valid operating permit as required by ORS 517.750 to 517.955 shall be punished, upon conviction, by a fine of not more than \$10,000.

(2) Violation of any provision of ORS 517.750 to 517.955, or of any rule or order made pursuant to ORS 517.910 to 517.950, or of any conditions of an operating permit, is punishable, upon conviction, by a fine of not more than \$10,000.

Stat. Auth.: ORS 517
Stats. Implemented: ORS 517.990 & 517.992
Hist.: GMI 2-1982, f & ef. 8-13-82; GMI 3-1984, f. & ef. 12-12-84; GMI 2-1985, f. 11-19-85, ef. 11-20-85; GMI 2-1988, f. 5-12-88, cert. ef. 5-2-88; DGMI 1-2014, f. & cert. ef. 4-2-14

632-035-0060

Civil Penalty

(1) Applicability. This section of these rules applies to the imposition of civil penalties under ORS 517.992(2) for violations of statutes, rules, orders and permit conditions not related to a chemical process mine.

(2) Definitions. For purposes of this section of these rules:

(a) "Compliance Schedule" is a written plan that establishes specific actions and time tables for remedying a violation. The compliance schedule may require the violator to propose specific actions that are acceptable to and approved in writing by the Department. The compliance schedule also may be used for informal disposition of proceedings through stipulation, agreed settlement, consent order or default;

(b) "Notice of Civil Penalty" is a written statement that includes the elements of a notice of violation and also imposes a civil penalty;

(c) "Notice of Violation" is a written warning that includes a short and plain statement of the facts establishing a violation and reference to the statute, rule, order, or permit condition that has been violated;

(d) "Outside a permit condition regarding boundaries, setbacks, buffers, or the placement of surface mining materials" means a violation of any permit condition that establishes or regulates the physical or geographic limits on mining operations. "Surface mining materials" means soil, rock, ore, minerals or overburden. It does not include discharges of water.

(e) "Violation" is any violation of ORS 517.700 to 517.950, or any rule, order, or permit adopted under those statutes, provided:

(A) The statute, rule, order or permit does not relate to a chemical process mine; and

(B) The violation relates to an operation that is being conducted without a permit, outside of a permit boundary, or outside of a permit condition regarding boundaries, setbacks, buffers or the placement of surface mining refuse.

(3) Notice of Violation:

(a) If the Department finds that a violation does not pose an immediate threat to human health, safety or the environment, it may issue a notice of violation. The notice must give the violator a specified period of time not less than 72 hours in which to correct the violation;

(b) The notice of violation may include a compliance schedule and the notice of violation may include a requirement that a violation not be repeated within a specified period of time;

(c) If the violation is corrected within the specified period and any requirement imposed under subsection (b) of this section is satisfied, the Department shall not impose a civil penalty.

(4) Notice of Violation Mauri — Service. A notice of violation must either be served personally or sent by registered or certified mail. If the notice is served by mail, the period specified for compliance must not commence until four business days after the date the notice has been mailed.

(5) Notice of Civil Penalty. If the Department finds that a violation poses an immediate threat to human health, safety, or the environment, or that the violator has not complied with the requirements contained in a previously issued notice of violation, the Department may issue a notice of civil penalty.

(6) Notice of Civil Penalty — Form and Service. A notice of civil penalty must be in a form and shall be served in the manner required by ORS 183.415.

(7) Appeals — Consolidation. Any person issued a notice of violation or a notice of civil penalty shall have the right to a contested case hearing under ORS 183.413 to 183.470. The hearing must be requested in writing within 20 days of the date of service. A notice of civil penalty may be issued even though a contested case hearing is pending on the underlying notice of violation. However, if timely requests for hearings are received for a notice of violation and a notice of civil penalty arising out of the same violation, the hearings may be consolidated.

(8) Civil Penalty — Classification:

(a) Civil penalties imposed under ORS 517.992(2) must be coordinated with other agencies, to the extent practical, to avoid duplication of penalty for the same violation and be in accordance with the following schedule:

(A) Class 1. Violation that poses no potential threat to human health, safety, or the environment: no more than \$1,000 per day;

(B) Class 2. Violation that poses a potential threat to human health, safety, or the environment, or a repeat Class 1 Violation: no more than \$3,000 per day. Potential threats to human health, safety or the environment include, but are not limited to, actions that increase instability or erosion, or cause an unsafe condition at the site;

(C) Class 3. Violation that poses an immediate but remediable threat to the environment or a repeat Class 2 violation: no more than \$6,000 per day. "Immediate but remediable threat to the environment" means that without a quick response, and considering such factors to include but not be limited to slope and erodibility, damage will occur and upon remediation there will be no lasting effect of that damage.

(D) Class 4. Violation that:

(i) Poses an immediate threat to human health or safety;

(ii) Causes actual human injury;

(iii) Poses a threat to the environment that is immediate and not remediable;

(iv) Causes actual damage to the environment; or

(v) Is a repeat Class 3 violation: \$1,000 to \$10,000 per day.

(b) Each day of a continuing violation may be treated as a separate violation for purposes of imposing a civil penalty;

(c) In the event of a conflict between the text of this rule and the language or operation of the attached schedule, the language in the text of the rule controls.

Stat. Auth.: ORS 517.090 & 517.840

Stats. Implemented: ORS 517.992

Hist.: GMI 1-1994, f. & cert. ef. 7-21-94; DGMI 1-2014, f. & cert. ef. 4-2-14

632-037-0005

Purpose

(1) The purpose of these rules is to implement the consolidated permitting provisions of ORS 517.952 to 517.989, applicable to metal mines,

ADMINISTRATIVE RULES

except placer mines and operations using only gravity separation to process ore. These rules address:

(a) Implementation of a state consolidated permitting process for mining operations;

(b) Coordination of federal and state permitting processes as they relate to the consolidated permitting process; and

(c) Opportunities for public participation and comment throughout the state consolidated permitting process.

(2) It is the policy of the State of Oregon to protect the environmental, scenic, recreational, social, archaeological and historic resources of this state from unacceptable adverse impacts that may result from mining operations, while permitting operations that comply with the provisions set forth in ORS 517.952 to 517.989, and ensure the protection of the public health, safety, welfare and the environment.

(3) Applicants submitting a consolidated application to the Department should be aware that federal and local agencies may require the applicant to obtain additional permits and approvals prior to operation.

Stat. Auth.: ORS 517.750 - 517.995

Stats. Implemented: ORS 517.750 - 517.995

Hist.: GMI 2-1991, f. & cert. ef. 10-11-91; DGMI 1-2014, f. & cert. ef. 4-2-14

632-037-0010

Definitions

The definitions in ORS 517.952 are hereby incorporated as the definitions to be used in interpreting these rules, unless a term is specifically defined within these rules.

(1) "Affected Agency" includes permitting agencies, cooperating agencies and commenting agencies.

(2) "Available Technology" means technology that is obtainable and has been demonstrated to meet environmental standards at an existing mine or a demonstration project of similar size and scale, or is reasonably expected to meet or exceed environmental standards at the proposed mine.

(3) "Baseline Data" means information gathered to characterize the natural and cultural environments of a mining operation site before a mining operation begins.

(4) "Chemical Processing" means a processing method for extracting metal from metal bearing ores that uses chemicals to dissolve metals from ore.

(5) "Commenting Agency" means an agency that makes recommendations to the Department or to a permitting agency regarding permit conditions or whether to approve or deny a permit under the consolidated application process established under ORS 517.952 to 517.989. Commenting agencies may include but are not limited to the following agencies: Department of Economic Development, Emergency Management Division, Department of Energy, Department of Forestry, Health Division, Department of Land Conservation and Development, Department of Parks and Recreation, Public Utility Commission, Office of the State Fire Marshal, and the Department of Transportation. Commenting agencies may also be permitting and cooperating agencies that wish to comment on a permit issued by another agency.

(6) "Consolidated Application" means the single application required under ORS 517.971.

(7) "Cooperating Agency" means an agency that has statutory responsibility related to a mining operation but that does not issue a permit for the mining operation. Cooperating agencies may include but are not limited to the following agencies: Department of Agriculture and Department of Fish and Wildlife.

(8) "Credible Accident" means an unplanned discharge of ore processing solutions, ore processing solution contaminated water, or chemicals from a mine facility into surface water, ground water, soil, overburden, or living resources in sufficient quantity to impair the pre-mine quality of the receiving water, soil, overburden, or living resources, or that would exceed the discharge limitations of the Department of Environmental Quality. A credible accident may also include but is not limited to the following types of accidents: fires, unplanned detonation of explosives, equipment failures, fuel spills and accidents resulting from human errors.

(9) "Department" means the Department of Geology and Mineral Industries.

(10) "Disturbed Area" means any area within a permit area boundary where surface or subsurface resources are impacted as a result of mining, processing or mine facilities.

(11) "Environmental Evaluation" means an analysis prepared under ORS 517.979 to address specific impacts of the mining operation, to allow affected agencies to develop permit conditions.

(12) "Environmental Standards" means standards established either by statute or rule that must be met by a mining operation.

(13) "Facilitating Agency" means the Department of Geology and Mineral Industries. The Department shall coordinate the activities of the affected agencies related to the consolidated application process established in ORS 517.952 to 517.989.

(14) "Gravity Separation" means the separation of mineral particles, with the aid of water or air, according to the differences in the specific gravities of the particles.

(15) "Master List" means a consolidated list of all interested persons compiled by the Department and each permitting and cooperating agency and maintained by the Department.

(16) "Mine Facilities" includes but is not limited to the following:

(a) Leach pads and vats;

(b) Recovery plants and/or mill;

(c) Process solution ponds and/or storage ponds;

(d) Impoundments and diversions;

(e) Tailing disposal facility;

(f) Haul roads;

(g) Open pits;

(h) Related buildings;

(i) Energy facilities at the mine site;

(j) Disposal areas for waste rock and other mining wastes; and

(k) Storage areas for subgrade ore.

(17) "Mining Operation" means a surface or underground mine that processes, produces, or reclaims metal ore using a method other than, or in addition to, gravity separation to process the ore.

(18) "Mitigation" means the reduction of adverse effects of a proposed mining operation by considering, in the following order:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action;

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation;

(c) Rectifying the impact by repairing, rehabilitating or restoring the affected environment;

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate corrective measures; or

(e) Compensating for the impact by replacing or providing comparable substitute resources or environments.

(19) "Necessary Technology" means technology that is required to ensure compliance with environmental standards.

(20) "Operating Permit" means a permit issued by the Department that allows for the mining and processing of metal-bearing ores and provides for reclamation.

(21) "Permit Area" means the geographical location of a mining operation and related development activities covered by an operating permit and is defined by boundaries acceptable to the Department submitted by the applicant on a map. The permit area shall include the reasonably foreseeable extent of the mine and will generally be a parcel or contiguous parcels of land available to the permittee for mining. Areas used for the storage or disposition of any product or waste material from the mining operation, even though separate from the area of extraction, shall be included in the permit area. The permit area may be redefined as the mining operation progresses, subject to the requirements of OAR 632-037-0120.

(22) "Permitting Agency" means an agency that has a separate permitting authority for a proposed mining operation. Permitting agencies may include but are not limited to the following agencies: Department of Environmental Quality; Department of Geology and Mineral Industries, Division of State Lands, and the Water Resources Department.

(23) "Person" means any individual, partnership, corporation, association, public interest organization, the State of Oregon or any political subdivision, board, agency or commission of the State of Oregon.

(24) "Practicable Technology" means available and necessary technology whose costs are not significantly disproportionate to the potential environmental benefits. A technology is not practicable if the cost is so high it renders a mining operation infeasible.

(25) "Processing" means separating metals from ore through a method other than gravity separation, including milling and the use of chemicals to dissolve metals from ore. As used in these rules, "processing" includes, but is not limited to; cyanide heap leach processing operations, cyanide vat processing operations, and froth floatation processing operations.

(26) "Processing Solutions" means those solutions that are used directly or indirectly to recover minerals.

(27) "Project Coordinating Committee" means the interagency governmental committee established in accordance with ORS 517.965.

ADMINISTRATIVE RULES

(28) "Reclamation" means the employment in mining of procedures reasonably designed to minimize as much as practicable the disruption from the mining operation and to provide for the rehabilitation of any surface and subsurface resources through the use of plant cover, soil stability techniques, measures to protect the surface and subsurface water resources, including but not limited to domestic water use and agricultural water use, and other measures appropriate to the subsequent beneficial use of any land or water resource affected by a mining operation. Surface reclamation shall also provide for the protection of human health and safety, as well as that of livestock, fish, and wildlife; environmental protection; and the establishment of a self-sustaining ecosystem, comparable to undamaged ecosystems in the area of the mine.

(29) "Study Area" means those areas determined by the technical review team for which baseline data must be collected and an environmental evaluation and socioeconomic impact analysis must be developed.

(30) "Technical Review Team" means the interagency group established in accordance with ORS 517.967.

(31) "Undamaged Ecosystem" means an ecosystem that is comparable in utility and stability to the ecosystem surrounding the mine and/or the pre-mine ecosystem, and that retains the principal ecological characteristics reasonably expected to exist under local, climatic, geological, soil, hydrological and biological conditions.

Stat. Auth.: ORS 517.750 - 517.995

Stats. Implemented: ORS 517.750 & 517.952

Hist.: GMI 2-1991, f. & cert. ef. 10-11-91; DGMI 1-2014, f. & cert. ef. 4-2-14

632-037-0015

State and Federal Agency Coordination

(1) When a mining operation is proposed on federal land, the Department shall, when agreed to by the federal agency, enter into a memorandum of agreement with the federal agency that is designated as the lead agency for the proposed mine under the National Environmental Policy Act. The purpose of a memorandum of agreement shall be to coordinate the state consolidated application process established in ORS 517.952 to 517.989 with the federal application process to the fullest extent possible.

(2) The memorandum of agreement may:

(a) Provide for the selection of the same third party contractor, if any, to prepare the environmental evaluation and socioeconomic impact analysis required by ORS 517.952 to 517.989 and the environmental assessment or environmental impact statement required by the National Environmental Policy Act;

(b) Coordinate the timeliness for preparation and content of the environmental evaluation and the environmental assessment or environmental impact statement;

(c) Ensure that all data, information and documents prepared in satisfaction of the requirements of ORS 517.952 to 517.989 will also satisfy to the fullest extent possible the requirements of corresponding portions of the National Environmental Policy Act; and

(d) Ensure that the state and federal financial security requirements are coordinated to the fullest extent possible.

Stat. Auth.: ORS 517.750 - 517.995

Stats. Implemented: ORS 517.952 & 517.965

Hist.: GMI 2-1991, f. & cert. ef. 10-11-91; DGMI 1-2014, f. & cert. ef. 4-2-14

632-037-0020

Project Coordinating Committee

(1) Purpose. The purpose of a project coordinating committee shall be to share information and coordinate county, state and federal permitting requirements in order to avoid contradictory requirements, facilitate the exchange of ideas, promote interdisciplinary decision making, optimize communication and avoid duplicative effort. A project coordinating committee shall also review proposed permit modifications that are deemed significant by a permitting agency or a cooperating agency under OAR 632-037-0120 and determine those portions of ORS 517.952 to 517.989 and these rules with which the applicant must comply.

(2) Committee Members. The Department shall act as the facilitating agency for a project coordinating committee. Upon receipt of a notice of intent, the Department shall request the participation of a representative of each of the following:

- (a) All permitting and cooperating agencies;
- (b) Affected federal agencies;
- (c) Local government agencies; and
- (d) Any affected Indian tribe.

(3) Staff. Each permitting and cooperating agency shall designate an appropriate staff person(s) to participate on the project coordinating committee. Each agency shall assume responsibility for those sections of the

consolidated application and environmental evaluation over which the agency has permitting authority or special expertise.

(4) Meetings. The project coordinating committee shall meet at appropriate times during the consolidated application process. Any member may request a meeting of the Committee. If a majority of members concur with the request, the Department shall facilitate a meeting. All meetings of the project coordinating committee shall be open to the public and each meeting shall include an opportunity for public comment on matters before the Committee.

Stat. Auth.: ORS 517.750 - 517.995

Stats. Implemented: ORS 517.965

Hist.: GMI 2-1991, f. & cert. ef. 10-11-91; DGMI 1-2014, f. & cert. ef. 4-2-14

632-037-0025

Technical Review Team

(1) Duties. The duties of the technical review team shall include but not be limited to the following:

(a) Provide an interagency and interdisciplinary review of technical permitting issues and serve in an advisory capacity to a project coordinating committee;

(b) Approve the methodology to be used in the collection of baseline data;

(c) Coordinate with the applicant the collection and verification of baseline data;

(d) Determine the study areas for a proposed mine;

(e) Identify any reasonable alternatives that were not analyzed by the applicant or contractor in a consolidated application and direct staff or a third party contractor to analyze such alternatives in accordance with the requirements of OAR 635-037-0045(5);

(f) Determine whether any part of a consolidated application, including an environmental evaluation, is complete;

(g) Determine whether a proposed mining operation complies with the standards established in ORS 517.952 to 517.989, these rules and the statutes and rules governing the issuance of all applicable permits set forth in ORS 517.952 to 517.989;

(h) Reconcile contradictory permit conditions;

(i) Advise an applicant of the application requirements relevant to a proposed mine; and

(j) Identify the characteristics reasonably expected to exist under local conditions under OAR 632-037-0010(24).

(2) Team Members. The Department shall act as the facilitating agency for the technical review team. Upon receipt of a notice of intent, the Department shall request the participation of a representative of each permitting and cooperating agency.

(3) Staff. Each permitting and cooperating agency shall designate an appropriate staff person(s) to participate on the technical review team. Each agency shall assume responsibility over those sections of the consolidated application and environmental evaluation over which the agency has permitting authority or special expertise. When special expertise resides in more than one agency, the agencies shall coordinate their activities to avoid duplication or contradiction.

(4) Meetings. The technical review team shall meet at those times necessary and appropriate to accomplish the purposes of ORS 517.952 to 517.989 and these rules. Any member may request a meeting of the team. If a majority of other members concur with the request, the Department shall facilitate a meeting.

Stat. Auth.: ORS 517.750 - 517.995

Stats. Implemented: ORS 517.967

Hist.: GMI 2-1991, f. & cert. ef. 10-11-91; DGMI 1-2014, f. & cert. ef. 4-2-14

632-037-0030

Public Notice Procedure

(1) Whenever public notice is required by ORS 517.952 to 517.989 or these rules, the Department shall:

(a) Mail a written notice to all permitting and cooperating agencies and affected federal and local agencies;

(b) Mail a written notice to each owner of property located within one-half mile of the perimeter of the proposed permit area of the mining operation. As used in this paragraph, "owner" means the owner of the title to real property or the contract purchaser of real property of record as shown on the last available complete tax assessment roll;

(c) Mail a written notice to persons on the master list;

(d) Mail a written notice to unpatented mineral claimants for claims that are filed with the county and are located within one-half mile of the perimeter of the proposed permit area of the mining operation; and

(e) Cause to be published a notice in at least one newspaper of general circulation in the state and in at least one local newspaper of general cir-

ADMINISTRATIVE RULES

ulation in the county or counties in which the proposed mining permit area is located. A notice by publication shall be given at least once each week for two weeks immediately preceding an action by the Department or following an action by an applicant that requires public notice under ORS 517.952 to 517.989 or these rules. In the event that a local newspaper is not published on a weekly basis, the notice by publication shall be given in a manner that is consistent with the publishing schedule of a local newspaper.

(2) The notice provided pursuant to this section shall satisfy any notice requirement of an individual permitting or cooperating agency related to a permit included in the consolidated application process.

(3) A notice given pursuant to section (1) of this rule shall include:

(a) The name, address and telephone number of the Department and all permitting and cooperating agencies, and, if applicable, the local government responsible for land use approval, including a contact person for each agency when known;

(b) The name and address of the applicant;

(c) The location of the proposed mining operation;

(d) A description of the action or proposed action;

(e) The location or locations where interested persons may obtain further information and inspect and copy relevant forms and documents;

(f) A statement describing any opportunities and requirements for public comment and the date, time and location of any public meeting or hearing; and

(g) Any other information required by ORS 517.952 to 517.989 or these rules.

(4)(a) The Department shall establish a master list for each proposed mining operation. To establish a master list, the Department shall request from each permitting and cooperating agency a list of the names and addresses of persons who have expressed interest in a proposed mining operation;

(b) The Department may charge the addressee on the master mailing list a fee of \$5 to defray the costs of maintaining the master list and mailing public notices to persons on the master list. Any person may be added to the master list by mailing or delivering a written request and, if required, the fee to the Department.

Stat. Auth.: ORS 517.750 - 517.995

Stats. Implemented: ORS 517.959

Hist.: GMI 2-1991, f. & cert. ef. 10-11-91; DGMI 1-2014, f. & cert. ef. 4-2-14

632-037-0035

Notice of Intent

(1) A prospective applicant shall file with the Department a notice of intent to submit a consolidated application. The notice shall include the following information:

(a) Name and location of the proposed mining operation, including a legal description of an area that fully encompasses the proposed boundary of the permit area and a general description of the proposed boundary of the permit area;

(b) Name, mailing address and phone number of the prospective applicant;

(c) The legal structure (e.g., corporation, partnership, individual) of the applicant as filed in the business registry with the Secretary of State and the legal address of the applicant.

(d) Brief description of the proposed mining operation.

(2) Within ten days of the filing of a notice of intent, the prospective applicant shall post a copy of the notice at each common access point and on four posts, one post at each of the four cardinal headings (north, south, east and west) along the proposed boundary of the permit area. For the purposes of this section, "common access points" shall include but not be limited to roads and trails as shown on such documents as state and county road maps and quadrangles prepared by the United States Geological Survey.

(3) Upon receipt of a notice of intent, the Department shall:

(a) Provide public notice in accordance with OAR 632-037-0030. The notice shall include the information contained in the notice of intent and information on how a person may be added to the master list;

(b) Activate a project coordinating committee for the proposed mining operation and coordinate the participation of committee members and the prospective applicant in the activities of the project coordinating committee;

(c) Activate a technical review team; and

(d) Inform the prospective applicant of the names and contact persons for all permitting and cooperating agencies that will be participating in the consolidated application process.

Stat. Auth.: ORS 517.750 - 517.995

Stats. Implemented: ORS 517.958 & 517.961

Hist.: GMI 2-1991, f. & cert. ef. 10-11-91; DGMI 1-2014, f. & cert. ef. 4-2-14

632-037-0040

Notice of Prospective Applicant's Readiness to Collect Baseline Data

(1) When a prospective applicant is ready to begin collecting baseline data for a proposed mining operation, the applicant shall notify the Department. The notice shall include a proposed baseline data collection work plan. A work plan by discipline shall include:

(a) Data collection methodologies by discipline;

(b) Area of study; and

(c) Timing and duration of baseline data collection and verification.

(2) Upon receipt of a notice of a prospective applicant's readiness to begin collecting baseline data, the Department shall provide public notice that the applicant is ready to begin collecting baseline data and identify the location(s) where additional information may be obtained or reviewed.

(3) Within 30 days after receiving a notice, the Department shall conduct two public information meetings. One public meeting shall be conducted in the population center closest to the proposed mining operation and one public meeting shall be conducted in a major population center for the state, as determined by the Department. If the major population center for the state is the same as the population center closest to the proposed mining operation, the Department may conduct only one public information meeting.

(4) The Department shall accept written comments from the public and affected agencies for 45 days after receiving the notice.

(5) The purposes of the public information meetings and public comment period in sections (3) and (4) of this rule shall be to:

(a) Identify issues raised by the proposed mining operation; and

(b) Receive information from the public, including information related to the collection of baseline data that is relevant to the characterization of the pre-mine environment and the evaluation of a consolidated application for a proposed mining operation in order to assist the Department and the permitting and cooperating agencies.

Stat. Auth.: ORS 517.750 - 517.995

Stats. Implemented: ORS 517.958 & 517.969

Hist.: GMI 2-1991, f. & cert. ef. 10-11-91; DGMI 1-2014, f. & cert. ef. 4-2-14

632-037-0045

Content

The applicant shall submit to the Department a consolidated application that includes but is not limited to the following sections:

(1) General Information;

(2) Existing Environment – Baseline Data;

(3) Operating Plan;

(4) Reclamation and Closure Plan;

(5) Alternatives Analysis.

Stat. Auth.: ORS 517.750 - 517.995

Stats. Implemented: ORS 517.971

Hist.: GMI 2-1991, f. & cert. ef. 10-11-91; DGMI 1-2014, f. & cert. ef. 4-2-14

632-037-0050

General Information

The General Information section of a consolidated application shall include but not be limited to the following:

(1) The name, mailing address and phone number of the applicant and a registered agent for the applicant.

(2) The name(s) and address(es) of all owners of the surface and mineral estate.

(3) The legal structure (e.g., corporation, partnership, individual) of the applicant as filed in the business registry with the Secretary of State and the legal address of the applicant.

(4) The proposed starting date and expected life of the proposed mining operation.

(5) The name and location of the proposed facility.

(6) The location of existing and proposed roads.

(7) Appropriate maps, aerial photographs, cross sections, plans, design drawings and documentation of appropriate scale may be required by the technical review team. The applicant may contact the technical review team for recommendations regarding scale and amount of detail required. The applicant may be required to submit extra copies of materials to be circulated to other agencies. Information that may typically be required on maps, aerial photographs or design drawings includes but is not limited to:

(a) Permit area lateral extent and proposed depth of excavation;

(b) Mine location;

(c) Waste rock, ore storage, subgrade ore or overburden stockpile locations;

(d) Processing facility locations;

(e) All other facility locations;

ADMINISTRATIVE RULES

- (f) Topsoil stockpile locations;
- (g) Typical cross sections, including but not limited to, the pit, major facilities, cut and fill slopes and other disturbed areas;
- (h) Plan views and profiles, including but not limited to, the pit, major facilities, cut and fill slopes and other disturbed areas;
- (i) Existing watercourses and ponds;
- (j) Interim watercourses and ponds;
- (k) Reconstructed watercourse and ponds;
- (l) Proposed post-mining topography;
- (m) Property lines;
- (n) General ore body location and area extent.
- (8) Written evidence that the surface estate and mineral estate owners concur with the proposed reclamation plan and that they will allow the Department access to complete reclamation within the permit area if the permittee fails to comply with the approved reclamation plan. If the applicant can document a legal right to mine without the consent of the surface owner, and the applicant can ensure that the Department will have a right to enter upon the permit area to complete the reclamation within the permit area if the permittee fails to complete the approved reclamation plan, the Department may issue an operating permit. If the proposed mine is located on federal land, the requirement of this section can be satisfied by documentation from the federal government verifying that the land is open to mineral exploration and development.

Stat. Auth.: ORS 517.750 - 517.995

Stats. Implemented: ORS 517.971

Hist.: GMI 2-1991, f. & cert. ef. 10-11-91; DGMI 1-2014, f. & cert. ef. 4-2-14

632-037-0055

Existing Environment — Baseline Data

The Existing Environment — Baseline Data section of a consolidated application shall include but not be limited to the following:

(1) Baseline data that describes the environmental, socioeconomic, historical, and archaeological conditions of the study area, and the land use designations and special use designations in the study area. Such information shall include, but not be limited to, description of the following:

- (a) Vegetation;
- (b) Soil/overburden;
- (c) Climate/air quality;
- (d) Fish, fish habitat and aquatic biology;
- (e) Wildlife and wildlife habitat;
- (f) State or federally listed threatened or endangered species and habitat and state sensitive species and habitat;
- (g) Surface and groundwater;
- (h) Seismicity;
- (i) Geology and geologic hazards;
- (j) Mineralogy and chemistry;
- (k) Noise;
- (l) Existing land use and land use designations;
- (m) Cultural/historical resources;
- (n) Archaeological resources;
- (o) Socioeconomic conditions;
- (p) State scenic waterways designated under ORS 390.805 — 390.925 and federal wild, scenic or recreational rivers designated under 28 U.S.C. 1271 —Mauri 1287; and
- (q) Identification of special natural areas designated by the state or federal government, including but not limited to the following:
 - (A) Areas designated as areas of critical environmental concern as defined by the Federal Land Policy and Management Act, 43 U.S.C. 1700 et seq.;
 - (B) Research natural areas as defined by the National Forest Management Act of 1976, Public Law 94-588 as amended;
 - (C) Outstanding natural areas as defined by 43 CFR 2070; and
 - (D) Areas designated by the Oregon Natural Heritage Plan established under ORS 273.576.

(2) The level of detail required in section (1) of this rule may vary depending upon the location, size, scope and type of mining operation. The applicant should consult with the Department and the technical review team to determine the level of detail necessary for the applicant's proposed mining operation;

(3) The Department and the technical review team shall coordinate with appropriate federal agencies that have similar baseline data requirements, to avoid duplication for the applicant.

Stat. Auth.: ORS 517.750 - 517.995

Stats. Implemented: ORS 517.971

Hist.: GMI 2-1991, f. & cert. ef. 10-11-91; DGMI 1-2014, f. & cert. ef. 4-2-14

632-037-0060

Operating Plan

The Operating Plan section of a consolidated application shall include but not be limited to the following:

(1) A detailed description of the proposed mining and ore processing methods.

(2) A general list of equipment required for the proposed operation.

(3) A general schedule of construction and operation starting with the beginning of construction and ending with the completion of mining.

(4) General design assumptions and plan profile, cross sections and capacities for mine facilities including but not limited to:

(a) Leach pads;

(b) Impoundments;

(c) Ponds;

(d) Stormwater and surface water diversion systems;

(e) Waste disposal systems;

(f) Stockpiles and dumps;

(g) Pits;

(h) Tailing disposal facilities; and

(i) Transportation and storage systems for hazardous chemicals.

(5) A process water budget analysis including but not limited to:

(a) Precipitation and evaporation data;

(b) Make-up water needs;

(c) Make-up water source;

(d) Procedures to dispose of precipitation and ground water in excess of designed capacities to include but not be limited to solution treatment facilities or proposed treatment, disposal or discharge strategies. This section should be coordinated with procedures for seasonal or temporary closure and decommissioning of the operation;

(e) Surface water runoff determination for the watershed containing the mining operation.

(6) Seasonal or temporary closure procedures if applicable including but not limited to:

(a) Target seasonal or temporary storage volumes;

(b) Total system storage capacity;

(c) Procedures to handle volumes of water in excess of seasonal or temporary storage capacities;

(d) Estimated schedule for closure; and

(e) Monitoring and reporting programs, including but not limited to:

(A) Surface and ground water monitoring systems within and outside of the permit area and reporting frequency;

(B) Water balance of the process system and leak detection systems and reporting frequency;

(C) Biological monitoring and reporting procedures and frequency; and

(D) Fish and wildlife injury and mortality monitoring and reporting frequency developed according to standards adopted by the Department of Fish and Wildlife.

(7) Operational monitoring and reporting programs, including but not limited to:

(a) Surface and ground water monitoring systems within and outside of the permit area and reporting frequency;

(b) Water balance of the process system and leak detection systems and reporting frequency;

(c) Biological monitoring and reporting procedures and frequency; and

(d) Fish and wildlife injury and mortality monitoring and reporting frequency developed according to standards adopted by the Department of Fish and Wildlife.

(8) Surface water management procedures to provide for protection against contamination of ground water and the off-site discharge of sediments into adjacent waterways.

(9) Plans for stable storage of the following:

(a) Overburden;

(b) Waste rock and low grade ore: The pre-dump topography, ground preparation, method of emplacement of dump material, height of lifts, total height and final slopes shall be described. The Department shall require design and review by a registered professional engineer or certified engineering geologist;

(c) Topsoil or suitable growth media maintained for use in revegetation;

(d) Mill tailings: Plans and specifications of all dams, impoundments or landfills proposed to be constructed for the purpose of storing or disposing of mill tailings, processing solutions or other materials consequent to the mining and milling operation may be required by the Department to be

ADMINISTRATIVE RULES

prepared by a registered professional engineer or certified engineering geologist. Procedures to prevent pollution of air, water and land shall be described. Details on how each tailings disposal facility will be reclaimed shall be submitted; and

(e) Mined ore: Plans and specifications prepared by a registered professional engineer or certified engineering geologist of all ore storage facilities may be required by the Department. Ore storage facilities may include but not be limited to reusable or permanent leach pads, stockpiles, storage bins and silos.

(10) A subsidence control plan for underground mines:

(a) An application for an underground mine operation must include an inventory that shows whether structures, renewable or nonrenewable resources, or water resources exist within the proposed permit area and adjacent area, and whether subsidence may in the professional judgment of the Department cause damage to, or diminution of reasonable foreseeable uses of the structures, renewable or nonrenewable resources, or water resources;

(b) If the Department finds, after reviewing the inventory, that no structure or renewable or nonrenewable resource exists and in the professional judgment of the Department no damage or diminution could be caused in the event of mine subsidence, the Department will not require further information under this subsection;

(c) If the Department finds, after reviewing the inventory, that any structure, renewable or nonrenewable resource, or water resources exists and that subsidence could in the professional judgment of the Department cause damage or diminution of value of subsequent land use, then the applicant shall submit a subsidence control plan that contains:

(A) A detailed description of all proposed methods of operation that may cause subsidence including the technique of ore removal and the extent, if any, to which planned and controlled subsidence is intended;

(B) A detailed description of the measures to be taken to mitigate or prevent damage caused by subsidence, or diminution of value of subsequent land use, including the anticipated effects of planned subsidence, if any, and measures to be taken to reduce the likelihood of subsidence;

(C) Measures to be taken on the surface to prevent damage or lessening of the value of subsequent land use;

(D) A detailed description of measures to be taken to determine the degree of damage or diminution of value of subsequent land use including measures such as the results of pre-subsidence surveys of all structures and surface features that might be damaged by subsidence and monitoring, if any, proposed to measure deformation near specified structures or features or otherwise as appropriate for the operations.

(11) A list of chemicals and the quantity of such chemicals to be used and procedures for the handling, storage and disposal of any chemicals, acid-forming materials or radioactive or hazardous material or wastes generated from or required for mining or processing at the proposed operation.

(12) A fish and wildlife protection and mitigation plan developed according to standards adopted by the Department of Fish and Wildlife.

(13) A plan for the transportation of toxic chemicals developed according to standards adopted by the State Fire Marshal.

(14) An employee safety training plan developed according to state and federal law.

(15) A spill prevention plan that includes but is not limited to initial response, safety, reporting procedures, notification to appropriate state and local agencies and a corrective action plan.

(16) Characterization and management plan for all wastes, including quantity and quality.

(17) Within 30 days after completion of construction, but before mine operation, a signed registered engineers' or certified engineering geologists' report, complete with accurate drawings and specifications depicting the actual construction shall be submitted to the Department. Specific provisions shall be made for inspections by the Department, other permitting agencies and cooperating agencies during construction and installation of any mine facilities.

Stat. Auth.: ORS 517.750 - 517.995

Stats. Implemented: ORS 517.971

Hist.: GMI 2-1991, f. & cert. ef. 10-11-91; DGMI 1-2014, f. & cert. ef. 4-2-14

632-037-0075

Alternatives Analysis

(1) The alternatives analysis shall include an identification and analysis of the environmental impacts of the proposed mining operation and alternatives to avoid or minimize adverse impacts and/or enhance the quality of the human and natural environment.

(2) The alternatives analyzed by the applicant or contractor shall include, but not be limited to, the following:

(a) Alternative locations for mine facilities, including heap leach pads, roads, impoundments, ponds, ore storage areas and waste disposal areas;

(b) Alternative designs, processes (including chemical processes), operations and scheduling for mine facilities and operations, including heap leach pads, roads, impoundments, ponds, ore storage areas and waste disposal areas;

(c) Alternative water supply;

(d) Alternative power supply; and

(e) Alternative reclamation procedures.

(3) The alternatives analysis shall include sufficient detail in the description of each alternative so that affected agencies and the public may evaluate the comparative merits of each alternative.

Stat. Auth.: ORS 517.750 - 517.995

Stats. Implemented: ORS 517.979

Hist.: GMI 2-1991, f. & cert. ef. 10-11-91; DGMI 1-2014, f. & cert. ef. 4-2-14

632-037-0077

Additional Requirements

In addition to the requirements in OAR 632-037-0050 — 632-037-0075, the applicant shall submit all information required by either state law or the administrative rules of a permitting agency to determine whether to issue or deny each and all of the following permits that are applicable to the proposed operation:

(1) Fill and removal permits required under ORS 196.600 to 196.665 and 196.800 to 196.900.

(2) Permits to appropriate surface water or ground water under ORS 537.130 and 537.615, to store water under ORS 537.400 and impoundment structure approval under ORS 540.350 to 540.390.

(3) National Pollutant Discharge Elimination System permit under ORS 468.740.

(4) Water pollution control facility permit under ORS 468.740.

(5) Air contaminant discharge permit under ORS 468.310 to 468.330.

(6) Solid waste disposal permit under ORS 459.205.

(7) Permit for use of power driven machinery on forestland under ORS 477.625.

(8) Permit to clear right of way on forestland where clearing constitutes a fire hazard under ORS 477.685.

(9) Permit for placing explosives or harmful substances in waters of the state under ORS 509.140.

(10) Hazardous waste storage permit under ORS 466.005 to 466.385.

(11) Land use permit, if applicable consistent with the Department's state agency coordination agreement, including relevant sections of OAR Chapter 632, Division 001.

(12) Any other state permit required for the proposed mining operation.

Stat. Auth.: ORS 517.750 - 517.995

Stats. Implemented: ORS 517.971 & 517.978

Hist.: GMI 2-1991, f. & cert. ef. 10-11-91; DGMI 1-2014, f. & cert. ef. 4-2-14

632-037-0080

Notice to Proceed

(1) Within ten days after receiving a consolidated application, the Department shall provide a copy of the application to each affected local government, permitting agency, cooperating agency and federal agency. For the purposes of this section, "affected local government" shall mean those local city and county governments, school districts, people's utility districts, irrigation districts, and road districts, that are within the study area of the proposed mining operation. The Department shall also provide public notice of the receipt of a consolidated application. In addition, upon written request, a copy of the consolidated application shall be made available to any government that believes it will be impacted by the proposed mining operation.

(2) Within 90 days of receipt of a consolidated application, the Department, in conjunction with all permitting and cooperating agencies, shall determine whether the application is complete. A completeness determination shall include the verification of baseline data as accurate.

(3) Before determining whether or not the application is complete and after all members of the technical review team concur that the permitting and cooperating agencies are ready to begin preparing draft permits, the Department shall conduct a public hearing and accept written comments on whether the information contained in the consolidated application is complete and sufficient to allow the permitting agencies to determine whether to issue or deny a permit. The Department shall determine and provide public notice of the date and location of the hearing and the period allowed for written comment. Any person who believes an application is incomplete

ADMINISTRATIVE RULES

due to a lack of quantity or quality shall clearly identify the incomplete sections of the application and the reasons such sections are incomplete.

(4) If the permitting and cooperating agencies determine that the application is complete, the Department shall issue a Notice to Proceed with the permitting process and the preparation of draft permits. If the applicant is not required to submit additional information as suggested in oral or written comments that clearly identify the incomplete sections of the application and the reasons such sections are incomplete, the agencies shall prepare a written response explaining why the additional information is not being requested from the applicant.

(5) If the permitting and cooperating agencies determine that additional information is necessary, the Department shall notify the applicant in writing of the additional information that is required. Upon receipt of the additional information, the Department shall provide public notice and accept written comments for a period of 14 calendar days.

(6) After the issuance of a notice to proceed, if new information becomes available or is required by a permitting agency or cooperating agency to determine whether to issue or deny a permit or issue a permit with conditions, and the agencies determine that additional information is significant to the issuance or denial of a permit, the Department shall conduct an additional public hearing to determine whether the new information is complete within 14 days of receipt of the information. The permitting and cooperating agencies may continue to review an application while in the process of requesting additional information.

Stat. Auth.: ORS 517.750 - 517.995

Stats. Implemented: ORS 517.977

Hist.: GMI 2-1991, f. & cert. ef. 10-11-91; DGMI 1-2014, f. & cert. ef. 4-2-14

632-037-0085

Environmental Evaluation

(1) The purpose of an environmental evaluation shall be to address specific impacts of a mining operation in order to allow affected agencies to make decisions on whether to issue or deny a permit and develop permit conditions. It shall provide full and fair discussion of significant environmental impacts and shall inform decision makers and the public of reasonable alternatives that would avoid or minimize adverse impacts and/or enhance the quality of the human and natural environment. An environmental evaluation shall focus on significant environmental issues and alternatives.

(2) For the purposes of this rule, "impacts" include both direct and indirect impacts:

(a) "Direct impacts" are those impacts that are caused by the action and occur at the same time and place as the action;

(b) "Indirect impacts" are those impacts that are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable.

(3) The Department shall direct staff or hire a third party contractor to prepare an environmental evaluation. The applicant shall pay costs of hiring a third party contractor. The scope of the environmental evaluation shall be determined by the technical review team following consultation with the project coordinating committee.

(4) An environmental evaluation shall be completed by Department staff or a third party contractor at least 60 days before the issuance of any draft permits. Upon receipt of a complete environmental evaluation, the Department shall provide public notice in accordance with OAR 632-037-0030 stating that the environmental evaluation is complete and receive written comments for a period of 14 calendar days after the notice is given.

(5) A complete environmental evaluation shall include the following sections:

- (a) Impact Analysis;
- (b) Cumulative Impact Analysis;
- (c) Alternatives Analyses.

(6) Impact Analysis. An impact analysis shall include but not be limited to the following:

(a) An analysis of the reasonably foreseeable causes and impacts of the proposed mine on the environment, including but not limited to air, water, soil, vegetation, wildlife and wildlife habitat, geology, cultural resources and visual resources; and

(b) An analysis of the causes and impacts of the following types of credible accidents, including the catastrophic consequences of such accidents even if the probability of occurrence is low, provided that the analysis is supported by credible scientific evidence and is not based on pure conjecture:

(A) Releases of contaminants into the environment as a result of the mine operation or closure;

(B) Precipitation events and other natural events such as earthquakes that exceed the design standards of the mine facilities;

(C) Human error;

(D) Fire;

(E) Unplanned detonation of explosives; and

(F) Equipment failures.

(7) Cumulative Impact Analysis. A cumulative impact analysis shall include an assessment of the total cumulative impact on the environment that results from the incremental impact of an action when added with other past, present and reasonably foreseeable future actions, regardless of the agency or persons that undertake the other action, or whether the actions are on private, state or federal land:

(a) A cumulative impact analysis shall include but is not limited to the following:

(A) An identification of those resources for which an impact could occur from the proposed mining operation that could potentially combine with the impacts of other past, present or reasonably foreseeable future actions to produce a cumulative impact;

(B) An identification of past, present and reasonably foreseeable future actions that may occur in the study area, including each of the following types of actions:

(i) Similar actions. Actions that, when viewed with other reasonably foreseeable or proposed actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography;

(ii) Connected actions. Actions that cannot or will not proceed unless other actions are taken previously or simultaneously, or that are interdependent parts of a larger action and rely on the larger action for their justification;

(iii) Separate actions. Actions that affect the same environmental resources, including air, vegetation, wildlife and wildlife habitat, soil, and water resources.

(C) An analysis, by resource category identified in paragraph (A) of this subsection, of the cumulative impacts of the proposed mining operation and each of the actions identified in paragraph (B) of this subsection.

(b) The extent of a cumulative impact analysis shall be determined by a technical review team. In making such a determination, the technical review team shall consider the following:

(A) The alternatives considered for the proposed mining operation;

(B) The type of environmental impacts that are evaluated in the environmental evaluation; and

(C) The physical dimension of the proposed mining operation.

(8) Alternatives Analysis:

(a) An alternatives analysis shall include a review and analysis of the following:

(A) All alternatives analyzed by the applicant or applicant's contractor in accordance with OAR 632-037-0045(6); and

(B) Any reasonable alternatives identified by the technical review team to ensure that all alternatives within the authority of each permitting or cooperating agency are reviewed and analyzed. The alternatives identified by the technical review team may include, but not be limited to, the following:

(i) Alternative locations for mine facilities, including heap leach pads, roads, impoundments, ponds, ore storage areas and waste disposal areas;

(ii) Alternative designs, processes (including chemical processes), operations and scheduling for mine facilities and operations, including heap leach pads, roads, impoundments, ponds, ore storage areas and waste disposal areas;

(iii) Alternative water supply;

(iv) Alternative power supply; and

(v) Alternative reclamation procedures.

(b) The review and analysis required under subsection (a) of this section shall:

(A) Explore and evaluate the environmental impacts of all reasonable alternatives, and include a brief discussion of reasons a particular alternative was eliminated by the applicant;

(B) Include sufficient detail in the description of each alternative so that affected agencies and the public may evaluate the comparative merits of each alternative; and

(C) Discuss the systematic procedure used to arrive at the preferred alternative, including the decision criteria used and the information considered.

Stat. Auth.: ORS 517.750 - 517.995

Stats. Implemented: ORS 517.978

Hist.: GMI 2-1991, f. & cert. ef. 10-11-91; DGMI 1-2014, f. & cert. ef. 4-2-14

ADMINISTRATIVE RULES

632-037-0095

Permitting Agency Action on a Consolidated Application

(1) Within 225 days of the issuance of a Notice to Proceed and not sooner than 60 days after the submittal of a complete environmental evaluation, each permitting agency shall submit to the Department its draft permit and permit conditions or permit denial document.

(2) If a permitting agency includes in its draft permit a condition that is inconsistent with the environmental evaluation, the agency shall include with its draft permits a written explanation of the conditions setting forth the findings of the agency that support the condition.

Stat. Auth.: ORS 517.750 - 517.995

Stats. Implemented: ORS 517.978

Hist.: GMI 2-1991, f. & cert. ef. 10-11-91; DGMI 1-2014, f. & cert. ef. 4-2-14

632-037-0100

Cooperating Agency Action on a Consolidated Application

(1) At least 30 days before the issuance of draft permits, each cooperating agency shall submit to the Department:

(a) Written concurrence or non-concurrence with the terms and conditions of the draft operating permit as such pertain to the statutory authority of each cooperating agency; and

(b) Permit conditions within the expertise and authority of the cooperating agency.

(2) The Department shall not issue a draft permit until each cooperating agency has concurred with the terms and conditions of the draft permit as such pertain to the statutory responsibility of each cooperating agency.

(3) The Department shall include permit conditions submitted by a cooperating agency as conditions on the Department's draft operating permit.

(4) If the Department finds that a proposed permit condition imposed by a cooperating agency creates a conflict between permits, the technical review team shall resolve the conflict.

Stat. Auth.: ORS 517.750 - 517.995

Stats. Implemented: ORS 517.978

Hist.: GMI 2-1991, f. & cert. ef. 10-11-91; DGMI 1-2014, f. & cert. ef. 4-2-14

632-037-0105

Consolidated Public Hearing; Final Permits

(1) Within 15 days of receiving all draft permits and the completion of its draft operating permit, the Department shall issue public notice of the date and location of a consolidated public hearing and period for written comment on all permits.

(2) A consolidated public hearing shall occur not sooner than 45 days and not later than 60 days after the Department issues a public notice under section (1) of this rule.

(3) At least seven days before the issuance of a final operating permit, each cooperating agency shall submit to the Department:

(a) Written concurrence or non-concurrence with the terms and conditions of the final operating permit as such pertain to the statutory authority of each cooperating agency; and

(b) Permit conditions within the expertise and authority of the cooperating agency.

(4) The Department shall not issue a permit until each cooperating agency has concurred with the terms and conditions of the permit as such pertain to the statutory responsibility of each cooperating agency.

(5) The Department shall include permit conditions submitted by a cooperating agency as conditions on the Department's final operating permit.

(6) If the Department finds that a proposed permit condition imposed by a cooperating agency creates a conflict between permits, the technical review team shall resolve the conflict.

(7) Based on information received at a consolidated public hearing and within 45 days of the hearing, or within the time period required by applicable federal law, whichever is sooner, each permitting agency shall approve, deny or modify the agency's permit with conditions necessary to ensure that the mining operation allowed under a permit complies with the applicable standards and requirements.

(8) Each other permitting agency shall notify the Department of the issuance of final permits. The Department shall provide public notice of the issuance of final permits.

(9) Notwithstanding any other provisions of law, the Department and any other permitting agency shall take final action to issue or deny a permit subject to the consolidated application process within one year after issuance of a notice to proceed. However, with the concurrence of the applicant, the processing of the application may be suspended for a period of time to allow the applicant to resolve issues having a bearing on, or neces-

sary to any permitting agency's decision on whether to issue or deny a permit.

Stat. Auth.: ORS 517.750 - 517.995

Stats. Implemented: ORS 517.978

Hist.: GMI 2-1991, f. & cert. ef. 10-11-91; DGMI 1-2014, f. & cert. ef. 4-2-14

632-037-0110

Appeals; Consolidated Contested Case Hearing

(1) The applicant or any person who appeared before a permitting agency at the consolidated public hearing, either orally or in writing, may file with the State Geologist a written request for a consolidated contested case hearing. The request shall be filed within 30 days after the date the permit was granted or denied. The applicant or person requesting a consolidated contested case hearing shall state the reasons for requesting the hearing and the objections to the permitting agency's action in accordance with the Attorney General's Model Rules of Procedure.

(2) Upon receipt of a request under section (1) of this rule, the Department shall schedule a consolidated contested case hearing. The hearing shall be held not less than 60 days or more than 75 days after the notice of permit issuance or denial. The hearing shall be conducted in accordance with ORS Chapter 183 and the Attorney General's Model Rules of Procedure.

(3) Any permit granted by a permitting agency shall be suspended until completion of the administrative hearings process.

(4) If all permitting agencies are subject to ORS 183.635(1), DOGAMI may request that a single administrative law judge be appointed to preside over the consolidated contested case hearing. If more than one hearings officer is appointed, the Department shall appoint a chief hearings officer. The role of the chief hearings officer shall be to organize the proceedings.

(5) The hearings officer(s) shall prepare a proposed order for each contested permit.

(6) A party may file written exceptions to the proposed order with the appropriate permitting agency. If the permitting agency determines that additional information presented in a written exception was unavailable at the time of the consolidated contested case hearing and is significant to the adoption or modification of the proposed order, the agency shall remand the order to the appropriate hearings officer for further consideration.

(7) After receiving exceptions and hearing argument on the exceptions to the proposed order, the permitting agency may either adopt the proposed order or issue a new order.

Stat. Auth.: ORS 517.750 - 517.995

Stats. Implemented: ORS 517.983

Hist.: GMI 2-1991, f. & cert. ef. 10-11-91; DGMI 1-2014, f. & cert. ef. 4-2-14

632-037-0115

Judicial Review

(1) A petition for judicial review of a permitting agency's issuance or denial of a permit must be filed with the Supreme Court within 60 days following the date the permit is issued or denied following the entry of an order subsequent to a consolidated contested case hearing.

(2) Except as provided in section (3) of this rule, if the permit with prescribed conditions is approved, the filing of a petition for judicial review shall stay the permit during the pendency of judicial review for a period of up to six months from the date the petition is filed. The Supreme Court may extend the stay beyond the six-month period upon written request and a showing by the petitioner that the activities allowed under the permit could result in irreparable harm to the site.

(3) When only the applicant files a petition for judicial review, the six-month stay imposed under section (2) of this rule may be removed by the permitting agency upon the applicant's written request within 60 days after filing of the petition and upon a showing by the applicant that supports a finding by the permitting agency that proceeding with any or all activities under the permit will not result in irreparable harm to the site.

(4) In making findings under section (3) of this rule, the permitting agency may require an additional bond or alternative security to be filed with the Department as provided in ORS 517.987 and these rules. The bond or alternative security shall be in an amount the permitting agency determines necessary to ensure complete restoration of the site if the petitioner elects not to complete the project following judicial review. Agency denial of the request to remove the stay is subject to review by the Supreme Court under such rules as the Supreme Court may establish.

Stat. Auth.: ORS 517.750 - 517.995

Stats. Implemented: ORS 517.983

Hist.: GMI 2-1991, f. & cert. ef. 10-11-91; DGMI 1-2014, f. & cert. ef. 4-2-14

ADMINISTRATIVE RULES

632-037-0118

Best Available Practicable and Necessary Technology

(1) Chemical process mining including extraction, processing, and reclamation, must be undertaken in a manner that minimizes environmental damage through the use of the best available, practicable, and necessary technology to ensure compliance with environmental standards.

(2) In determining the best available, practicable, and necessary technology for use in a mining operation, the technical review team shall apply in consultation with the applicant, the following process:

(a) The technical review team shall determine the necessary technologies if such technologies exist;

(b) The technical review team shall determine which, if any, of the necessary technologies is available;

(c) The technical review team shall determine which, if any, of the necessary and available technologies is practicable;

(d) The technical review team will review, determine, and rank the necessary, available and practicable technologies by their potential environmental benefits;

(e) The technical review team shall recommend to the Department, the technology that the technical review team has determined is the best available, necessary, and practicable technology to ensure compliance with environmental standards. The determination shall be made with reference to the policies expressed in ORS 517.953 and 517.956.

(3) The department will require the applicant to use the best available, practicable, and necessary technology to ensure compliance with the environmental standards. The determination must be made with reference to the policies expressed in ORS 517.953 and 517.956.

(4) If the technical review team or the Department is unable to identify a necessary technology that is available and practicable, the Department shall not issue an operating permit.

Stat. Auth.: ORS 517.750 - 517.995

Stats. Implemented: ORS 517.956

Hist.: GMI 4-1991, f. & cert. ef. 12-5-91; DGMI 1-2014, f. & cert. ef. 4-2-14

632-037-0120

Mine Operation Standards

The Department shall require a mining operation to comply with the following mine operation standards:

(1) Mine facilities have been designed to handle the 100-year, 24-hour precipitation event, at a minimum.

(2) An interim vegetative cover of stockpiles of topsoil or overburden materials that will be used in reclamation shall be required to prevent erosion or fugitive dust release from the overburden storage or spoils area.

(3) Any standard adopted by rule by any permitting or cooperating agency related to the operation of a mining operation.

(4) No loss of existing critical habitat of any state or federally listed threatened or endangered plant species, as determined by the Department of Agriculture.

Stat. Auth.: ORS 517.750 - 517.995

Stats. Implemented: ORS 517.956

Hist.: GMI 2-1991, f. & cert. ef. 10-11-91; DGMI 1-2014, f. & cert. ef. 4-2-14

632-037-0125

Fish and Wildlife Standards

The Department shall require a mining operation to comply with protection standards for fish and wildlife consistent with policies of the Department of Fish and Wildlife, including:

(1) Protective measures to maintain an objective of zero wildlife mortality.

(2) All chemical processing solutions and associated wastewater must be covered or contained to preclude access by wildlife, or maintained in a condition that is not harmful to wildlife.

(3) Onsite and offsite mitigation ensuring there is no overall net loss of habitat value.

(4) No loss of existing critical habitat of any state or federally listed threatened or endangered fish or wildlife species.

(5) Any other standard adopted by rule by the Department of Fish and Wildlife applicable to a mining operation.

Stat. Auth.: ORS 517.750 - 517.995

Stats. Implemented: ORS 517.956 & 517.987

Hist.: GMI 2-1991, f. & cert. ef. 10-11-91; DGMI 1-2014, f. & cert. ef. 4-2-14

632-037-0130

Reclamation and Mine Closure Standards

The Department shall require a mining operation to comply with reclamation and mine closure standards utilizing the best available, practicable and necessary technology to ensure compliance with environmental

standards. The reclamation and mine closure standards shall include but not be limited to the following:

(1) Surface reclamation shall ensure environmental protection and the protection of human health and safety, as well as livestock, fish and wildlife.

(2) Surface reclamation of a mining operation shall require certification by the Department of Fish and Wildlife and the Department of Agriculture that a self-sustaining ecosystem, comparable to undamaged ecosystems in the area, has been established in satisfaction of the permittee's habitat restoration obligations.

(3) Post-closure monitoring shall be required by the Department to ensure compliance with decommissioning performance standards.

(4) Revegetation shall be considered successful if it is consistent with the establishment of a self-sustaining ecosystem, comparable to undamaged ecosystems in the area of the mine. Vegetation test plots and chemical/physical soil and subsoil analysis may be required to ensure establishment feasibility.

(5) Native species shall be established unless the use of non-native species is justified and approved by the technical review team.

(6) Seed mixes, fertilizer rates and other requirements will be derived from departmental experience and advice from sources such as the Oregon Department of Agriculture, U.S. Soil Conservation Service, Oregon State University Extension Service, the Oregon Department of Transportation, the Bureau of Land Management, the Forest Service, local soil conservation districts and private sector experts.

(7) All final slopes shall be stable, blend into adjacent terrain and be compatible with the establishment of a self-sustaining ecosystem, comparable to undamaged ecosystems in the area of the mine.

(8) Reclaimed highwalls shall not have slopes exceeding 1½ horizontal to 1 vertical (1½:1). The Department may grant exceptions for steeper slopes when the applicant can document that the slopes will be stable and if the steeper slopes:

(a) Blend into the adjacent terrain features;

(b) Existed prior to mining; or

(c) Are consistent with the establishment of a self-sustaining ecosystem, comparable to undamaged ecosystems in the area of the mine.

(9) Fill slopes shall be 2:1 or flatter unless steeper slopes are approved by the Department. Technical data supporting steeper slope stability may be required by the Department.

(10) In-water slopes to six feet below water level for permanent water impoundments when necessary shall be 3:1. Reasonable alternatives may be approved by the Department when they are consistent with the reclamation plan. For example, safety benches no more than two feet below water level and five-feet wide may be substituted for the slope requirement where the Department determines that sloping is not practical.

(11) Permanent structures may remain if they are part of the approved reclamation plan.

(12) Any standards adopted by rule by a permitting or cooperating agency related to reclamation or closure of a mining operation.

(13) Backfilling or partial backfilling of pits shall be required if the Department determines that:

(a) Backfilling is necessary to achieve the reclamation objectives set forth in ORS 517.952 to 517.989;

(b) Reclamation objectives, including but not limited to compliance with environmental standards, cannot be achieved through mitigation or other reclamation technologies; and

(c) Backfilling is the best available, practicable and necessary technology to ensure compliance with environmental standards.

Stat. Auth.: ORS 517.750 - 517.995

Stats. Implemented: ORS 517.956, 517.971 & 517.987

Hist.: GMI 2-1991, f. & cert. ef. 10-11-91; DGMI 1-2014, f. & cert. ef. 4-2-14

632-037-0135

Financial Security

(1) A reclamation bond or alternative security acceptable to the Department shall be posted before the start of any construction, excavation or other ground disturbing activity associated with mining operations, other than baseline data collection. "Alternative security" shall include certificates of deposit or irrevocable letters of credit issued by a federally-insured bank. The purpose of the financial security shall be to allow the Department to meet the requirements of the reclamation and closure plan and to provide protection of surface and subsurface resources. The amount of the financial security shall be calculated on the basis of the estimated actual cost of reclamation and closure and shall not be limited. The calculation shall also consider environmental protection costs based on the credible accident analysis and the factors listed in section (6) of this rule.

ADMINISTRATIVE RULES

(2) The Department shall assess annually the overall cost of reclamation. If changes in the operation or modifications to a permit cause the cost of reclamation to exceed the amount of the financial security currently held by the state, the permittee shall post an additional security for the difference. All reclamation calculations shall be approved by the Department.

(3) The Department shall provide for incremental surety increases, with the level of surety required being consistent with the degree and forms of surface disturbance anticipated within a time period specified by the Department. When the actual surface area to be disturbed approaches the level expected by the Department, the permittee shall notify the Department sufficiently in advance of reaching the acreage limit specified to allow for a review of the surety requirements and posting of additional surety by the permittee prior to exceeding the acreage limit set by the Department.

(4) If reclamation costs will exceed the posted financial security and the operator does not increase the amount of the financial security, the department and other permitting agencies shall suspend all permits until the permittee posts the additional financial security.

(5) The Department may seek a lien against the assets of the permittee to cover the cost of reclamation if the financial security posted is insufficient. The amount of the lien shall be the amount of the costs incurred by the Department to complete reclamation. All current operating permits of the permittee shall be suspended and the Department shall deny immediately all pending applications of the permittee to conduct mining operations.

(6) The factors the Department shall consider in determining the amount of the security may include but are not limited to the following:

(a) The reclamation estimate submitted by the applicant as part of the consolidated application;

(b) The impact analysis, including the credible accident analysis;

(c) Supervision;

(d) Mobilization;

(e) Costs of equipment;

(f) Costs of labor;

(g) Removal or disposition of debris, junk, equipment, structures, foundations and unwanted chemicals;

(h) Reduction or stabilization of hazards such as in-water slopes, highwalls, and landslides or other mass failure;

(i) Disposition of oversize, rejects, scalplings and overburden;

(j) Backfilling, contouring or regrading and topsoil replacement;

(k) Draining, establishment of drainage and erosion control;

(l) Soil tests;

(m) Seedbed preparation, seeding, mulching, fertilizing, netting, tackifiers or other stabilizing agents;

(n) Tree and shrub planting;

(o) Fencing;

(p) Liability insurance;

(q) Long-term stabilization, control, containment or disposition of waste solids and liquids;

(r) Final engineering design;

(s) Costs of remedial measure identified to clean up releases of contaminants associated with mining, processing or beneficiation that are reasonably likely to cause a threat to public health, safety or the environment;

(t) The estimated cost of detoxification or disposal of ore processing solutions and solution contaminated ore so as to meet the standards for reclamation approved for the operation in the operating permit issued by the Department and the standards established in ORS 517.952 to 517.989 and these rules;

(u) The estimated cost of restoration of contaminated soil, surface and ground water or living resources within the standards established in ORS 517.952 to 517.989 and these rules should an accident occur at the site;

(v) The estimated cost of removal and/or disposal of chemicals used on site;

(w) The spill prevention plan;

(x) Estimated Department-contracted service expenses including but not limited to supervision, mobilization, labor and equipment needs of the department for decontamination and restoration should the Department be required to perform such restoration.

(7) Cost estimate information shall be derived from sources such as:

(a) Comparable costs from similar projects;

(b) Catalog prices;

(c) Guides and cost estimates obtained from appropriate government, public and private sources;

(d) Site test and monitoring data;

(e) Operator estimates; and

(f) Equipment handbooks.

(8) Using the reclamation estimate submitted in the consolidated application and the impact analysis as a guide, the Department shall distribute an initial determination of the amount of financial security necessary to implement the reclamation and closure plans and to protect human health and the environment to all permitting and cooperating agencies for review and comment. After considering the comments of such agencies, the Department shall set the amount of financial security and notify the applicant.

(9) The financial security acceptable to the Department shall be posted before the start of any construction, excavation or other ground disturbing activity associated with mining activities other than baseline data collection activities. No permit shall be issued or renewed until all financial security for a mining operation is on file with the Department. Bonds or other securities shall be maintained until operations have ceased, reclamation has been completed and all decommissioning performance standards have been met. Bonds shall be United States Treasury listed, provided by surety companies licensed to operate in Oregon and acceptable to the Department. A mining operation may not satisfy the financial security requirements through self-insurance.

(10) The Department may require financial security or an annuity for post-reclamation monitoring and care.

Stat. Auth.: ORS 517.750 - 517.995

Stats. Implemented: ORS 517.987

Hist.: GMI 2-1991, f. & cert. ef. 10-11-91; DGMI 1-2014, f. & cert. ef. 4-2-14

632-037-0140

Obtaining Financial Security Release

(1) Upon completion of full reclamation, the permittee shall submit to the Department a written request for the release of its financial security.

(2) If a permittee has conducted concurrent reclamation or partial reclamation following the cessation of mine operations, the request for release of financial security must include an estimate of the percentage of reclamation done to date and the corresponding percentage of reclamation funds that the permittee believes should be released. A bond release or reduction request must state in unambiguous terms all measures taken to reclaim the site and any problems or potential problems that may inhibit reclamation in accordance with permit requirements. The Department shall consider any such problems in determining the appropriate level of financial security to be maintained.

(3) Upon receipt of a request to release financial security, the Department shall:

(a) Issue a public notice in accordance with OAR 632-037-0030; and

(b) Distribute the request to each permitting and cooperating agency, members of the public who participated in any hearing or written comment period under these rules, and to any person who requests such notification.

(4) No sooner than 60 days after taking the actions required under section (3) of this rule, the Department shall conduct an informal public hearing to determine whether to allow the release or reduction of the financial security.

(5) The Department may require security or an annuity for post-reclamation monitoring and care to be paid before final release of the financial security. The Department shall determine the amount of the security or annuity and distribute the proposal to all permitting and cooperating agencies. After considering the comments of such agencies, the Department shall set the amount of the security or annuity and notify the permittee.

Stat. Auth.: ORS 517.750 - 517.995

Stats. Implemented: ORS 517.987

Hist.: GMI 2-1991, f. & cert. ef. 10-11-91; DGMI 1-2014, f. & cert. ef. 4-2-14

632-037-0145

Permit Modifications

(1) The permittee, the Department, or any other permitting or cooperating agency may request the modification of a permit issued under the consolidated application process at any time.

(2) If a permitting agency is requested to make a permit modification that the permitting agency or a cooperating agency finds is a significant permit modification, the agency shall notify the Department. The Department shall coordinate the organization of a project coordinating committee.

(3) The project coordinating committee shall review the proposed modification and determine the portions of ORS 517.952 to 517.989 and these rules with which the permittee must comply. The Committee shall limit its determination to those portions of the mine operation to be modified and shall be consistent with the public participation requirements set forth in ORS 517.952 to 517.989 and these rules.

ADMINISTRATIVE RULES

(4) The permittee may continue to operate under its existing permit(s) pending completion of the permit modification process.

Stat. Auth.: ORS 517.750 - 517.995

Stats. Implemented: ORS 517.984

Hist.: GMI 2-1991, f. & cert. ef. 10-11-91; DGMI 1-2014, f. & cert. ef. 4-2-14

632-037-0150

Civil Penalties

(1) In addition to any other sanctions authorized by law, the Governing Board of the Department may impose a civil penalty as authorized by ORS 517.992

(2) The Department shall provide a written warning of its intent to impose a civil penalty at least 48 hours prior to imposing the penalty when there is no immediate danger to human health, safety or the environment. The warning may be personally served on the person incurring the penalty or may be sent by registered or certified mail. The warning must include:

(a) A reference to the particular sections of the statute, rule, order or permit involved; and

(b) A short and plain statement of the matters asserted or charged.

(3) A civil penalty imposed under this section is due and payable ten days after the order imposing the civil penalty becomes final by operation of law or on appeal. A person against whom a civil penalty is to be imposed shall be served with a notice in the form provided by ORS 183.415. Service of the notice shall be accomplished in the manner provided by ORS 183.415.

(4) The person to whom the notice provided for in section (3) of this rule is addressed shall have 20 days from the date of service of the notice in which to make written application for a hearing. If no application for a hearing is made, the agency may make a final order imposing the penalty.

(5) Any person who makes application as provided in section (4) of this rule is entitled to a hearing conducted pursuant to the applicable provisions of ORS 183.413 to 183.470.

(6) A civil penalty shall be assessed under this rule in accordance with the following schedule:

(a) Class 1. Potential threat to human health or safety: warning to \$10,000;

(b) Class 2. Immediate threat to human health or safety: warning to \$25,000;

(c) Class 3. Potential threat to the environment: warning to \$10,000;

(d) Class 4. Immediate threat to the environment; warning to \$25,000;

(e) Class 5. Failure to comply with laws, rules, Governing Board orders or permit conditions, with no threat to human health, safety or the environment: warning to \$10,000;

(f) Class 6. Damage to health, safety or the environment: \$1,000 - \$50,000;

(g) Failure to comply with prior warning or penalty (continued or repeat violation) within the following classes:

(A) Class 1: \$200 - \$10,000;

(B) Class 2: \$200 - \$50,000;

(C) Class 3: \$200 - \$50,000;

(D) Class 4: \$200 - \$50,000;

(E) Class 5: \$200 - \$50,000;

(F) Class 6: \$2,000 - \$50,000.

Stat. Auth.: ORS 517.750 - 517.995

Stats. Implemented: ORS 517.992

Hist.: GMI 2-1991, f. & cert. ef. 10-11-91; DGMI 1-2014, f. & cert. ef. 4-2-14

632-037-0155

Fees

(1) Permit fees are established in ORS 517.973. Pursuant to ORS 517.793, a prospective applicant or applicant also must pay the Department and permitting and cooperating agencies for all expenses incurred relating to the processing and evaluation of the consolidated application process to the extent such expenses exceed the statutory fees. Recoverable expenses include, but are not limited to, the following:

(a) Baseline data methodology review;

(b) Baseline data verification;

(c) Public meetings, except any costs related to mailing notice to parties on the master list;

(d) Completeness determination of the consolidated application, including the environmental evaluation;

(e) Permit preparation, drafting and issuance;

(f) Environmental evaluation, preparation and review;

(g) Project administration; and

(h) Legal expenses.

(3) Subject to the requirements and limitations in ORS 517.973(4), the prospective applicant or applicant shall pay the expenses of the

Department and each permitting and cooperating agency within 30 days after receiving an invoice itemizing the expenses.

(4) With the agreement of a permitting or cooperating agency, the applicant or prospective applicant may arrange for invoices to be sent by and payments made to the Department on behalf of the permitting or cooperating agency.

(5) The Department and prospective applicant or applicant may agree to procedures to resolve disputes regarding payment of expenses.

(6) Subject to section (5) above, if expenses are not paid within 30 days of receiving an invoice, the Department may suspend pre-application work or decline to issue a notice to proceed under ORS 517.977. If the notice to proceed has been issued and invoices are outstanding after 30 days, the Department may deny the application unless the applicant concurs with a suspension of the permitting process under ORS 517.986.

Stat. Auth.: ORS 517.750 - 517.995

Stats. Implemented: ORS 517.973

Hist.: GMI 2-1991, f. & cert. ef. 10-11-91; DGMI 1-2014, f. & cert. ef. 4-2-14

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

Rule Caption: Nursing Facility Staffing

Adm. Order No.: APD 3-2014

Filed with Sec. of State: 3-19-2014

Certified to be Effective: 3-31-14

Notice Publication Date: 1-1-2014

Rules Amended: 411-086-0100

Rules Repealed: 411-086-0100(T)

Subject: The Department of Human Services (Department) is permanently updating the rules OAR 411-086-0100 to:

Make permanent temporary rule language that became effective on October 1, 2013 to implement the operational application of the increased nursing assistant staffing to resident ratio for nursing facilities;

Implement the minimum standard of the increased nursing assistant staffing to residential ratio for nursing facility evening and night shifts to become effective on March 31, 2014;

Ensure that appropriate forms for public information about the staffing responsibilities of the nursing facility are displayed;

Reflect current practice and Department terminology; and

Correct formatting and punctuation.

Rules Coordinator: Kimberly Colkitt-Hallman—(503) 945-6398

411-086-0100

Nursing Services: Staffing

(1) STAFFING PLAN.

(a) The facility must have and implement a written plan that:

(A) Ensures staffing sufficient to meet the minimum staffing requirements described in sections (3), (4), and (5) of this rule;

(B) Ensures staffing sufficient to meet the needs of each resident; and

(C) Identifies procedures to obtain required staff when absences occur.

(b) The facility must maintain a written, weekly staffing schedule showing the number and category of staff assigned to each shift and the person to be called in the event of any absence.

(2) DAILY STAFF PUBLIC POSTING.

(a) The facility must have the number of on-duty nursing staff publicly posted 24 hours each day using form SDS 0717 and the Nursing Assistant (NA) Staff Ratio Chart form SDS 0717A.

(A) The posted forms must be prominently displayed in a public area and readily accessible to residents and visitors as described in OAR 411-085-0030(1)(b).

(B) The posted forms must be at least 8.5 x 14 inches and printed in a minimum font size of 16.

(C) The staffing information must be an accurate reflection of the actual staff working each shift.

(b) The posted staffing forms must include:

(A) Facility name;

(B) Current date;

(C) Current resident census per shift;

ADMINISTRATIVE RULES

(D) The total number and actual hours worked by registered nurses (RNs), licensed practical nurses (LPNs), and nursing assistants (CNAs and NAs) directly responsible for resident services per shift; and

(E) The minimum staffing standard, nursing assistant to resident ratio, referenced in section (5)(c) of this rule.

(c) Upon oral or written request, the facility must make direct care staffing data available to the public for review at a cost not to exceed the community standard.

(d) The facility must maintain the posted nurse staffing data for a minimum of 18 months.

(3) MINIMUM STAFFING, GENERALLY. Resident service needs must be the primary consideration in determining the number and categories of nursing personnel needed. Nursing staff must be sufficient in quantity and quality to provide nursing services for each resident as needed, including restorative services that enable each resident to achieve and maintain the highest practicable degree of function, self-care, and independence, as determined by the resident's care plan. Such staffing must be provided even though it exceeds other requirements specified by this rule or specified in any waiver.

(4) MINIMUM LICENSED NURSE STAFFING.

(a) Licensed nurse hours must include no less than one RN hour per resident per week.

(b) When an RN serves as the administrator in the temporary absence of the administrator, the RN's hours must not be used to meet minimum nursing hours.

(c) In facilities with 41 or more beds, the hours of a licensed nurse who serves as facility administrator must not be included in any licensed nurse coverage required by this rule.

(d) The licensed nurse serving as a charge nurse must not be counted toward the minimum staffing requirement under section (5)(c) of this rule.

(e) The facility must have a licensed charge nurse on each shift 24 hours per day.

(A) An RN must serve as the licensed charge nurse for no less than eight consecutive hours between the start of day shift and the end of evening shift, seven days a week.

(B) The Director of Nursing Services may serve as the charge nurse only when the facility has 60 or fewer residents.

(C) Section (4)(e) of this rule may be waived by the Department of Human Services (Department). The request for waiver must comply with OAR 411-085-0040 and must be reviewed annually. The waiver shall be considered by the Department if the facility certifies that:

(i) The facility has been unable to recruit appropriate personnel despite diligent efforts, including offering wages at the community prevailing rate for nursing facilities;

(ii) The waiver does not endanger the health or safety of residents; and

(iii) An RN or physician is available and obligated to immediately respond to telephone calls from the facility.

(5) MINIMUM CERTIFIED NURSING ASSISTANT STAFFING.

(a) The facility must determine the specific time frame for beginning and ending each consecutive eight-hour shift using one of the following options:

(A) Option 1.

(i) Day shift from 5:30 a.m. to 1:30 p.m.

(ii) Evening shift from 1:30 p.m. to 9:30 p.m.

(iii) Night shift from 9:30 p.m. to 5:30 a.m.

(B) Option 2.

(i) Day shift from 6 a.m. to 2 p.m.

(ii) Evening shift from 2 p.m. to 10 p.m.

(iii) Night shift from 10 p.m. to 6 a.m.

(C) Option 3.

(i) Day shift from 6:30 a.m. to 2:30 p.m.

(ii) Evening shift from 2:30 p.m. to 10:30 p.m.

(iii) Night shift from 10:30 p.m. to 6:30 a.m.

(D) Option 4.

(i) Day shift from 7 a.m. to 3 p.m.

(ii) Evening shift from 3 p.m. to 11 p.m.

(iii) Night shift from 11 p.m. to 7 a.m.

(b) Each resident must have assigned and be informed of the nursing assistant responsible for his or her care and services on each shift. The numbers listed in this rule represent the minimum staffing requirement. The numbers do not represent sufficient nursing staff. The number of staff necessary to meet the needs of each resident determines sufficient nursing staff.

(c) The number of residents per nursing assistant must not exceed the following ratios:

(A) Prior to October 1, 2013:

(i) DAY SHIFT: 1 nursing assistant per 7 residents.

(ii) EVENING SHIFT: 1 nursing assistant per 11 residents.

(iii) NIGHT SHIFT: 1 nursing assistant per 18 residents.

(B) Effective October 1, 2013 to March 30, 2014, each facility must, in addition to the nursing assistant staff to resident ratios listed in subsection (A) of this section, increase nursing assistant staffing to the minimum standard of 2.46 hours per resident day in a 24-hour period of time from the start of day shift until the end of night shift seven days a week.

(C) Effective March 31, 2014:

(i) DAY SHIFT: 1 nursing assistant per 7 residents.

(ii) EVENING SHIFT: 1 nursing assistant per 9.5 residents.

(iii) NIGHT SHIFT: 1 nursing assistant per 17 residents.

(d) Each facility must submit a quarterly staffing report to the Department using the Department's approved method and format. The report must provide an accurate daily account of resident census and nursing assistant staffing levels for each shift.

(A) The facility must submit the report to the Department no later than the end of the month immediately following the end of each calendar quarter. (Example: For the calendar quarter ending March 31, the report must be received no later than April 30.)

(B) The report must specify the shifts in which the minimum staffing standards as set forth in section (5)(c) of this rule were not met.

(C) Upon the Department's request, the facility must provide documents to support the quarterly staffing report, including payroll records.

(e) This rule does not prohibit nursing assistants from providing services to a resident to whom they are not assigned.

(f) The facility must ensure that nursing assistants only perform those tasks for which they are competent and qualified to perform and that are permitted by ORS chapter 678 and OAR 851-063-0030.

(g) Nursing assistants with a restricted duty status may be counted toward meeting the minimum staffing ratio as set forth in section (5)(c) of this rule if the nursing assistant is able to perform 90 percent of the authorized duties and responsibilities, with or without accommodation, required by a certified nursing assistant as determined by the Oregon State Board of Nursing (OAR 851-063-0030).

(h) The facility must ensure that a nursing assistant is not assigned more residents than the number for which the nursing assistant is able to meet the individual service needs.

(i) The facility must have a minimum of two nursing staff on duty within the facility at all times.

(j) Nursing staff must be present at all times in each detached building, distinct and segregated area including those separated by closed doors, and on each level or floor where residents are housed.

(k) Nursing assistants do not include dining assistants.

(l) Nursing assistants serving as restorative aides must not be counted toward the minimum staffing requirement under section (5)(c) of this rule.

(m) A facility must not employ any person as a nursing assistant for longer than four months from the date of hire without an Oregon State Board of Nursing issued CNA 1 certification.

(n) The facility must ensure no more than 25 percent of the nursing assistants assigned to residents per shift pursuant to section (5)(c) of this rule are uncertified nursing assistants.

(6) CERTIFIED MEDICATION AIDES.

(a) The facility must ensure that all nursing assistants administering non-injectable medications are certified as nursing assistants and as medication aides. Documentation of these two certifications must be maintained in the facility.

(b) The certified medication aide assigned to administer medications must not be counted toward meeting the minimum staffing requirements for direct service of residents referenced at section(5)(c) of this rule.

Stat. Auth.: ORS 410.070, 410.090, 441.055, 441.073 & 441.615

Stats. Implemented: ORS 410.070, 410.090, 441.055, 441.073 & 441.615

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93; SPD 23-2004, f. 7-30-04, cert. ef. 8-1-04; SPD 1-2008(Temp), f. 2-8-08, cert. ef. 3-1-08 thru 8-28-08; SPD 10-2008, f. & cert. ef. 8-28-08; SPD 36-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; APD 3-2014, f. 3-19-14, cert. ef. 3-31-14

Rule Caption: Payment Limitations in Community-Based Care Settings

Adm. Order No.: APD 4-2014(Temp)

Filed with Sec. of State: 3-20-2014

Certified to be Effective: 3-20-14 thru 9-16-14

Notice Publication Date:

ADMINISTRATIVE RULES

Rules Amended: 411-027-0005, 411-027-0020, 411-027-0025

Subject: The Department of Human Services (Department) is immediately amending OAR 411-027 to allow the Department to pay the room and board costs for Medicaid eligible individuals who do not have sufficient income to meet their responsibilities described in OAR 411-027-0025 (3) and who do not qualify for the special needs payments.

Rules Coordinator: Kimberly Colkitt-Hallman—(503) 945-6398

411-027-0005

Definitions

- (1) “AAA” means “Area Agency on Aging” as defined in this rule.
- (2) “Activities of Daily Living (ADL)” mean those personal, functional activities required by an individual for continued well-being, which are essential for health and safety. Activities include eating, dressing/grooming, bathing/personal hygiene, mobility (ambulation and transfer), elimination (toileting, bowel and bladder management), and cognition/behavior as described in OAR 411-015-0006.
- (3) “ADL” means “activities of daily living” as defined in this rule.
- (4) “Area Agency on Aging (AAA)” means the Department designated agency charged with the responsibility to provide a comprehensive and coordinated system of services to older adults and adults with disabilities in a planning and service area. The term Area Agency on Aging is inclusive of both Type A and Type B Area Agencies on Aging as defined in ORS 410.040 and described in ORS 410.210-300.
- (5) “Assessment” means the process of evaluating the functional impairment levels for service eligibility, including an individual’s requirements for assistance or independence in performing activities of daily living and instrumental activities of daily living and determining nursing facility services. The Department requires use of the Client Assessment and Planning System (CA/PS) as the tool used to determine service eligibility and planning.
- (6) “Assistive Devices” means any category of durable medical equipment, mechanical apparatus, electrical appliance, or instrument of technology used to assist and enhance an individual’s independence in performing any activity of daily living. Assistive devices include the use of service animals, general household items, or furniture to assist the individual.
- (7) “CA/PS” means the “Client Assessment and Planning System” as defined in this rule.
- (8) “Case Manager” means an employee of the Department or Area Agency on Aging, who assesses the service needs of an applicant, determines eligibility, and offers service choices to the eligible individual. The case manager authorizes and implements the service plan and monitors the services delivered.
- (9) “Client Assessment and Planning System (CA/PS)” is the single entry data system used for completing a comprehensive and holistic assessment, surveying an individual’s physical, mental and social functioning, and identifying risk factors, individual choices and preferences, and the status of service needs. The CA/PS documents the level of need and calculates the individual’s service priority level in accordance with the rules in OAR chapter 411, division 015, calculates the service payment rates, and accommodates individual participation in service planning.
- (10) “Consumer Choice” means that an individual has been informed of alternatives to nursing facility services and has been given the choice of institutional services, Medicaid home and community-based service options, or the Independent Choices Program.
- (11) “Contracted In-Home Care Agency” means an incorporated entity or equivalent, licensed in accordance with OAR chapter 333, division 536, that provides hourly contracted in-home services to individuals served by the Department or Area Agency on Aging.
- (12) “Cost Effective” means being responsible and accountable with Department resources. This is accomplished by offering less costly alternatives when providing choices that adequately meet an individual’s service needs. Those choices consist of the available services under the Medicaid home and community-based service options, the utilization of assistive devices, natural supports, architectural modifications, and alternative service resources (defined in OAR 411-015-0005). Less costly alternatives may include resources not paid for by the Department.
- (13) “Department” means the Department of Human Services (DHS).
- (14) “Exception” means the approval for payment of a service plan granted to a specific individual in their current residence (or in the proposed residence identified in the exception request) that exceeds the CA/PS assessed service payment levels for individuals residing in community-based care facilities or the maximum hours of service as described in OAR

411-030-0070 for individuals residing in their own homes or the home of a relative. The approval is based on the service needs of the individual and is contingent upon the service plan meeting the requirements in OAR 411-027-0020, 411-027-0025, and 411-027-0050. The term “exception” is synonymous with “exceptional rate” or “exceptional payment.”

(15) “Homecare Worker” means a provider, as described in OAR 411-031-0040, that is directly employed by a consumer to provide either hourly or live-in services to the eligible consumer.

(a) The term homecare worker includes consumer-employed providers in the Spousal Pay and Oregon Project Independence Programs. The term homecare worker also includes consumer-employed providers that provide state plan personal care services to older adults and adults with physical disabilities. Relatives providing Medicaid in-home services to an individual living in the relative’s home are considered homecare workers.

(b) The term homecare worker does not include Independent Choices Program providers or personal care attendants enrolled through the Office of Developmental Disability Services or the Addictions and Mental Health Division.

(16) “Hourly Services” mean the in-home services, including activities of daily living and instrumental activities of daily living, that are provided at regularly scheduled times.

(17) “IADL” means “instrumental activities of daily living” as defined in this rule.

(18) “ICP” means “Independent Choices Program” as defined in this rule.

(19) “Independent Choices Program (ICP)” means the self-directed in-home services program in which a participant is given a cash benefit to purchase goods and services identified in a service plan and prior approved by the Department or Area Agency on Aging.

(20) “Individual” means the person applying for, or eligible for, services. The term “individual” is synonymous with “client”, “participant”, “consumer”, and “consumer-employer”.

(21) “In-Home Services” mean those activities of daily living and instrumental activities of daily living that assist an individual to stay in his or her own home or the home of a relative.

(22) “Instrumental Activities of Daily Living (IADL)” mean those activities, other than activities of daily living, required by an individual to continue independent living. The definitions and parameters for assessing needs in IADL are identified in OAR 411-015-0007.

(23) “Live-In Services” mean the in-home services provided when an individual requires activities of daily living, instrumental activities of daily living, and twenty-four hour availability. Time spent by any live-in employee doing instrumental activities of daily living and twenty-four hour availability are exempt from federal and state minimum wage and overtime requirements.

(24) “Natural Supports” or “Natural Support System” means resources and supports (e.g. relatives, friends, significant others, neighbors, roommates, or the community) who are willing to voluntarily provide services to an individual without the expectation of compensation. Natural supports are identified in collaboration with the individual and the potential “natural support”. The natural support is required to have the skills, knowledge and ability to provide the needed services and supports.

(25) “Rate Schedule” means the rate schedule maintained by the Department at <http://www.oregon.gov/DHS/spd/provtools/rateschedule.pdf>. Printed copies may be obtained by contacting the Department of Human Services, Aging and People with Disabilities, ATTN: Rule Coordinator, 500 Summer Street NE, E-48, Salem, Oregon 97301.

(26) “These Rules” mean the rules in OAR chapter 411, division 027.

(27) “Twenty-Four Hour Availability” means the availability and responsibility of a homecare worker to meet the activities of daily living and instrumental activities of daily living of a consumer as required by the consumer over a 24 hour period. Twenty-four hour availability services are provided by a live-in homecare worker and are exempt from federal and state minimum wage and overtime requirements.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SPD 7-2008, f. 5-29-08, cert. ef. 6-1-08; APD 4-2014(Temp), f. & cert. ef. 3-20-14 thru 9-16-14

411-027-0020

Payment Limitations in Community-Based Care Services

(1) PAYMENT FOR SERVICES.

(a) Service payments under these rules are limited to services provided under Oregon’s Medicaid State Plan K Option for individuals served through the Department’s Aging and People with Disabilities program area.

(b) Community-based services include but are not limited to:

ADMINISTRATIVE RULES

(A) In-home services (client-employed providers and contracted in-home care agencies);

(B) Residential care facility services;

(C) Assisted living facility services;

(D) Adult foster home services;

(E) Specialized living services;

(F) Adult day services; and

(G) Home-delivered meals.

(2) PAYMENT BASIS.

(a) Unless otherwise specified, service payment is based upon an individual's assessed need for services as documented in CA/PS.

(b) Payments for community-based services are not intended to replace the resources available to an individual from the individual's natural support system. Payment by the Department is only authorized when an individual's natural support system is unavailable, insufficient, or inadequate to meet the needs of the individual.

(c) An individual with excess income must contribute to the cost of services pursuant to OAR 461-160-0610 and OAR 461-160-0620.

(d) Service plans are based upon less costly means of providing adequate services consistent with consumer's assessed need and choice.

(e) An individual's progress is monitored by Department and AAA local office staff. When a change occurs in the individual's service needs that may warrant a change in the service payment rate, staff must update the service plan.

(3) SERVICE PAYMENTS. All service payments must be prior authorized by the Department or AAA local office staff.

(a) Department and AAA case managers authorize service payments from the rate schedule based on an individual's service program and assessed need for services documented in CA/PS.

(b) Any rate that differs from the rate schedule must be pre-authorized by the Department.

(4) RATE SCHEDULE. Services are paid at the rate in the Rate Schedule at the time of the service. The rate schedule will be updated:

(a) When there is an increase in a rate on the schedule and/or

(b) Thirty (30) days prior when any rate change is reduced.

(5) SPOUSAL SERVICES. The Department does not make direct payments to a spouse for providing community-based services except for in-home services as described in OAR chapter 411, division 030.

(6) PAYMENTS FOR ADULT DAY SERVICES.

(a) Payments to any Medicaid-contracted adult day services program, as described in OAR chapter 411, division 066, are authorized by Department or AAA local office staff and made in accordance with the rate schedule.

(b) Adult day services may be authorized as part of an overall plan of services for service-eligible individuals and may be used in combination with other community-based services if adult day services are the appropriate resource to meet a special need.

(c) Department or AAA local office staff may authorize adult day services for payment as a single service or in combination with other community-based services. Adult day services are not authorized or paid for if another provider has been authorized payment for the same service. Payments authorized for adult day services are included in computing the total cost of services.

(d) The Department pays for a half day of adult day services when four or less hours of services are provided, and pays for a full day of adult day services when more than four but less than 24 hours are provided.

(7) PAYMENT FOR HOME DELIVERED MEALS.

(a) Payments to any Medicaid-contracted home delivered meals provider as described in OAR chapter 411, division 040 are authorized by Department or AAA local office staff and made in accordance with the rate schedule.

(b) Medicaid home-delivered meals may be authorized as part of an overall plan of services for service-eligible individuals and may be used in combination with other in-home services if meals are the appropriate resource to meet a special need.

(8) PAYMENTS TO ASSISTED LIVING FACILITIES. Payments to any Medicaid-contracted assisted living facility (ALF) as defined in OAR 411-054-0005 are authorized by Department or AAA local office staff and made in accordance with the rate schedule.

(a) The monthly service payment for an individual receiving services in an ALF is based on the individual's degree of impairment in each of the six activities of daily living as determined by CA/PS and the payment levels described in paragraph (C) of this subsection. The individual's initial service plan must be developed prior to admission to the ALF and must be revised if needed within 30 days. The individual's service plan must be

reviewed and updated at least quarterly or more often as needed as described in OAR 411-054-0034.

(b) Activities of daily living are weighted for purposes of determining the monthly service payment as follows:

(A) Critical activities of daily living include elimination, eating, and cognition/behavior.

(B) Less critical activities of daily living include mobility, bathing/personal hygiene, and dressing/grooming.

(C) Other essential factors considered are medical problems, structured living, medical management, and other needs.

(c) Payment (Impairment) Levels.

(A) Level 1 — All Title XIX, service priority level 1-13 eligible individuals are qualified for Level 1 or greater.

(B) Level 2 — Individual requires assistance in cognition/behavior AND elimination or mobility or eating.

(C) Level 3 — Individual requires assistance in four to six activities of daily living OR requires assistance in elimination, eating, and cognition/behavior.

(D) Level 4 — Individual is full assist in one or two activities of daily living OR requires assistance in four to six activities of daily living plus assistance in cognition/behavior.

(E) Level 5 — Individual is full assist in three to six activities of daily living OR full assist in cognition/behavior AND one or two other activities of daily living.

(d) The reimbursement rate for Department individuals receiving Medicaid services shall not be more than the rates charged private paying individuals receiving the same type and quality of services.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SSD 9-1984(Temp), f. & ef. 11-1-84; SSD 3-1985, f. & ef. 4-1-85; SSD 10-1985, f. & ef. 8-1-85; SSD 12-1985(Temp), f. & ef. 9-19-85; SSD 16-1985, f. 12-31-85, ef. 1-1-86; SSD 4-1987(Temp), f. & ef. 7-1-87; SSD 13-1987, f. 12-31-87, cert. ef. 1-1-88; SSD 6-1988, f. & cert. ef. 7-1-88; SSD 9-1989, f. 6-30-89, cert. ef. 7-1-89; SSD 2-1993, f. 3-19-93, cert. ef. 4-1-93; SSD 9-1993, f. & cert. ef. 12-1-93; SDDS 3-1998, f. 2-27-98, cert. ef. 3-1-98; SDDS 1-1999, f. & cert. ef. 3-1-99; SDDS 2-1999, f. 3-1-99, cert. ef. 4-1-99; SDDS 1-2001(Temp) f. & cert. ef. 2-5-01 thru 8-3-01; Suspended by SDDS 5-2001(Temp), f. & cert. ef. 3-8-01 thru 8-3-01; Administrative correction 11-20-01; SDDS 10-2001, f. 12-27-01, cert. ef. 1-1-02; SPD 21-2004(Temp), f. 7-31-04 cert. ef. 8-1-04 thru 1-5-05; SPD 39-2004, f. 12-30-04, cert. ef. 1-5-05; SPD 27-2006(Temp), f. 10-18-06, cert. ef. 10-23-06 thru 4-20-07; SPD 5-2007, f. 4-16-07, cert. ef. 4-17-07; Renumbered from 411-027-0000, SPD 7-2008, f. 5-29-08, cert. ef. 6-1-08; APD 4-2014(Temp), f. & cert. ef. 3-20-14 thru 9-16-14

411-027-0025

Payment for Residential Care Facility and Adult Foster Home Services

The Department reimburses for services provided to individuals residing in a residential care facility or an adult foster home according to the following:

(1) SERVICE PAYMENT. The provider must agree to accept an amount determined pursuant to OAR 461-155-0270 for room and board and a service payment determined by the Department pursuant to 411-027-0020 or 411-027-0050 as payment in full for all services rendered to an individual.

(2) SERVICE RATES. Service rates are based on an individual's level of impairment and assessed need for services as documented in CA/PS. Service eligibility levels are assigned based on the degree of assistance an individual requires with activities of daily living and certain procedures that must be performed by a provider.

(a) A base rate is paid for all individuals in accordance with the rate schedule.

(b) Additional add-on payments are made for individuals whose assessed needs meet add-on criteria. Add-on payments are paid in accordance with the rate schedule.

(A) If an individual is eligible for one add-on payment, an add-on payment is made in addition to the base payment.

(B) If an individual is eligible for two add-on payments, a total of two add-on payments are made in addition to the base payment.

(C) If an individual is eligible for three add-on payments, a total of three add-on payments are made in addition to the base payment. Jordan40

(c) Eligibility for add-on payments is made based on individual needs as documented in CA/PS. An individual is eligible for an add-on payment if:

(A) The individual is full assist in mobility or eating or elimination;

(B) The individual demonstrates behavior that pose a risk to the individual or to others and the provider must consistently intervene to supervise or redirect; or

(C) The individual's medical treatments, as selected and documented in CA/PS, require daily observation and monitoring with oversight by a

ADMINISTRATIVE RULES

licensed healthcare professional, no less than quarterly, and the facility has trained staff to provide such service and does provide the service.

(3) PAYMENT RESPONSIBILITIES.

(a) An individual is entitled to retain a personal allowance plus any income disregards pursuant to OAR 461-160-0620.

(b) An individual is responsible for payment of the room and board amount pursuant to OAR 461-155-0270.

(A) An individual eligible for Medicaid under OAR chapter 410, division 200 and eligible for long term care services under 411-015-0100 living in community based care facilities may be eligible for room and board assistance if the individual's gross income is less than the room and board amount defined in 461-155-0270. The Department issues a special needs payment to the facility, on the individual's behalf, for the difference between the individual's income and the room and board standard.

(B) An individual eligible for Medicaid under OAR chapter 410, division 200 and receiving room and board assistance must apply for all benefits for which the individual may be eligible, per 410-200-0220, to continue to receive the room and board assistance. Individuals must follow all appeal options if applicable.

(c) An individual must contribute any income in excess of the personal allowance, income disregards, and room and board payments to the provider toward the service payment pursuant to OAR 461-160-0610 and Jordan40461-160-0620.

(d) The Department issues payment to the provider for the difference between the service payment and the available income of the individual.

(4) The provider may not charge the individual, or a relative or representative of the individual, for items included in the room and board or service payments for any items for which the Department makes payment.

(5) The Department is not responsible for damages to the provider's home, facility or property, or obligations entered into with the individual.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SDDS 3-1998, f. 2-27-98, cert. ef. 3-1-98; SDDS 4-1998, f. 6-25-98, cert. ef. 7-1-98;

SDDS 10-2001, f. 12-24-01, cert. ef. 1-1-02, Renumbered from 411-027-0100; SPD 7-2008,

f. 5-29-08, cert. ef. 6-1-08; APD 4-2014(Temp), f. & cert. ef. 3-20-14 thru 9-16-14

Rule Caption: Nursing Facility Closure

Adm. Order No.: APD 5-2014

Filed with Sec. of State: 3-31-2014

Certified to be Effective: 4-1-14

Notice Publication Date: 3-1-2014

Rules Amended: 411-085-0005, 411-085-0025, 411-085-0210, 411-088-0020, 411-088-0070, 411-088-0080, 411-089-0030

Rules Repealed: 411-085-0025(T), 411-085-0210(T), 411-088-0070(T)

Subject: The Department of Human Services (Department) is permanently updating 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 permanent 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: Kimberly Colkitt-Hallman—(503) 945-6398

411-085-0005

Definitions

Unless the context requires otherwise, the following definitions apply to the rules in OAR chapter 411, divisions 70, 85, and 89:

(1) "AAA" means "Area Agency on Aging" as defined in this rule.

(2) "Abuse" means:

(a) Any physical injury to a resident that has been caused by other than accidental means. This includes injuries that a reasonable and prudent individual would have been able to prevent, such as hitting, pinching or striking, or injury resulting from rough handling.

(b) Failure to provide basic care or services to a resident that results in physical harm, unreasonable discomfort, or serious loss of human dignity.

(c) Sexual contact with a resident, including fondling, caused by an employee, agent, or other resident of a long-term care facility by force, threat, duress or coercion, or sexual contact where the resident has no ability to consent.

(d) Illegal or improper use of a resident's resources for the personal profit or gain of another individual, borrowing resident funds, spending resident funds without the resident's consent or, if the resident is not capable of consenting, spending resident funds for items or services from which the resident cannot benefit or appreciate, or spending resident funds to acquire items for use in common areas when such purchase is not initiated by the resident.

(e) Verbal abuse as prohibited by federal law, including the use of oral, written, or gestured communication to a resident or visitor that describes a resident in disparaging or derogatory terms.

(f) Mental abuse as prohibited by law including humiliation, harassment, threats of punishment, or deprivation, directed toward the resident.

(g) Corporal punishment.

(h) Involuntary seclusion for convenience or discipline.

(3) "Abuse Complaint" means any oral or written communication to the Department, one of the Department's agents, or a law enforcement agency alleging abuse.

(4) "Activities Program" means services offered to each resident that encourage the resident to participate in physical and mental exercises that are designed to maintain or improve physical and mental well-being and social skills.

(5) "Acute Sexual Assault" means any non-consensual or unwanted sexual contact that warrants medical treatment or forensic collection.

(6) "Applicant" means the individual required to complete a nursing facility application for a license. Applicant includes a sole proprietor, each partner in a partnership, or the corporation that owns the nursing facility business. Applicant also includes a sole proprietor, each partner in a partnership, or a corporation that operates a nursing facility on behalf of the nursing facility business owner.

(7) "Area Agency on Aging (AAA)" means a Type B Area Agency on Aging that is an established public agency within a planning and service area designated under the Older Americans Act, 42 U.S.C. 3025, that has responsibility for local administration of Department programs.

(8) "Assessment" means a written evaluation of a resident's abilities, condition, and needs based upon resident interview, observation, clinical and social records, and other available sources of information.

(9) "Care" means services required to maximize resident independence, personal choice, participation, health, self-care, and psychosocial functioning, as well as to provide reasonable safety, all consistent with the preferences of the resident.

(10) "Certified Medication Aide" means "certified medication assistant" as defined in this rule.

(11) "Certified Medication Assistant" means a certified nursing assistant who has been certified as a medication assistant or medication aide pursuant to ORS Chapter 678 and the rules adopted thereunder.

(12) "Certified Nursing Assistant" means an individual who has been certified as a nursing assistant pursuant to ORS Chapter 678 and the rules adopted thereunder.

(13) "Change of Operator" means "change of ownership" as defined in this rule.

(14) "Change of Ownership" means a change in the individual or entity that owns the facility business, a change in the individual or entity responsible for the provision of services at the facility, or both. Events that change ownership include but are not limited to:

(a) A change in the form of legal organization of the licensee;

(b) Transfer of the title to the nursing facility enterprise by the owner to another party;

(c) If the licensee is a corporation, dissolution of the corporation, merger of the corporation with another corporation, or consolidation of one or more corporations to form a new corporation;

(d) If the licensee is a partnership, any event that dissolves the partnership;

(e) Any lease, management agreement, or other contract or agreement that results in a change in the legal entity responsible for the provision of services at the facility; or

(f) Any other event that results in a change of the operating entity.

(15) "Control Interest" means "management" as defined in this rule.

ADMINISTRATIVE RULES

(16) "Day Care Resident" means an individual who is not bedfast who receives services and care in a nursing facility for not more than 16 hours per day.

(17) "Department" means the Department of Human Services.

(18) "Division" means the "Department" as defined in this rule.

(19) "Drug" has the same meaning set forth in ORS Chapter 689.005.

(20) "Entity" means "Individual" as defined in this rule.

(21) "Establish a Nursing Facility" means to possess or hold an incident of ownership in a nursing facility business.

(22) "Facility" means an establishment that is licensed and certified by the Department as a nursing facility.

(23) "Facility Fund" means a fund created under ORS 441.303 to meet expenses relating to the appointment of a trustee under 441.277 to 441.323 or the appointment of a temporary manager under 441.333 for a nursing facility or a residential care facility.

(24) "Health Care Facility" means a health care facility as defined in ORS 442.015, a residential care facility as defined in 443.400, and an adult foster home as defined in 443.705.

(25) "Hearing" means a contested case hearing according to the Administrative Procedures Act and the rules of the Department.

(26) "Incident of Ownership" means:

(a) An ownership interest;

(b) An indirect ownership interest; or

(c) A combination of direct and indirect ownership interest.

(27) "Indirect Ownership Interest" means an ownership interest in an entity that has an ownership interest in another entity. Indirect ownership interest includes an ownership interest in an entity that has an indirect ownership interest in another entity.

(28) "Individual" means an entity including an individual, a trust, an estate, a partnership, a corporation, or a state or governmental unit as defined in ORS 442.015 including associations, joint stock companies, insurance companies, the state, or a political subdivision or instrumentality, including a municipal corporation.

(29) "Inpatient Beds" means a bed in a facility available for occupancy by a resident who is cared for and treated on an overnight basis.

(30) "Inspection" means any on-site visit to the facility by anyone designated by the Secretary of the U.S. Department of Health and Human Services, the Department, or a "Type B" Area Agency on Aging and includes but is not limited to a licensing inspection, certification inspection, financial audit, Medicaid Fraud Unit review, monitoring, or complaint investigation.

(31) "Legal Representative" means an attorney at law, the individual holding a general power of attorney or special power of attorney for health care, a guardian, a conservator, any individual appointed by a court to manage the personal or financial affairs of a resident, or an individual or agency legally responsible for the welfare or support of a resident other than the facility.

(32) "Licensed Nurse" means a registered nurse or a licensed practical nurse.

(33) "Licensed Practical Nurse (LPN)" means an individual licensed under ORS Chapter 678 to practice practical nursing.

(34) "Licensee" means the applicant to whom a nursing facility license has been issued.

(35) "Local Designee of the Department" means the local unit of the Department or the Area Agency on Aging.

(36) "Long Term Care Facility" means "nursing facility" as defined in this rule.

(37) "LPN" means "licensed practical nurse" as defined in this rule.

(38) "Maintain a Nursing Facility" means "establish a nursing facility" as defined in this rule.

(39) "Major Alteration" means change other than repair or replacement of building materials or equipment with materials and equipment of a similar type.

(40) "Management" means:

(a) Possessing the right to exercise operational or management control over, or to directly or indirectly conduct the day-to-day operation of, an institution, organization, or agency; or

(b) An interest as an officer or director of an institution, organization, or agency organized as a corporation.

(41) "New Construction" means:

(a) A new building;

(b) An existing building or part of a building that is not currently licensed as a nursing facility;

(c) A part of an existing building that is not currently licensed for the purpose for which such part is proposed to be licensed, such as rooms that

are proposed to be licensed as nursing facility resident rooms but are not currently licensed as nursing facility resident rooms;

(d) A major alteration to an existing building;

(e) An addition to an existing building;

(f) A conversion in use; or

(g) Renovation or remodeling of an existing building.

(42) "NFPA" means "National Fire Protection Association".

(43) "Nurse Aide" means "nursing assistant" as defined in this rule.

(44) "Nurse Practitioner" means an individual certified under ORS Chapter 678 as a nurse practitioner.

(45) "Nursing Assessment" means evaluation of fluids, nutrition, bowel/bladder elimination, respiration, circulation, skin, vision, hearing, musculoskeletal systems, allergies, personal hygiene, mental status, communicative skills, safety needs, rest, sleep, comfort, pain, other appropriate measures of physical status, and medication and treatment regimes. Nursing assessment includes data collection, comparison with previous data, analysis or evaluation of that data, and utilization of available resource information.

(46) "Nursing Assistant" means an individual who assists licensed nurses in the provision of nursing care services. "Nursing Assistant" includes but is not limited to a certified nursing assistant, a certified medication assistant, and individuals who have successfully completed a state approved nurse assistant training course.

(47) "Nursing Care" means direct and indirect care provided by a registered nurse, licensed practical nurse, or nursing assistant.

(48) "Nursing Facility" means an establishment with permanent facilities, including inpatient beds, that provides medical services, including nursing services but excluding surgical procedures, and that provides care and treatment for two or more unrelated residents. In this definition, "treatment" means complex nursing tasks that cannot be delegated to an unlicensed individual. "Nursing Facility" only includes facilities licensed and operated pursuant to ORS 441.020(2).

(49) "Nursing Facility Administrator" means an individual licensed under ORS Chapter 678 who is responsible to the licensee and is responsible for planning, organizing, directing, and controlling the operation of a nursing facility.

(50) "Nursing Facility Law" means ORS Chapter 441 and the rules for nursing facilities adopted thereunder.

(51) "Nursing Home" means "nursing facility" as defined in this rule.

(52) "Nursing Staff" means registered nurses, licensed practical nurses, and nursing assistants providing direct resident care in a facility.

(53) "Owner" means an individual with an ownership interest.

(54) "Ownership Interest" means the possession of equity in the capital, the stock, or the profits of an entity.

(55) "Pharmacist" has the same meaning as set forth in ORS 689.005.

(56) "Pharmacy" has the same meaning as set forth in ORS 689.005.

(57) "Physician" means an individual licensed under ORS Chapter 677 as a physician.

(58) "Physician's Assistant" means an individual registered under ORS Chapter 677 as a physician's assistant.

(59) "Podiatrist" means an individual licensed under ORS Chapter 677 to practice podiatry.

(60) "Prescription" has the same meaning as set forth in ORS 689.005.

(61) "Public or Private Official" means:

(a) Physician, naturopathic physician, osteopathic physician, chiropractor, podiatric physician, physician assistant, or surgeon including any intern or resident;

(b) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide, or employee of an in-home health agency;

(c) Employee of the Department, Area Agency on Aging, county health department, community mental health program, community developmental disability program, or nursing facility;

(d) Individual who contracts to provide services to a nursing facility;

(e) Peace officer;

(f) Clergy;

(g) Licensed clinical social worker, psychologist, licensed professional counselor, or licensed marriage and family therapist;

(h) Physical, speech, or occupational therapist, respiratory therapist, audiologist, or speech language pathologist;

(i) Senior center employee;

(j) Information and referral or outreach worker;

(k) Any public official who comes in contact with elderly individuals in the performance of the official's official duties;

(l) Firefighter or emergency medical technician;

ADMINISTRATIVE RULES

- (m) Legal counsel for a resident; or
- (n) Guardian for, or family member of, a resident.

(62) "Registered Nurse (RN)" means an individual licensed under ORS Chapter 678.

(63) "Rehabilitative Services" means specialized services provided by a therapist or a therapist's assistant to a resident to attain optimal functioning, including but not limited to physical therapy, occupational therapy, speech and language therapy, and audiology.

(64) "Relevant Evidence" means factual information that tends to either prove or disprove the following:

- (a) Whether abuse or other rule violation occurred;
- (b) How abuse or other rule violation occurred; or
- (c) Who was involved in the abuse or other rule violation.

(65) "Resident" means an individual who has been admitted but not discharged from a facility.

(66) "Restorative Aide" means a certified nursing assistant primarily assigned to perform therapeutic exercises and activities to maintain or re-establish a resident's optimum physical function and abilities according to the resident's restorative plan of care and pursuant to OAR 411-086-0150.

(67) "Restorative Nursing" means "restorative services" as defined in this rule.

(68) "Restorative Services" mean the measures provided by nursing staff and directed toward re-establishing and maintaining a residents' fullest potential.

(69) "RN" means "registered nurse" as defined in this rule.

(70) "Safety" means the condition of being protected from environmental hazards without compromise to a resident's or legal guardian's choice, or undue sacrifice of a resident's independence.

(71) "Significant Other" means an individual designated by the resident or by the court to act on behalf of the resident. If the resident is not capable of such designation and there is no court-appointed individual, then a significant other means a family member or friend who has demonstrated consistent concern for the resident. No rule using this term is intended to allow release of, or access to, confidential information to individuals who are not otherwise entitled to such information, or to allow such individuals to make decisions that they are not entitled to make on behalf of a resident.

(72) "Suspected Abuse" means reasonable cause to believe that abuse may have occurred.

[Publications referenced are available from the agency.]
Stat. Auth.: ORS 410.070, 441.055, 441.615 & 441.637
Stats. Implemented: ORS 410.070, 441.055, 441.615, 441.630, 441.637, 441.650
Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93; SSD 1-1995, f. 1-30-95, cert. ef. 2-1-95; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04; SPD 1-2008(Temp), f. 2-8-08, cert. ef. 3-1-08 thru 8-28-08; SPD 10-2008, f. & cert. ef. 8-28-08; SPD 24-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 11-2010, f. 6-30-10, cert. ef. 7-1-10; APD 5-2014, f. 3-31-14, cert. ef. 4-1-14

411-085-0025

Change of Ownership or Operator and Closure

(1) CHANGE OF OWNERSHIP OR OPERATOR.

(a) When a change of ownership or a change of operator is contemplated, a licensee and a prospective licensee must each notify the Department in writing of the contemplated change. The notice of change of ownership or operator must be received by the Department at least 45 days prior to the proposed date of transfer. A shorter timeframe may be allowed at the sole discretion of the Department. The notice of change of ownership or operator must be in writing and must include the following:

- (A) Name and signature of the current licensee;
- (B) The name of the prospective licensee;
- (C) The proposed date of the transfer;
- (D) Type of transfer (e.g., sale, lease, rental, etc.); and
- (E) A complete, signed nursing facility application from the prospective licensee.

(b) A prospective licensee may not assume possession or control of a facility until after the prospective licensee has been notified by the Department that the prospective licensee's application has been approved.

(c) The current licensee is responsible for the operation of the facility and resident care provided therein until a new license is issued to a new owner or operator or the facility operation is closed.

(2) FACILITY CLOSURE.

(a) NOTICE OF INTENT TO CLOSE. The licensee must notify the Department of the intent to close a facility 90 days prior to the anticipated date of closure.

(b) SERVICES AND OPERATION DURING CLOSURE. The licensee is responsible for the operation of the facility and resident care provided therein until all residents are transferred and the facility is closed.

(c) RESIDENT RECORDS. The licensee is responsible for the transfer and retention of resident clinical records according to OAR 411-086-0300.

(d) PROPOSED RESIDENT TRANSITION PLAN.

(A) The nursing facility administrator must submit a proposed resident transition plan to the Department for review and approval 75 days prior to the anticipated date of closure. The proposed resident transition plan must:

(i) Include resident-specific transition plans based on current and accurate assessments of each resident's needs, preferences, and best interests;

(ii) In collaboration with the Department, identify potential transition settings that are available and appropriate in terms of quality, services, and location;

(iii) In collaboration with the Department, include a proposed timetable for resident assessments, planning conferences, and transitions;

(iv) Include the resources, policies, and procedures that the facility must provide or arrange in order to plan and implement the transitions; and

(v) Include a list of the residents to be transitioned, including each resident's current level of care, a brief description of any special needs or conditions, and the name and address of the resident's guardian (if applicable). The list of residents to be transitioned must include:

(I) Residents that are eligible to return to the facility following hospitalization as described in OAR 411-088-0050; and

(II) Residents that are temporarily absent from the facility and have secured a bedhold as described in OAR 411-070-0110.

(B) Resident transitions must comply with OAR 411-088-0020(1)(f) and 411-088-0070(1)(g), (3)(d), and (4) (Transfers).

(e) PROPOSED FACILITY CLOSURE PLAN. The nursing facility administrator must submit a proposed facility closure plan to the Department for review and approval 75 days prior to the anticipated date of closure. The proposed facility closure plan must include:

(A) A description of operations during the closure period;

(B) The plan to assure adequate staff, supplies, and services necessary to provide resident care during the closure period;

(C) The primary contact responsible for daily facility operations during the closure period;

(D) The primary contact responsible for the oversight of those managing the facility during the closure period;

(E) The Department-approved estimated date of closure; and

(F) The address where the licensee may be reached following facility closure.

(f) ADDITIONAL INFORMATION. Upon request, the administrator must provide the Department with any additional information related to resident transfer or facility operations during the closure period.

(g) DEPARTMENT APPROVAL. The Department shall notify the facility of the Department's approval within 10 days of receipt of the facility's proposed resident transition plan and facility closure plan.

(A) If the Department disapproves a proposed plan, the Department shall work with the facility to modify the plan.

(B) No residents may be transitioned until the Department approves the proposed plan or until a modified plan is agreed upon.

(C) If a plan is not approved or agreed upon within 30 days of receipt of the intent to close, the Department may initiate actions for temporary management according to OAR 411-089-0075.

(D) The Department may provide or arrange for resident transitions in order to minimize resident trauma and to ensure the orderly transition of residents.

(h) NOTICE TO RESIDENTS AND OTHER REQUIRED PARTIES. The administrator must provide written notice in accordance with OAR 411-088-0070(1)(g), (3)(d), and (4).

(3) ADMISSIONS.

(a) The administrator must assure that the facility does not admit new residents on or after the date the 60-day notice is issued to the resident and required parties according to OAR 411-088-0020(1)(f) and 411-088-0070(1)(g), (3)(d), and (4).

(b) A resident who is eligible to return to a facility following hospitalization per OAR 411-088-0050 may return to a facility that is in the process of closing.

(c) A resident who is eligible to readmit to a facility following discharge per OAR 411-088-0060 may readmit to a facility that is in the process of closing.

(d) A resident who is temporarily absent from a facility per OAR 411-070-0110 may return to a facility that is in the process of closing.

Stat. Auth.: ORS 410.070, 441.055, & 441.615
Stats. Implemented: ORS 441.055 & 441.615

ADMINISTRATIVE RULES

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04; SPD 38-2013(Temp), f. 10-4-13, cert. ef. 10-7-13 thru 4-4-14; APD 5-2014, f. 3-31-14, cert. ef. 4-1-14

411-085-0210

Facility Policies

(1) A Quality Assessment and Assurance Committee must develop and adopt facility policies. The policies must be followed by the facility staff and evaluated annually by the Quality Assessment and Assurance Committee and rewritten as needed. Policies must be adopted regarding:

- (a) Admission, fees, and services;
- (b) Transfer and discharge, including discharge planning;
- (c) Physician services;
- (d) Nursing services;
- (e) Dietary services;
- (f) Rehabilitative services and restorative services;
- (g) Pharmaceutical services, including self administration;
- (h) Care of residents in an emergency;

(i) The referral of residents who may be victims of acute sexual assault to the nearest trained sexual assault examiner. The policy must include information regarding the collection of medical and forensic evidence that must be obtained within 86 hours of the incident;

- (j) Activities;
- (k) Social services;
- (l) Clinical records;
- (m) Infection control;
- (n) Diagnostic services;
- (o) Oral care and dental services;
- (p) Accident prevention and reporting of incidents;
- (q) Housekeeping services and preventive maintenance;
- (r) Employee orientation and in-service;
- (s) Laundry services;
- (t) Possession of firearms and ammunition;
- (u) Consultant services;
- (v) Resident grievances; and

(w) Facility closure. The policy must identify an administrator's responsibility to assure compliance with OAR 411-085-0025, 411-088-0020(1)(f), and 411-088-0070(1)(g), (3)(d), and (4).

(2) Each policy must be in writing and must specify the date the policy was last reviewed by the Quality Assessment and Assurance Committee.

Stat. Auth.: ORS 410.070, 441.055, & 441.615
Stats. Implemented: ORS 441.055 & 441.615

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04; SPD 38-2013(Temp), f. 10-4-13, cert. ef. 10-7-13 thru 4-4-14; APD 5-2014, f. 3-31-14, cert. ef. 4-1-14

411-088-0020

Basis for Involuntary Transfer

Upon compliance with these transfer rules (OAR 411-088), an involuntary transfer of a resident may be made when one of the reasons specified in this rule exists.

(1) MEDICAL AND WELFARE REASONS.

(a) A resident may be transferred when the resident's physician states in writing that:

(A) The resident's health has improved sufficiently so the resident no longer needs the services provided by the facility; or

(B) The facility is unable to meet the resident's needs and the facility has identified another environment available to the resident that may better meet the resident's needs. The Department shall assist the facility in the facility's effort to identify another environment for the resident.

(b) A resident may be transferred when the Department Administrator or the State Fire Marshal states in writing the safety of the resident (or other people in the facility) is endangered and justifies the transfer;

(c) A resident may be transferred when the behavior of the resident creates a serious and immediate threat to the resident or to other residents or people in the facility and all reasonable alternatives to transfer (consistent with the attending physician's orders) have been attempted and documented in the resident's medical record. Such alternatives may include but are not limited to chemical or physical restraints and medication;

(d) A resident may be transferred when the resident has a medical emergency;

(e) A resident may be transferred when governmental action results in a facility's certification or license being revoked or not renewed;

(f) A resident may be transferred when a facility intends to terminate operation as a nursing facility. The facility must:

(A) Certify in writing to the Department the license is to be irrevocably terminated as described in OAR 411-085-0025; and

(B) Establish to the satisfaction of the Department that arrangements to accomplish all necessary transfers are made in a safe manner with adequate resident involvement and follow-up for each resident to minimize negative effects of the transfer;

(g) A resident receiving post-hospital extended care services or specialized services from a facility under a physician's order may be transferred from the facility when, according to the physician's written opinion, the resident has improved sufficiently and no longer needs the post-hospital extended care services or specialized services provided by the facility.

(A) The purpose of the admission, including the projected course of treatment and the expected length of stay, must be agreed to in writing by the resident (or the resident's legal representative who is so authorized to make such an agreement) at or prior to admission.

(B) The facility must identify another environment available to the resident that is appropriate to meet the resident's needs.

(C) The notice of transfer may be issued at the time of admission or later and must be based upon the projected course of treatment.

(2) NON-PAYMENT REASONS. A resident may be transferred when there is a non-payment of facility charges for the resident and payment for the stay is not available through Medicaid, Medicare, or other third party reimbursement.

(a) A resident may not be transferred if, prior to actual transfer, delinquent charges are paid.

(b) A resident may not be transferred for delinquent charges if payment for current charges is available through Medicaid, Medicare, or other third party reimbursement.

(3) CONVICTION OF A SEX CRIME.

(a) A resident who was admitted January 1, 2006 or later may be moved without advance notice if all of the following are met:

(A) The facility was not notified prior to admission that the resident is on probation, parole, or post-prison supervision after being convicted of a sex crime;

(B) The facility learns that the resident is on probation, parole, or post-prison supervision after being convicted of a sex crime; and

(C) The resident presents a current risk of harm to another resident, staff, or visitor in the facility as evidenced by:

(i) Current or recent sexual inappropriateness, aggressive behavior of a sexual nature, or verbal threats of a sexual nature; and

(ii) Current communication from the State Board of Parole and Post-Prison Supervision, Department of Corrections, or community corrections agency parole or probation officer that the individual's Static 99 score or other assessment indicates a probable sexual re-offense risk to others in the facility.

(b) Prior to the move, the facility must contact the Department by telephone and review the criteria in subsection (a) of this section. The Department shall respond within one working day of contact by the facility. The Department of Correction's parole or probation officer must be included in the review, if available. The Department shall advise the facility if rule criteria for immediate move out are not met. The Department shall assist in locating placement options.

(c) The facility must issue written notice on the Department approved form. The form must be filled out in its entirety and a copy of the notice delivered in person to the resident or the resident's legal representative, if applicable. Where a resident lacks capacity and there is no legal representative, a copy of the written notice must be immediately faxed to the State Long-Term Care Ombudsman.

(d) Prior to the move, the facility must orally review the notice and right to object with the resident or if applicable, the resident's legal representative and determine if a hearing is requested. A request for hearing does not delay the involuntary transfer. The facility must immediately telephone the Department when a hearing is requested. The hearing must be held within five business days of the resident's move. An informal conference may not be held prior to the hearing.

Stat. Auth.: ORS 441.055, 441.615 & 443.410

Stats. Implemented: ORS 441.055, 441.600, 441.605, 441.615, 443.410 & 181.586

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93; SSD 2-1995, f. & cert. ef. 2-15-95; SPD 6-2006(Temp), f. & cert. ef. 1-18-06 thru 7-1-06; SPD 21-2006, f. 6-27-06 cert. ef. 7-1-06; APD 5-2014, f. 3-31-14, cert. ef. 4-1-14

411-088-0070

Notice Requirements

(1) NOTICE LENGTH:

(a) A facility must provide a resident transferred from the facility a minimum of 30 days prior written notice unless otherwise provided under this section.

ADMINISTRATIVE RULES

(b) A resident may be involuntarily transferred under OAR 411-088-0020(1)(b) (Life or Safety Threat) or 411-088-0020(1)(c) (Behavior Problem) with fewer than 30 days prior written notice if the reason for the transfer constitutes an emergency. However, the facility must give as much prior written notice as the emergency permits.

(c) A resident may be involuntarily transferred under OAR 411-088-0020(1)(d) (Medical Emergency) with no prior notice. However, the facility must give written notice before giving the resident's bed to another person.

(d) A resident involuntarily transferred under OAR 411-088-0020(1)(g) (Post-Hospital Extended Care Services or Specialized Services) and cared for in the facility for less than 30 days may be transferred with fewer than 30 days prior written notice.

(A) In such cases, the resident must be provided with written notice no shorter than the length of the resident's current stay in the nursing facility.

(B) The notice may be issued at the time of the resident's admission or as soon as the length of time for projected course of treatment is estimated.

(C) Section (1)(d) of this rule does not apply if the resident had a right of readmission to the same facility as described in OAR 411-088-0060 prior to the hospital, surgical, or emergency department services.

(e) A facility must provide a resident involuntarily transferred under OAR 411-088-0020(1)(b) or (e) (Governmental Action) a minimum of 14 days prior written notice.

(f) A facility must immediately notify a resident denied the right of return or the right of readmission. The facility must also provide the resident written notice that is mailed (registered or certified) or delivered in person within five days from the date of request for return or readmission. A denial of right of return or readmission is allowable only if there is good cause to believe the resident lacks such right (see OAR 411-088-0050, 411-088-0060, and 411-088-0080).

(g) A facility must provide written notice to a resident involuntarily transferred under OAR 411-088-0020(1)(f) (Termination of Operations as a Nursing Facility).

(A) In the case of voluntary closure, written notice must be provided 60 days prior to facility closure.

(B) In the case of involuntary closure, written notice must be provided as determined by the Department.

(h) A facility must provide written notice to a resident voluntarily transferring from a facility pursuant to this rule and must maintain the signed consent form in the resident's medical record.

(2) NOTIFICATION LIST. The facility must maintain and keep current in the resident's record the name, address, and telephone number of the resident's legal representative, if any, and of any person designated by the resident or the resident's legal representative to receive notice of a transfer. The facility must also record the name, address, and telephone number of any person who has demonstrated consistent concern for the resident if the resident has no one who is currently involved and who has been designated by the resident.

(3) NOTICE DISTRIBUTION. Notice must be provided to:

(a) The resident or former resident, as appropriate;

(b) All persons required to be listed in the resident's medical record under section (2) of this rule;

(c) The local unit of the Aging and People with Disabilities Division or Type B Area Agency on Aging. The notice does not need to be provided to the local unit of the Aging and People with Disabilities Division or Type B Area Agency on Aging if the resident is private pay and the resident's stay in the facility totals 30 days or less; and

(d) The Long-Term Care Ombudsman if there is no one currently involved and designated by the resident. Written notice must be provided to the Long-Term Care Ombudsman in the case of an involuntary transfer under OAR 411-088-0020(1)(f) (Termination of Nursing Facility Operations).

(4) STANDARD NOTICE REQUIRED. Written notice must be provided using Form # 0509 (Notice of Transfer), Form # 0510 (Denial of Readmission/Return), or Form #0509L (Resident Letter Nursing Facility Closure), as appropriate. Forms may be accessed electronically from the Department's Forms Server (https://aix-xweb1p.state.or.us/es_xweb/FORMS/) or from the Department by request.

(a) The notice provided to a resident and the people required to be listed in the resident's medical record under section (2) of this rule must be accompanied by a copy of the Aging and People with Disabilities Division's brochure, "Leaving the Nursing Facility" (Form #9847).

(b) In the case of involuntary transfer under OAR 411-088-0020(1)(f) (Termination of Nursing Facility Operations), Form #0509L (Resident Letter Nursing Facility Closure) must be distributed with Form #0509 (Notice of Transfer).

(5) NOTICE SERVICE. If the person receiving notice as described in section (3) of this rule is a resident at a facility, the facility must personally serve the written notice to the resident. All other notices required by this rule, including notices to former residents, must be either served personally or delivered by registered or certified mail.

Stat. Auth.: ORS 441.055 & 441.615

Stats. Implemented: ORS 441.055, 441.600, 441.605, & 441.615

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93; SSD 2-1995, f. & cert. ef. 2-15-95; SPD 3-2008, f. & cert. ef. 3-6-08; SPD 38-2013(Temp), f. 10-4-13, cert. ef. 10-7-13 thru 4-4-14; APD 5-2014, f. 3-31-14, cert. ef. 4-1-14

411-088-0080

Informal Conference and Hearing

(1) A resident who is to be involuntarily transferred or refused the right of return or readmission is entitled to an informal conference and hearing as provided in this rule.

(2) CONFERENCE REQUEST.

(a) Upon receipt of a notice, a resident, any designated agency, or person acting on the resident's or former resident's behalf, may request an informal conference on the form provided on the brochure, "Leaving the Nursing Facility".

(A) The request for informal conference must be mailed to the Department within 10 business days of the service or delivery of the notice. The Department shall immediately notify the licensee of the request.

(B) The Department may extend the time allowed for requesting an informal conference if the Department determines that good cause exists for failure to make a timely request.

(C) Any facility management personnel or employee involved in providing nursing or other direct care who receives any oral or written indication of a desire for an informal conference from a resident must immediately notify the facility administrator. The administrator must immediately thereupon provide notification to the Department.

(b) A resident may not be transferred after having requested an informal conference or after facility staff or the licensee has knowledge of any indication of a resident's desire for an informal conference until:

(A) Disposition of the request has been completed to the satisfaction of all parties; or

(B) Authorization for transfer is provided by a Hearings Officer pursuant to this rule.

(3) INFORMAL CONFERENCE.

(a) The Department shall hold an informal conference as promptly as reasonably possible but in no event later than 10 days after the request is received unless a later date is agreed upon by both the facility and the person or agency requesting the conference. The Department shall give telephone notice (where a telephone number is available) and send written notice of the time and place of the informal conference to the facility and all persons entitled to the notice. The purpose of the informal conference is to resolve the matter without a formal hearing. If a resolution is reached at the informal conference, the resolution shall be reduced to writing and no formal hearing shall be held.

(b) The proceedings shall be conducted at the facility where the resident is located unless an alternate site is agreed upon by both the licensee and the person or agency requesting the informal conference.

(c) If at the end of an informal conference the licensee wishes to proceed with the transfer, the Department shall ask if the resident or any person or agency representing the resident wishes to request a hearing.

(4) HEARING.

(a) A hearing is conducted as a contested case in accordance with the Administrative Procedures Act, ORS Chapter 183, and the rules of the Department adopted there under. Parties to the hearing must be the resident (or former resident) and the licensee. The Hearings Officer is delegated the authority to issue the final order and shall do so.

(b) If, pursuant to section (3) of this rule, the Department receives (orally or in writing) a request for a hearing, the Department shall set the date, time, and place of the hearing as promptly as possible. Unless a later date is agreed upon by both the licensee and the person requesting the hearing, the hearing must be held no later than 30 days after the informal conference.

(c) An expedited hearing must be conducted in the case of an involuntary transfer under OAR 411-088-0020(1)(f) (Termination of Nursing Facility Operations).

(A) To request an expedited hearing, the resident or any agency or person designated to act on the resident's behalf must verbally request or

ADMINISTRATIVE RULES

submit a completed and signed Hearing Request form. The request for an expedited hearing must be received by the Department within 10 business days after an informal conference.

(B) The Department may extend the time allowed for requesting an expedited hearing if the Department determines that good cause exists for failure to make a timely request.

(C) An expedited hearing shall be conducted within 5 business days of request. The final order shall be issued within 48 hours following the hearing.

(d) Nothing herein shall be construed to prohibit, at the election of the Department and with the consent of all interested parties, a hearing immediately following an informal conference.

(e) The Department shall provide all persons and entities listed in OAR 411-088-0070(3) and the licensee with notification of a hearing. The hearing notification shall be served on the parties personally or by registered or certified mail.

(f) At the hearing, the facility must proceed first by presentation of evidence in support of the transfer of the resident or of refusal to provide right of return or readmission of the former resident. The person requesting the hearing must follow the facility by presentation of evidence in support of their objection to the transfer or of the request of right of return or readmission.

(A) In a hearing concerning right of readmission, the only questions raised shall be whether the application was timely, whether the former resident is eligible by means of payment, and whether another person was or is entitled to the bed.

(B) In a hearing concerning right of return, the only questions raised shall be whether full payment is or was available for the period of hospital stay and whether there was authority under OAR 411-088-0050(2) for another person to be given the bed.

(C) In a hearing concerning involuntary transfer under OAR 411-088-0020(1)(f) as a result of termination of nursing facility operations, the only question raised shall be whether the proposed transition plan meets the requirements described in OAR 411-085-0025(2)(d).

(g) The licensee has the burden of establishing that the transfer or denial of return or readmission is permitted by law.

(h) The Hearings Officer shall, in determining the appropriateness and timeliness of an involuntary transfer or a refusal of return or readmission, consider factors including but not limited to the factors listed in OAR 411-088-0030. The Hearings Officer may not approve a transfer:

(A) For medical or welfare reasons (under OAR 411-088-0020(1)(a) through (d)) if the risks of physical or emotional trauma significantly outweighs the risk to the resident or to other residents if no transfer were to occur; or

(B) For any other reason if the transfer presents a substantial risk of morbidity or mortality to the resident.

(i) **CONCLUSION OF HEARING.** The hearing is concluded by the issuance of findings and an order:

(A) Affirming the transfer of the refusal to provide right of return or readmission;

(B) Granting conditional approval of a transfer when necessary or appropriate for the welfare of the resident. Conditions may include without limitation the occurrence of any or all of the following incidents in preparation for a transfer:

(i) Selecting a location for the resident to be placed consistent with the resident's need for care and as consistent as possible with the resident's ties with friends and family, if any;

(ii) Soliciting and encouraging participation of the resident's friends and family in preparing the resident for transfer;

(iii) Visits by the resident to the proposed site of relocation prior to the actual transfer, accompanied by a person with whom the resident is familiar and comfortable, unless the resident is already familiar with the proposed site;

(iv) Arranging at the proposed site of relocation for continuation (as much as possible) of activities and routines with which the resident has become familiar; and

(v) Ensuring that the resident is afforded continuity in the arrangement of an access to personal items significant to the resident.

(C) Ordering the licensee to retain the resident, readmit the former resident if the resident has been transferred, or provide the former resident with the right of return or readmission;

(D) Ordering the licensee to retain the resident and establishing standards of behavior for family members or other visitors necessary for the welfare of residents; or

(E) Making such further provisions as are reasonably necessary to give full force and effect to any order that a licensee retain or readmit the resident or provide the resident the right of return or readmission.

(j) If the Department approves a transfer subject to one or more conditions pursuant to this rule, the transfer may not occur until the licensee has notified the person requesting the hearing and certified to the Department in writing that all of such conditions have been complied with and the Department has acknowledged to the licensee in writing the receipt and sufficiency of such certification. The Department may, upon request, allow verbal certification and give verbal acknowledgement subject to subsequent certification and acknowledgement in writing.

(5) EXCEPTIONS.

(a) A resident who is to be involuntarily transferred or refused the right of return or readmission as a result of governmental action pursuant to OAR 411-088-0020(1)(b) or (e) is not entitled to a hearing prior to transfer.

(b) A resident who is to be involuntarily transferred as a result of termination of nursing facility operations pursuant to OAR 411-088-0020(1)(f) is entitled to an informal conference and hearing regarding the resident's proposed transition plan but not regarding transfer from the facility that is terminating operations.

Stat. Auth.: ORS 410.070 & 441.055

Stats. Implemented: ORS 441.055, 441.600 & 441.615

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93; APD 5-2014, f. 3-31-14, cert. ef. 4-1-14

411-089-0030

Civil Penalties

(1) **CONSIDERATIONS.** In determining the amount of a civil penalty the Department shall consider:

(a) Any prior violations of statute or rule by the facility or licensee that relates to operation of a nursing facility;

(b) The financial benefits, if any, realized by the facility as a result of the violation, such as costs avoided as a result of not having obtained sufficient staffing, equipment, or supplies;

(c) The gravity of the violation, including the actual and potential threat to health, safety, and well-being of residents, the duration of the threat or number or times the threat occurred, and the number of residents threatened;

(d) The severity of the actual or potential harm caused by the violation, including whether the actual or potential harm included loss of life or serious physical or emotional injury;

(e) The facility's history of correcting violations and preventing recurrence of violations; and

(f) Exhibit 89-1, Civil Penalty Chart, which is incorporated by reference and is a part of this rule.

(2) **SINGLE VIOLATION CIVIL PENALTIES.** Violations of any requirement within any part of the following statutes, rules, or sections of the following rules are a violation that may result in a civil penalty after a single occurrence.

(a) Violations involving direct resident care, feeding, or sanitation involving direct resident care, including any violation of:

(A) OAR 411-085-0060 (Specialty Nursing Facilities);

(B) OAR 411-085-0200(2) (Facility Employees);

(C) OAR 411-085-0210 to 411-085-0220 (Facility Policies, Quality Assurance);

(D) OAR 411-085-0360 (Abuse);

(E) OAR 411-086-0010 to 411-086-0020 (Administrator, Director of Nursing Services);

(F) OAR 411-086-0040 (except section (3)) (Admission of Residents);

(G) OAR 411-086-0050 to 411-086-0060 (Day Care, Assessment, and Care Plan);

(H) OAR 411-086-0110 to 411-086-0150 (Nursing Services);

(I) OAR 411-086-0200 to 411-086-0260 (Physician, Dental, Rehabilitative, Activity, Social, Dietary, and Pharmaceutical Services);

(J) OAR 411-086-0300 (except section (6)) (Clinical Records);

(K) OAR 411-086-0310 to 411-086-0360 (Employee Orientation and Training, Disaster Preparation, Infection Control, Smoking, Furnishings, and Equipment);

(L) OAR 411-087-0100(1)(a) & (c) (Repair and Cleanliness); or

(M) OAR 411-087-0440 (Alarm and Nurse Call Systems).

(b) Violation involving failure to provide staff-to-resident ratio, including any violation of:

(A) OAR 411-086-0030 (except section (1)) (RN Care Manager); or

(B) OAR 411-086-0100 (Nursing Staffing).

(c) Violation of any rule adopted pursuant to ORS 441.610, including:

ADMINISTRATIVE RULES

- (A) OAR 411-085-0300 to 411-085-0350 (Resident Rights);
 - (B) OAR 411-086-0040(3) (Advance Directives);
 - (C) OAR 411-086-0300(6) (Record Retention); or
 - (D) OAR chapter 411, division 088 (Rights Regarding Transfers).
- (d) Violation of ORS 441.605 (Resident Rights) or any general or final order of the Department.

(3) CIVIL PENALTIES REQUIRING REPEAT VIOLATIONS. Violation of any Department rule not listed in section (2) of this rule is subject to a civil penalty under the following circumstances:

- (a) Such violation is determined to exist on two consecutive surveys, inspections, or visits; and
- (b) The Department prescribed a reasonable time for elimination of the violation at the time of, or subsequent to, the first citation.

(4) AMOUNT OF CIVIL PENALTY.

(a) Violation of any requirement or order listed in section (2) of this rule is subject to a civil penalty of not more than \$500 for each day the violation occurs, unless otherwise provided by this section;

(b) Violation of any requirement listed in section (3) of this rule is subject to a civil penalty of not more than \$500 per violation, unless otherwise provided by this section;

(c) Violation involving resident abuse that resulted in serious injury or death is subject to a civil penalty of not less than \$500 nor more than \$1,000, or as otherwise required by federal law (ORS 441.995(3) and 441.715(1)(c));

(d) The Department shall impose a civil penalty of not less than \$2,500 for each occurrence of substantiated abuse that resulted in the death, serious injury, rape, or sexual abuse of a resident. The civil penalty may not exceed \$15,000 in any 90-day period.

(A) To impose this civil penalty, the Department shall establish that:

(i) The abuse arose from deliberate or other than accidental action or inaction;

(ii) The conduct resulting in the abuse was likely to cause death, serious injury, rape, or sexual abuse of a resident; and

(iii) The person substantiated for the abuse had a duty of care toward the resident.

(B) For the purposes of this civil penalty, the following definitions apply:

(i) "Serious injury" means a physical injury that creates a substantial risk of death or that causes serious disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

(ii) "Rape" means rape in the first, second, or third degree as described in ORS 163.355, 163.365, and 163.375.

(iii) "Sexual abuse" means any form of nonconsensual sexual contact, including but not limited to unwanted or inappropriate touching, sodomy, sexual coercion, sexually explicit photographing, or sexual harassment. The sexual contact must be in the form of any touching of the sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the actor for the purpose of arousing or gratifying the sexual desire of either party.

(iv) "Other than accidental" means failure on the part of the licensee, or licensee's employees, agents, or volunteers for whose conduct licensee is responsible, to comply with applicable Oregon Administrative Rules.

(5) ADMINISTRATOR SANCTIONS — NURSING FACILITY CLOSURES. Any individual who is or was the administrator of a facility and fails or failed to comply with the requirements at OAR 411-085-0025(2)(d)(e)(f)(h), 411-085-0025(3)(a) or 411-088-0070(1)(g), (3)(d) or (4):

(a) Are subject to a civil monetary penalty as follows:

- (A) A minimum of \$500 for the first offense;
- (B) A minimum of \$1,500 for the second offense; and
- (C) A minimum of \$3,000 for the third and subsequent offenses;

(b) May be subject to exclusion from participation in any Federal health care program as defined in section 1128B(f) of the Patient Protection and Affordable Care Act; and

(c) Are subject to any other penalties that may be prescribed by law.

(6) PAYMENT TO BE CONSIDERED ADMISSION OF VIOLATION. Unless the Department agrees otherwise, for purposes of history of the facility, any payment of a civil penalty is treated by the Department as a violation of the statutes or rules alleged in the civil penalty notice for which the civil penalty was paid for.

(7) All penalties recovered are deposited in the Quality Care Fund.

(8) NOTICE. The Department's notice of its intent to impose a civil penalty shall include the statements set out in OAR 411-089-0040(3)(a)-(f) and shall also include a statement that if the licensee fails to request a hearing

within 10 days of the date the notice was mailed, the licensee shall have waived the right to a hearing.

(9) HEARING REQUEST.

(a) If the Department issues a notice of intent to impose a civil penalty, the licensee is entitled to a hearing in accordance with ORS chapter 183.

(b) A request for a hearing must be in writing and must be received by the Department within 10 days of the date the notice of intent to impose a civil penalty was mailed to the licensee. The hearing request must include an admission or denial of each factual matter alleged in the notice and must affirmatively allege a short plain statement of each relevant affirmative defense the licensee may have. The Department may extend the time allowed for submission of the admission or denial and affirmative defenses for up to 30 calendar days.

(10) DEFAULT ORDER. If a hearing is not timely requested or if the licensee withdraws a hearing request or fails to appear at a scheduled hearing, the Department may enter a final order by default imposing the civil penalty. In the event of a default, the Department's file on the subject of the civil penalty automatically becomes a part of the record for purposes of proving the Department's prima facie case.

EXHIBIT 89-1 Civil Penalty Chart

I. RANGE OF CIVIL PENALTIES.

A. Abuse: ORS 441.715(1)(c) — \$250–\$15,000.

B. Abuse: ORS 441.995(3) — \$500–\$1,000.

C. Injury, Serious1 — \$500–\$1,000.

D. Injury, Moderate2 — \$300–\$500.

E. Injury, Minor3 — \$100–\$300.

F. Injury, Potential — \$100–\$300.

G. Other — \$100–\$500.

a. Involuntary seclusion.

b. Corporal punishment.

c. Verbal abuse.

d. Financial abuse (consider amount taken/expended).

e. Emotional abuse.

f. Loss of dignity.

II. MODIFIERS (The history for the 24 months prior to the incident is used to determine whether penalty is assessed at the upper or lower penalty ranges listed above).

A. Citation of "related problem"⁴ through survey, complaint investigation, or letter (increases penalty).

B. Civil penalty issues for "related problem" (increases penalty).

C. Facility history of preventing, correcting other violations. If the Department determines the licensee took significant action to correct "related problem," the Department may waive part or all of the modifier (IIA & IIB).

D. Facility history relating to current violation. The Department may increase the penalty if the facility fails to correct the situation or eliminate the threat after being made aware of the situation or incident. Decrease or suspend penalty after evaluating facility response to incident and efforts to eliminate recurrence.

E. Extended duration. If the Department determines the licensee or facility staff had opportunity to correct the deficiency after it first occurred but action was delayed, the Department may either increase the civil penalty by up to 100% or issue the civil penalty on a "per day" basis.

F. Facility Financial Benefit. The Department may increase the base civil penalty or the modifier based upon the Department's estimate of the cost savings to the facility.

G. Complaint is self-reported (reduces penalty).

H. Multiple residents: Potential or actual injury (increases penalty).

1 Serious injury means permanent physical injury that creates a substantial risk of death or that causes serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of any bodily organ.

2 Moderate Injury means an injury, which would ordinarily be temporary loss of functioning in a typical person or illness or pain lasting more than 24 hours, even if controlled by medication.

3 Minor injury means an injury resulting in temporary discomfort or pain, treated in-house, including medication or treatment or bed rest for short duration, ordinarily not more than 24-48 hours.

4 Related problem means the same staff or resident involved or the same rule, same harm, or same underlying cause.

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

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

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93; SSD 1-1995, f. 1-30-95, cert. ef. 2-1-95; SPD 24-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 11-2010, f. 6-30-10, cert. ef. 7-1-10; APD 5-2014, f. 3-31-14, cert. ef. 4-1-14

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

Adm. Order No.: APD 6-2014

Filed with Sec. of State: 3-31-2014

Certified to be Effective: 4-1-14

Notice Publication Date: 3-1-2014

Rules Amended: 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

Rules Repealed: 411-050-0640(T)

Subject: The Department of Human Services (Department) is permanently amending the following rules in OAR chapter 411, divi-

ADMINISTRATIVE RULES

sion 050 for the licensure of adult foster homes for adults who are older or adults with physical disabilities:

ORAR 411-050-0602: Creates a new tool for adult foster home licensees called “floating resident manager.”

ORAR 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.

ORAR 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.

ORAR 411-050-0630: Requires a floating resident manager to meet the classification requirements of the home as a licensee or resident manager.

ORAR 411-050-0640: Limits the financial information required at the time of license renewal.

ORAR 411-050-0642: Clarifies that a variance may not be granted for the minimum age or training requirements of a floating resident manager.

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

Rules Coordinator: Kimberly Colkitt-Hallman—(503) 945-6398

411-050-0602

Definitions

Unless the context indicates otherwise, the following definitions apply to the rules in ORAR chapter 411, division 050:

(1) “AAA” means an Area Agency on Aging, which is an established public agency within a planning and service area designated under Section 305 of the Older Americans Act that has responsibility for local administration of programs within the Department of Human Services. For the purpose of these rules, Type B AAAs contract with the Department to perform specific activities in relation to licensing adult foster homes including processing applications, conducting inspections and investigations, issuing licenses, and making recommendations to the Department regarding adult foster home license denial, revocation, suspension, non-renewal, and civil penalties.

(2) “Abuse” means abuse as defined in ORAR 411-020-0002 (Adult Protective Services).

(3) “Activities of Daily Living (ADL)” mean the personal, functional activities defined in ORAR 411-015-0006 (Long-term Care Service Priorities for Individuals Served) required by an individual for continued well-being, which are essential for health and safety.

(4) “Adult Foster Home (AFH)” means any family home or other facility in which residential care is provided in a home-like environment for compensation to five or fewer adults who are not related to the licensee, resident manager, or floating resident manager, by blood, marriage, or adoption and who are 65 years of age or older or an adult with a physical disability. For the purpose of these rules, adult foster home does not include any house, institution, hotel, or other similar living situation that supplies room or board only, if no resident thereof requires any element of care. “Facility” and “Home” are synonymous with “Adult Foster Home”.

(5) “Advance Directive” or “Advance Directive for Health Care” means the legal document signed by a resident that provides health care instructions in the event the resident is no longer able to give directions regarding his or her wishes. The directive gives the resident the means to control his or her own health care in any circumstance. “Advance Directive for Health Care” does not include Physician Orders for Life-Sustaining Treatment (POLST).

(6) “Applicant” means a person who completes an application for an adult foster home license or who completes an application to become a resident manager, floating resident manager, or shift caregiver. “Applicant” is synonymous with “Co-applicant”.

(7) “Background Check” means a criminal records check and abuse check as defined in ORAR 407-007-0210 (Criminal Records and Abuse Check for Providers).

(8) “Back-Up Provider” means a licensee, approved resident manager, or approved floating resident manager who does not live in the home, who has agreed to oversee the operation of an adult foster home, of the same license classification or level, in the event of an emergency.

(9) “Behavioral Interventions” mean those interventions that modify a resident’s behavior or a resident’s environment.

(10) “Board of Nursing Rules” means the standards for Registered Nurse Teaching and Delegation to Unlicensed Persons according to the statutes and rules of the Oregon State Board of Nursing, ORS 678.010 to 678.445 and ORAR chapter 851, division 047.

(11) “Care” means the provision of assistance with activities of daily living to promote a resident’s maximum independence and enhance the resident’s quality of life. Care includes, but is not limited to, assistance with bathing, dressing, grooming, eating, money management, recreation, and medication management excluding assistance with self-medication.

(12) “Caregiver” means any person responsible for providing care and services to residents, including the licensee, resident manager, floating resident manager, shift caregivers, and any temporary, substitute, or supplemental staff or other person designated to provide care and services to residents.

(13) “Care Plan” means a licensee’s written description of a resident’s needs, preferences, and capabilities, including by whom, when, and how often care and services are to be provided.

(14) “Centers for Medicare and Medicaid Services (CMS)” means the federal agency within the United States Department of Health and Human Services responsible for the administration of Medicaid and the Health Insurance Portability and Accountability Act (HIPAA).

(15) “Classification” means a designation of license assigned to a licensee based on the qualifications of the licensee, resident manager, floating resident manager, and shift caregivers, as applicable.

(16) “Co-Applicant” is synonymous with “Applicant” as defined in this rule.

(17) “Co-Licensee” is synonymous with “Licensee” as defined in this rule.

(18) “Compensation” means monetary or in-kind payments by or on behalf of a resident to a licensee in exchange for room, board, care, and services. Compensation does not include the voluntary sharing of expenses between or among roommates.

(19) “Complaint” means an allegation of abuse, a violation of these rules, or an expression of dissatisfaction relating to a resident or the condition of an adult foster home.

(20) “Condition” means a provision attached to a new or existing license that limits or restricts the scope of the license or imposes additional requirements on the licensee.

(21) “Consumer” means an individual eligible for Medicaid services for whom case management services are provided by the Department.

(22) “Criminal Records and Abuse Check Rules” refers to ORAR 407-007-0200 to 407-007-0370.

ADMINISTRATIVE RULES

(23) "Day Care" means care, assistance, and supervision of an individual who does not stay overnight.

(24) "Delegation" means the process by which a registered nurse teaches and supervises a skilled nursing task.

(25) "Department" means the Department of Human Services.

(26) "Director" means the Director of the Department of Human Services or that person's designee.

(27) "Disability" means a physical, cognitive, or emotional impairment which, for an individual, constitutes or results in a functional limitation in one or more activities of daily living.

(28) "Disaster" means a sudden emergency occurrence beyond the control of the licensee, whether natural, technological, or man-made that renders the licensee unable to operate the facility or renders the facility uninhabitable on a temporary, extended, or permanent basis.

(29) "Emergency Preparedness Plan" means a written procedure that identifies a facility's response to an emergency or disaster for the purpose of minimizing loss of life, mitigating trauma, and to the extent possible, maintaining services for residents and preventing or reducing property loss.

(30) "Entity" means an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies, and insurance companies), a state, or a political subdivision or instrumentality, including a municipal corporation.

(31) "Exempt Area" means a county where there is a county agency that provides similar programs for licensing and inspection of adult foster homes that the Director finds are equal to or superior to the requirements of ORS 443.705 to 443.825 and that the Director has exempted from the license, inspection, and fee provisions of 443.705 to 443.825. Exempt area county licensing rules require review and approval by the Director prior to implementation.

(32) "Facility" is synonymous with "Adult Foster Home" as defined in this rule.

(33) "Family Member" means husband or wife, natural parent, child, sibling, adopted child, adoptive parent, adoptive sibling, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, aunt, uncle, niece, nephew, or first cousin.

(34) "Final Point of Safety" means a designated assembly area located on a public sidewalk or street not less than 50 feet away from an adult foster home where occupants of the home evacuate to in the event of an emergency.

(35) "Floating Resident Manager" means an employee of the licensee approved by the local licensing authority, who under the direction of the licensee, is directly responsible for the care of residents in one or more adult foster homes owned by that licensee. A floating resident manager is not required to live in any one adult foster home owned by his or her employer except on a temporary basis, as directed by the licensee, when the regularly scheduled caregiver is unavailable.

(36) "Home" means the physical structure in which residents live. "Home" is synonymous with "Adult Foster Home" as defined in this rule.

(37) "Home-like" means an environment that promotes the dignity, security, and comfort of residents through the provision of personalized care and services, and encourages independence, choice, and decision-making by the residents.

(38) "House Policies" means the written and posted statements addressing house activities in an adult foster home.

(39) "Indirect Ownership Interest" means an ownership interest in an entity that has an ownership interest in the disclosing entity. Indirect ownership interest includes an ownership interest in any entity that has an indirect ownership interest in the disclosing entity.

(40) "Initial Point of Safety" means a designated area that has unobstructed direct access to a public sidewalk or street located not less than 25 feet away from an adult foster home where occupants of the home evacuate to in the event of an emergency and for the purpose of conducting evacuation drills.

(41) "Investigative Authority" means the Office of Adult Abuse Prevention and Investigation, local Department offices, and Area Agencies on Aging that contract with the Department to provide adult protective services to adults who are older or adults with physical, mental, or developmental disabilities.

(42) "Legal Representative" means a person who has the legal authority to act for a resident.

(a) For health care decisions, the legal representative is a court-appointed guardian, a health care representative under an Advance Directive for Health Care, or a power of attorney for health care.

(b) For financial decisions, the legal representative is a legal conservator, an agent under a power of attorney, or a representative payee.

(43) "Level" means the designation of ventilator-assisted care assigned to an adult foster home license based on the qualifications of the licensee, resident manager, floating resident manager, and shift caregivers, as applicable.

(44) "Licensed Health Care Professional" means a person who possesses a professional medical license that is valid in Oregon. Examples include but are not limited to a registered nurse (RN), nurse practitioner (NP), licensed practical nurse (LPN), medical doctor (MD), osteopathic physician (DO), respiratory therapist (RT), physical therapist (PT), physician assistant (PA), or occupational therapist (OT).

(45) "Licensee" means the person who was issued a license, whose name is on the license, and who is responsible for the operation of an adult foster home. The licensee of the adult foster home does not include the owner or lessor of the building in which the adult foster home is situated unless the owner or lessor of the building is also the operator.

(46) "Limited Adult Foster Home" means a home that provides care and services for compensation to a specific individual who is unrelated to the licensee but with whom the licensee has an established relationship of no less than one year.

(47) "Liquid Resource" means cash or those assets that may readily be converted to cash such as a life insurance policy that has a cash value, stock certificates, or a guaranteed line of credit from a financial institution.

(48) "Local Licensing Authority" means the local Department offices and Area Agencies on Aging that contract with the Department to perform specific functions of the adult foster home licensing process.

(49) "Nursing Care" means the practice of nursing by a licensed nurse, including tasks and functions relating to the provision of nursing care that are taught or delegated under specified conditions by a registered nurse to a person other than licensed nursing personnel, as governed by ORS chapter 678 and rules adopted by the Oregon State Board of Nursing in OAR chapter 851.

(50) "Occupant" means any person residing in or using the facilities of an adult foster home including residents, licensees, resident manager, friends or family members, day care individuals, and room and board tenants. A floating resident manager who resides in an adult foster home on a temporary basis is considered an occupant.

(51) "Older" means any person at least 65 years of age.

(52) "Ombudsman" means the Oregon Long-Term Care Ombudsman or a designee appointed by the Long-Term Care Ombudsman to serve as a representative of the Ombudsman Program in order to investigate and resolve complaints on behalf of adult foster home residents.

(53) "Operator" is synonymous with "Licensee" as defined in this rule.

(54) "Ownership Interest" means the possession of equity in the capital, stock, or profits of an adult foster home. Persons with an ownership or control interest mean a person or corporation that:

(a) Has an ownership interest totaling 5 percent or more in a disclosing entity;

(b) Has an indirect ownership interest equal to 5 percent or more in a disclosing entity;

(c) Has a combination of direct and indirect ownership interests equal to 5 percent or more in a disclosing entity;

(d) Owns an interest of 5 percent or more in any mortgage, deed of trust, note, or other obligation secured by the disclosing entity if that interest equals at least 5 percent of the value of the property or assets of the disclosing entity;

(e) Is an officer or director of a disclosing entity that is organized as a corporation; or

(f) Is a partner in a disclosing entity that is organized as a partnership.

(55) "Physical Restraint" means any manual method or physical or mechanical device, material, or equipment attached to, or adjacent to, a resident's body that the resident may not easily remove and that restricts freedom of movement or normal access to his or her body. Physical restraints include but are not limited to wrist or leg restraints, soft ties or vests, hand mitts, wheelchair safety bars, lap trays, and any chair that prevents rising (such as a Geri-chair). Side rails (bed rails) are considered restraints when they are used to prevent a resident from getting out of a bed. The side rail is not considered a restraint when a resident requests a side rail for the purpose of assistance with turning.

(56) "Prescribing Practitioner" means a physician, nurse practitioner, physician assistant, chiropractor, dentist, ophthalmologist, or other health-care practitioner with prescribing authority.

ADMINISTRATIVE RULES

(57) "Primary Caregiver" means a qualified licensee or resident manager, who lives in the home, personally provides care and services, and ensures the health and safety of residents a minimum of five consecutive days per week. More than one person who meets this criteria may be considered a primary caregiver as specified below:

(a) Co-licensees working three and four consecutive days and nights per week;

(b) Two approved resident managers working three and four consecutive days and nights per week; or

(c) A licensee and an approved resident manager working three and four consecutive days and nights per week.

(58) "P.R.N. (pro re nata)" means those medications and treatments that have been ordered by a qualified practitioner to be administered as needed.

(59) "Provider" means any person operating an adult foster home (i.e., licensee, resident manager, floating resident manager, or shift caregiver). "Provider" does not include substitute caregivers or the owner or lessor of the building in which the adult foster home is situated unless the owner or lessor is also the operator of the adult foster home.

(60) "Provisional License" means a 60-day license issued in an emergency situation when a licensed provider is no longer overseeing the operation of an adult foster home. A provisional license is issued to a qualified person who meets the standards of OAR 411-050-0625 and 411-050-0630 except for completing the training and testing requirements. (See 411-050-0635)

(61) "Psychoactive Medications" mean various medications used to alter mood, anxiety, behavior, or cognitive processes. For the purpose of these rules, psychoactive medications include but are not limited to antipsychotics, sedatives, hypnotics, and anti-anxiety medications.

(62) "Qualified Entity Initiator (QEI)" has the meaning set forth in OAR 407-007-0210 (Criminal Records and Abuse Checks for Providers).

(63) "Relative" means those persons identified as family members as defined in this rule.

(64) "Reside" means for a person to live in an adult foster home for a permanent or extended period of time. For the purpose of a background check, a person is considered to reside in a home if the person's visit is four weeks or greater.

(65) "Resident" means an adult who is older or an adult with a physical disability who is receiving room and board and care and services for compensation in an adult foster home on a 24-hour day basis.

(66) "Resident Manager" means an employee of the licensee, approved by the local licensing authority, who lives in the adult foster home and is directly responsible for the care of the residents.

(67) "Resident Rights" or "Rights" means civil, legal, or human rights including but not limited to those rights listed in the Adult Foster Home Residents' Bill of Rights. (See ORS 443.739 and OAR 411-050-0655)

(68) "Residential Care" means the provision of care on a 24-hour day basis.

(69) "Room and Board" means receiving compensation for the provision of meals, a place to sleep, laundry, and housekeeping to adults who are older or adults with physical disabilities and who do not need assistance with activities of daily living. Room and board facilities for two or more persons are required to register with the Department under the rules in OAR chapter 411, division 068, unless registered with the local authority having jurisdiction. Adult foster homes with room and board tenants are not subject to OAR chapter 411, division 068.

(70) "Screening" means the evaluation process used to identify an individual's ability to perform activities of daily living and address health and safety concerns.

(71) "Self-Administration of Medication" means the act of a resident placing a medication in or on his or her own body. The resident identifies the medication, the time and manner of administration, and places the medication internally or externally on his or her own body without assistance.

(72) "Self-Preservation" in relation to fire and life safety means the ability of a resident to respond to an alarm without additional cues and reach a point of safety without assistance.

(73) "Services" mean activities that help the residents develop skills to increase or maintain their level of functioning or assist the residents to perform personal care, activities of daily living, or individual social activities.

(74) "Shift Caregivers" mean caregivers who, by written variance of the local licensing authority, are responsible for providing care for regularly scheduled periods of time, such as 8 or 12 hours per day, in homes where there is no licensee or resident manager living in the home.

(75) "Subject Individual" means:

(a) Any person 16 years of age or older including:

(A) All licensed adult foster home providers and provider applicants;

(B) All persons intending to work in or currently working in an adult foster home including but not limited to direct caregivers and individuals in training;

(C) Volunteers if allowed unsupervised access to residents; and

(D) Occupants, excluding residents, residing in or on the premises of the proposed or currently licensed adult foster home including:

(i) Household members;

(ii) Room and board tenants; and

(iii) Persons visiting for four weeks or greater.

(b) "Subject Individual" does not apply to:

(A) Residents of the adult foster home or the residents' visitors;

(B) A person who lives or works on the adult foster home premises who does not:

(i) Have regular access to the home for meals;

(ii) Have regular use of the adult foster home's appliances or facilities; or

(iii) Have unsupervised access to the residents or the residents' personal property.

(C) A person providing services to the residents that is employed by a private business not regulated by the Department.

(76) "Substantial Compliance" means a level of compliance with these rules where any deficiencies pose no greater risk to resident health or safety than the potential for causing minor harm.

(77) "Substitute Caregiver" means any person other than the licensee, resident manager, floating resident manager, or shift caregiver who provides care and services in an adult foster home under the jurisdiction of the Department.

(78) "Tenant" means any individual who is residing in an adult foster home who receives services such as meal preparation, laundry, and housekeeping.

(79) "These Rules" mean the rules in OAR chapter 411, division 050.

(80) "Variance" means an exception from a regulation or provision of these rules in accordance with OAR 411-050-0642.

(81) "Ventilator Assisted Care" means the provision of mechanical assistance to replace spontaneous breathing. Devices used include but are not limited to, mechanical ventilators, manual ventilators, and positive airway pressure ventilators.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, & 443.790

Stats. Implemented: ORS 443.001 to 443.004, 443.705 to 443.825, 443.875, & 443.991

Hist.: SSD 14-1985, f. 12-31-85, ef. 1-1-86; SSD 11-1988, f. 10-18-88, cert. ef. 11-1-88; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1996, f. 3-29-96, cert. ef. 4-1-96; SDSL 4-2001, f. & cert. ef. 3-1-01; SPD 31-2006, f. 12-27-06, cert. ef. 1-1-07; SPD 22-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 9-2010, f. 6-30-10, cert. ef. 7-1-10; Renumbered from 411-050-0400, SPD 33-2013, f. 8-30-13, cert. ef. 9-1-13; APD 6-2014, f. 3-31-14, cert. ef. 4-1-14

411-050-0610

Initial License Application and Fees

(1) The applicant must complete the Department's application form for the specific type of license requested and submit the application form to the local licensing authority with the non-refundable fee.

(a) The application is not complete until all of the required information is submitted to the local licensing authority. Incomplete applications are void after 60 calendar days from the date the local licensing authority receives the application form and non-refundable fee and the Department shall deny the application if not withdrawn.

(b) Failure to provide accurate information may result in the denial of the application.

(2) A separate application is required for each location where an adult foster home is to be operated.

(3) The license application must include:

(a) Complete contact information for the applicant including:

(A) A mailing address if different from the proposed adult foster home; and

(B) A business address for electronic mail.

(b) Verification of attendance at a Department-approved orientation program conducted by the local licensing authority responsible for the licensing of the proposed adult foster home and successful completion of the Department's Ensuring Quality Care Course and examination. (See OAR 411-050-0625);

(c) The maximum resident capacity requested;

(d) Identification of:

(A) Any relatives needing care;

(B) The maximum number of any room and board tenants;

(C) The maximum number of day care individuals; and

ADMINISTRATIVE RULES

(D) The names of any other occupants in the home.

(e) The classification being requested with information and supporting documentation regarding qualifications, relevant work experience, and training of staff as required by the Department. To request a Class 3 license, the license application must include:

(A) Proof of at least three years of full time experience providing direct care to adults who are older or adults with physical disabilities and who required full assistance in four or more of activities of daily living; and

(B) Current contact information from at least two licensed health care professionals who have direct knowledge of the applicant's abilities and past experience as a caregiver; or

(C) A copy of the applicant's current license as a health care professional in Oregon, if applicable.

(f) A Health History and Physician or Nurse Practitioner's Statement (form SDS 903) regarding the applicant's ability to provide care;

(g) FINANCIAL INFORMATION. A completed Financial Information Sheet (form SDS 448A).

(A) An applicant must have the financial ability and maintain sufficient liquid resources to pay the operating costs of an adult foster home for at least two months without solely relying on potential resident income.

(B) Documentation of two months of liquid resources must include:

(i) The Department's current Verification of Financial Resources form (SDS 0448F) completed and stamped or notarized by the applicant's financial institution; or

(ii) Documentation on letterhead of the applicant's financial institution, which includes:

(I) The last four digits of the applicant's account number;

(II) The name of the account holder and, if the account is not in the applicant's name, verification the applicant has access to the account's funds;

(III) The highest and lowest balances for each of the most recent three full months; and

(IV) The number of any non-sufficient fund (NSF) payments in each of the last three full months, if any; or

(iii) Demonstration of cash on hand equal to a minimum of two months of operating expenses.

(C) If an applicant uses income from another adult foster home to document possession of at least two months of operating expenses, the applicant must demonstrate the financial ability and maintain sufficient liquid resources to pay the operating costs of each home for at least two months without solely relying on potential resident income.

(h) If the home is leased or rented, a copy of the completed lease or rental agreement. The agreement must be a standard lease or rental agreement for residential use and include the following:

(A) The owner and landlord's name;

(B) Verification that the rent is a flat rate; and

(C) The signatures of the landlord and applicant and the date signed;

(i) If the applicant is purchasing or owns the home, verification of purchase or ownership;

(j) Documentation of the initiation of a background check or a copy of an approved background check for each subject individual as defined in OAR 411-050-0602;

(k) A current and accurate floor plan that indicates:

(A) The size of rooms;

(B) Which bedrooms are to be used by residents, the licensee, caregivers, for day care, and room and board tenants, as applicable;

(C) The location of all the exits on each level of the home, including emergency exits such as windows;

(D) The location of any wheelchair ramps;

(E) The location of all fire extinguishers, smoke alarms, and carbon monoxide alarms;

(F) The planned evacuation routes, initial point of safety, and final point of safety; and

(G) Any designated smoking areas in or on the adult foster home premises.

(l) If requesting a license to operate more than one home, a plan covering administrative responsibilities and staffing qualifications for each home;

(m) A \$20 per bed non-refundable fee for each non-relative resident;

(n) Three personal references for the applicant who are not family members as defined in OAR 411-050-0602. Current or potential licensees and co-workers of current or potential licensees are not eligible as personal references;

(o) If the applicant intends to use a resident manager, floating resident manager, or shift caregivers, the Department's supplemental application (form SDS 448B) completed by the applicant, as appropriate; and

(p) Written information describing the operational plan for the adult foster home including:

(A) The use of substitute caregivers and other staff;

(B) A plan of coverage for the absence of the primary caregiver; and

(C) The name of a qualified back-up provider, approved resident manager, or approved floating resident manager who does not live in the home but has been oriented to the home. The applicant must also submit a signed agreement with the listed back-up provider and maintain a copy in the facility records.

(4) After receipt of the completed application materials including the non-refundable fee, the local licensing authority must investigate the information submitted including pertinent information received from outside sources, inspect the home, and conduct a personal interview with the applicant.

(5) The Department shall deny the issuance of a license if cited violations from the home inspection are not corrected within the time frames specified by the local licensing authority.

(6) The applicant may withdraw his or her application at any time during the application process by written notification to the local licensing authority.

(7) An applicant whose license has been revoked, non-renewed, voluntarily surrendered during a revocation or non-renewal process, or whose application for licensure has been denied, shall not be granted a new license by the local licensing authority for a period of not less than one year from the date the action was final, or for a longer period if specified in the final order.

(8) All moneys collected under ORS 443.725 to 443.825 are paid to the Quality Care Fund.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, & 443.790

Stats. Implemented: ORS 443.001 to 443.004, 443.705 to 443.825, 443.875, & 443.991

Hist.: SSD 14-1985, f. 12-31-85, ef. 1-1-86; SSD 11-1988, f. 10-18-88, cert. ef. 11-1-88; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1996, f. 3-29-96, cert. ef. 4-1-96; SSD 4-2001, f. & cert. ef. 3-1-01; SPD 31-2006, f. 12-27-06, cert. ef. 1-1-07; SPD 22-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 9-2010, f. 6-30-10, cert. ef. 7-1-10; Renumbered from 411-050-0410, SPD 33-2013, f. 8-30-13, cert. ef. 9-1-13; APD 6-2014, f. 3-31-14, cert. ef. 4-1-14

411-050-0625

Qualification and Training Requirements

(1) APPLICANT AND LICENSEE QUALIFICATIONS. An adult foster home applicant and licensee must meet and maintain the requirements specified in this section. An adult foster home applicant and licensee must:

(a) Live in the home that is to be licensed at least five days and nights per week and function as the primary caregiver as defined in OAR 411-050-0602 unless:

(A) There is, or shall be upon licensure, an approved resident manager who lives in the home and works five consecutive days and nights per week as the primary caregiver; or

(B) There is, or shall be upon licensure, two approved primary caregivers who live in the home and work three and four consecutive days and nights per week respectively; or

(C) A variance for shift caregivers has been granted according to section (5) of this rule.

(b) Subsections (a)(A), (B), and (C) of this section are not intended to prohibit the occasional and temporary absence of the primary caregiver from the adult foster home;

(c) Be at least 21 years of age;

(d) Possess physical health, mental health, good judgment, and good personal character, including truthfulness, determined necessary by the Department to provide 24-hour care for adults who are older or adults with physical disabilities. An applicant and licensee must have a statement from a physician, nurse practitioner, or physician assistant indicating that the applicant or licensee is physically, cognitively, and emotionally capable of providing care to residents. An applicant or licensee with documented history or substantiated complaints of substance abuse or mental illness must provide evidence satisfactory to the Department of successful treatment, rehabilitation, or references regarding current condition;

(e) Have an approved background check annually in accordance with OAR 411-050-0620 and maintain that approval as required;

(f) Be literate in the English language and demonstrate the ability to comprehend and communicate in English orally and in writing with the residents and the residents' family members or representatives, emergency personnel (e.g., emergency operator, law enforcement, paramedics, and fire

ADMINISTRATIVE RULES

fighters), licensed health care professionals, case managers, Department and local licensing authority staff, and others involved in the care of the residents;

(g) Be able to respond appropriately to emergency situations at all times;

(h) Have a clear understanding of his or her responsibilities, knowledge of the residents' care plans, and the ability to provide the care specified for each resident; and

(i) Not be listed on the Office of Inspector General's or General Services Administration's Exclusion Lists.

(2) APPLICANT AND LICENSEE TRAINING REQUIREMENTS.

(a) Applicants and licensees must have the education, experience, and training to meet the requirements of the requested classification of the home (See OAR 411-050-0630).

(b) A potential applicant or applicant must complete the following training requirements prior to obtaining a license:

(A) Attend a Department-approved orientation program conducted by the local licensing authority responsible for the licensing of the proposed adult foster home;

(B) Attend the Department's Ensuring Quality Care Course and pass the examination to meet application requirements for licensure;

(i) Potential applicants and applicants who fail the first examination may take the examination a second time, however successful completion of the examination must take place within 90 calendar days of the end of the Department's Ensuring Quality Care Course.

(ii) Potential applicants and applicants who fail a second examination must retake the Department's Ensuring Quality Care Course prior to repeating the examination.

(C) Comply with the Department's September 6, 2012 student policies for the Department's Ensuring Quality Care Course; and

(D) Have current CPR and First Aid certification.

(i) Accepted CPR and First Aid courses must be provided or endorsed by the American Heart Association, the American Red Cross, the American Safety and Health Institute, or MEDIC First Aid.

(ii) CPR or First Aid courses conducted online are only accepted by the Department when an in-person skills competency check is conducted by a qualified instructor endorsed by the American Heart Association, the American Red Cross, the American Safety and Health Institute, or MEDIC First Aid.

(3) FINANCIAL REQUIREMENTS. A licensee applicant and licensee must have the financial ability and maintain sufficient liquid resources to pay the operating costs of the adult foster home for at least two months without solely relying on potential resident income.

(a) If an initial license applicant is unable to demonstrate the financial ability and resources required by this section, the Department may require the applicant to furnish a financial guarantee such as a line of credit or guaranteed loan to fulfill the requirements of this rule.

(b) If at any time there is reason to believe an applicant or licensee may not have sufficient financial resources to operate the home in compliance with these rules, the local licensing authority may request additional documentation, which may include verification of the applicant's or licensee's ability to readily access the requested funds. Circumstances that may prompt the request of additional financial information include but are not limited to reports of insufficient food, inadequate heat, or failure to pay employees, utilities, rent, or mortgage. Additional documentation of financial resources may include but is not limited to:

(A) The Department's Verification of Financial Resources form (SDS 0448F) completed and stamped or notarized by the applicant's or licensee's financial institution; or

(B) Documentation on letterhead of the applicant's or licensee's financial institution that includes:

(i) The last four digits of the applicant's or licensee's account number;

(ii) The name of the account holder, and if the account is not in the applicant's or licensee's name, verification the applicant or licensee has access to the account's funds;

(iii) The highest and lowest balances for each of the most recent three full months;

(iv) The number of any non-sufficient fund (NSF) payments in each of the last three full months, if any; and

(v) Signature of the banking institution's representative completing the form and date; or

(C) Demonstration of cash on hand equal to a minimum of two months of operating expenses.

(c) The local licensing authority must request the least information necessary to verify compliance with this section.

(4) RESIDENT MANAGER REQUIREMENTS. A resident manager must live in the home as specified in section (1)(a) of this rule and function as the primary caregiver under the licensee's supervision. A resident manager must meet and maintain the qualification and training requirements specified in sections (1)(a) through (2)(b)(D) of this rule. The local licensing authority shall verify that all the requirements of these rules have been satisfied prior to approval of a resident manager.

(5) FLOATING RESIDENT MANAGER REQUIREMENTS.

(a) A floating resident manager must meet and maintain the qualification and training requirements specified in sections (1)(a) through (2)(b)(D) of this rule except as indicated in (5)(b) of this rule.

(b) If the licensee has one or more homes within the jurisdiction of more than one local licensing authority, a currently approved floating resident manager is not required to complete the Department-approved orientation in more than one licensing authority's jurisdiction. This exception does not prohibit the local licensing authority within an exempt area from requiring the floating resident manager applicant to attend the local licensing authority's orientation.

(c) The floating resident manager must be oriented to each home prior to providing resident care in each home. Documentation of orientation to every home the floating resident manager works in must be available within each home as stated in section (7)(a)-(j) of this rule.

(d) Facility records in each of the homes in which a floating resident manager is assigned to work must maintain proof that the floating resident manager has a current and approved background check.

(e) A floating resident manager may not be used in lieu of a shift caregiver except on temporary basis when the regular shift caregiver is unavailable due to circumstances such as illness, vacation, or termination of employment.

(6) SHIFT CAREGIVER REQUIREMENTS.

(a) Shift caregivers may be used in lieu of a resident manager if granted a written variance by the local licensing authority. Use of shift caregivers detracts from the intent of a home-like environment but may be allowed for specific resident populations. The type of residents served must be a specialized population with intense care needs such as those with Alzheimer's Disease, AIDS, or head injuries. If shift caregivers are used, each shift caregiver must meet or exceed the experience and training qualifications for the license classification requested.

(b) Shift caregivers must meet and maintain the qualification and training requirements specified in sections (1)(b) through (2)(b)(D) of this rule. The local licensing authority shall verify that all the requirements of these rules have been satisfied prior to approval of a shift caregiver.

(7) CAREGIVER ORIENTATION. Prior to providing care to any resident, a resident manager, floating resident manager, and shift caregiver must be oriented to the home and to the residents by the licensee. Orientation must be clearly documented in the facility records. Orientation includes but is not limited to:

(a) Location of any fire extinguishers;

(b) Demonstration of evacuation procedures;

(c) Instruction of the emergency preparedness plan;

(d) Location of resident records;

(e) Location of telephone numbers for the residents' physicians, the licensee, and other emergency contacts;

(f) Location of medications and key for medication cabinet;

(g) Introduction to residents;

(h) Instructions for caring for each resident;

(i) Delegation by a registered nurse for nursing tasks if applicable; and

(j) Policies and procedures related to Advance Directives. (See OAR 411-050-0645)

(8) EMPLOYMENT APPLICATION. An application for employment in any capacity in an adult foster home must include a question asking whether the person applying for employment has been found to have committed abuse. Employment applications must be retained for at least three years. (See OAR 411-050-0645)

(9) EXCLUSION VERIFICATION. A licensee must verify that the resident manager and shift caregivers are not listed on either the Office of Inspector General's (<http://oig.hhs.gov>) or the General Services Administration's (<https://www.sam.gov>) Exclusion Lists prior to the resident manager or shift caregivers working or training in the home. Verification must be clearly documented in the facility records. (See also 411-050-0625(11)(h))

(10) TRAINING WITHIN FIRST YEAR OF INITIAL LICENSING OR APPROVAL. Within the first year of obtaining an initial license or approval, the licensee, resident manager, floating resident manager, and

ADMINISTRATIVE RULES

shift caregivers must complete the Six Rights of Safe Medication Administration and a Fire and Life Safety training as available. The Department or local licensing authority and the Office of the State Fire Marshal or the local fire prevention authority may coordinate the Fire and Life Safety training program.

(11) ANNUAL TRAINING REQUIREMENTS.

(a) Each year after initial licensure, the licensee, resident manager, floating resident manager, and shift caregivers must complete at least 12 hours of Department-approved training related to the care of adults who are older or adults with physical disabilities in an adult foster home setting. Up to four of those hours may be related to the business operation of the adult foster home.

(b) A licensee, resident manager, floating resident manager, and shift caregivers, as applicable, must maintain CPR certification.

(c) Registered nurse delegation or consultation, CPR certification and First Aid training, Ensuring Quality Care Course (not including EQC refresher courses), adult foster home orientation, Ventilator Assisted Care Course and skills competency checks, or consultation with an accountant do not count toward the required 12 hours of annual training.

(12) **SUBSTITUTE CAREGIVER REQUIREMENTS.** A substitute caregiver left in charge of the residents for any period of time, may not be a resident, and must at a minimum, meet the following qualifications prior to working or training in the home:

(a) Be at least 18 years of age;

(b) Have an approved background check annually in accordance with OAR 411-050-0620 and maintain that approval as required;

(c) Be literate in the English language and demonstrate the ability to comprehend and communicate in English orally and in writing with the residents and the residents' family members and representatives, emergency personnel (e.g., emergency operator, law enforcement, paramedics, and fire fighters), licensed health care professionals, case managers, Department and local licensing authority staff, and others involved in the care of the residents;

(d) Be able to respond appropriately to emergency situations at all times;

(e) Have a clear understanding of his or her responsibilities, have knowledge of the residents' care plans, and be able to provide the care specified for each resident including appropriate delegation or consultation by a registered nurse;

(f) Possess physical health, mental health, good judgment, and good personal character, including truthfulness, determined necessary by the Department to provide care for adults who are older or adults with physical disabilities, as determined by reference checks and other sources of information;

(g) Have current CPR and First Aid certification within 30 calendar days of the start of employment.

(A) Accepted CPR and First Aid courses must be provided by or endorsed by the American Heart Association, the American Red Cross, the American Safety and Health Institute, or MEDIC First Aid.

(B) CPR or First Aid courses conducted online are only accepted by the Department when an in-person skills competency check is conducted by a qualified instructor endorsed by the American Heart Association, the American Red Cross, the American Safety and Health Institute, or MEDIC First Aid.

(h) Not be listed on the Office of Inspector General's or General Services Administration's Exclusion Lists. Licensees must verify the substitute caregiver is not listed on either the Office of Inspector General's (oig.hhs.gov) or the General Services Administration's (www.sam.gov) Exclusion Lists prior to the substitute caregiver working or training in the home. Verification must be clearly documented in the facility records.

(13) TRAINING REQUIREMENTS FOR SUBSTITUTE CAREGIVERS.

(a) A substitute caregiver must be oriented to the home and to the residents by the licensee or resident manager prior to the provision of care to any residents. Orientation includes, but is not limited to:

(A) Location of any fire extinguishers;

(B) Demonstration of evacuation procedures;

(C) Instruction of the emergency preparedness plan;

(D) Location of resident records;

(E) Location of telephone numbers for the residents' physicians, the licensee, and other emergency contacts;

(F) Location of medications and key for medication cabinet;

(G) Introduction to residents;

(H) Instructions for caring for each resident;

(I) Delegation by a registered nurse for nursing tasks if applicable; and

(J) Education on the policies and procedures related to Advance Directives. (See OAR 411-050-0645)

(b) A substitute caregiver must complete the Department's Caregiver Preparatory Training Study Guide (DHS 9030) and Workbook (DHS 9030-W) and receive instruction in specific care responsibilities from the licensee, resident manager, or floating resident manager prior to working or training in the home. The Workbook must be completed by the substitute caregiver without the help of any others. The Workbook is considered part of the required orientation to the home and residents.

(A) The local licensing authority may grant a variance to the Caregiver Preparatory Training Study Guide and Workbook requirement for a substitute caregiver who:

(i) Holds a current Oregon license as a health care professional such as a physician, nurse practitioner, physician assistant, registered nurse, or licensed practical nurse; and

(ii) Who demonstrates the ability to provide adequate care to residents based on similar training or at least one year of experience providing direct care to adults who are older or adults with physical disabilities.

(B) A certified nursing assistant (CNA) or certified medical assistant (CMA) must complete the Caregiver Preparatory Training Study Guide and Workbook and have a certificate of completion signed by the licensee.

(c) A substitute caregiver routinely left in charge of an adult foster home for any period that exceeds 48 continuous hours is required to meet the education, experience, and training requirements of a resident manager as specified in this rule. A licensee may not leave a substitute caregiver or concurrent substitute caregivers routinely in charge of the home for any period that exceeds 48 continuous hours within one calendar week. This requirement is not intended to prevent a qualified substitute caregiver from providing relief care in the absence of the primary caregiver, such as for a one or two week vacation. In such an event, the licensee must arrange for the qualified back-up provider to be available as needed.

(14) If a licensee has demonstrated non-compliance with one or more of these rules, the Department may require by condition additional training in the deficient area.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, & 443.790

Stats. Implemented: ORS 443.001 to 443.004, 443.705 to 443.825, 443.875, & 443.991

Hist.: SSD 14-1985, f. 12-31-85, ef. 1-1-86; SSD 11-1988, f. 10-18-88, cert. ef. 11-1-88; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1995, f. & cert. ef. 3-15-95; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1996, f. 3-29-96, cert. ef. 4-1-96; SDSD 4-2001, f. & cert. ef. 3-1-01; SPD 31-2006, f. 12-27-06, cert. ef. 1-1-07; SPD 22-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 9-2010, f. 6-30-10, cert. ef. 7-1-10; Renumbered from 411-050-0440, SPD 33-2013, f. 8-30-13, cert. ef. 9-1-13; APD 6-2014, f. 3-31-14, cert. ef. 4-1-14

411-050-0630

Classification of Adult Foster Homes

(1) The local licensing authority shall issue a Class 1, Class 2, or Class 3 adult foster home license only if the qualifications of the applicant, resident manager, floating resident manager, and shift caregivers, as applicable, fulfill the classification requirements of these rules.

(a) After receipt of the completed application materials, including the non-refundable fee, the local licensing authority must investigate the information submitted including any pertinent information received from outside sources.

(b) The local licensing authority shall not issue a license if unsatisfactory references or a history of substantial non-compliance of the applicant within the last 24 months is verified.

(c) The local licensing authority may issue a Class 1 license if the applicant and resident manager, as applicable, complete the training requirements outlined in OAR 411-050-0625;

(d) The local licensing authority may issue a Class 2 license if the applicant, resident manager, and floating resident manager, as applicable, complete the requirements outlined in OAR 411-050-0625. In addition, these caregivers must each have the equivalent of two years of full time experience providing direct care to adults who are older or adults with physical disabilities;

(e) The local licensing authority may issue a Class 3 license if the applicant, resident manager, floating resident manager, and shift caregivers, as applicable, complete the training requirements outlined in OAR 411-050-0625 and have a current license as a health care professional in Oregon or possess the following qualifications:

(A) Have the equivalent of three years of full time experience providing direct care to adults who are older or adults with physical disabilities and who require full assistance in four or more activities of daily living; and

ADMINISTRATIVE RULES

(B) Have references satisfactory to the Department. The applicant must submit current contact information from at least two licensed health care professionals who have direct knowledge of the applicant's ability and past experience as a caregiver.

(2) The Department may approve a licensee to care for residents requiring ventilator-assisted care. The licensee, resident manager, floating resident manager, or shift caregivers, as applicable, must meet the criteria for a Class 3 home according to section (1)(e) of this rule and comply with the additional requirements for adult foster homes serving residents requiring ventilator assisted care outlined in OAR 411-050-0660.

(3) To change the classification of a licensed home, the licensee must complete a new initial application and submit the application form to the local licensing authority as outlined in OAR 411-050-0610.

(4) A licensee may only admit or continue to care for residents whose impairment levels are within the classification of the licensed home.

(a) A licensee with a Class 1 license may only admit residents who require assistance in no more than four activities of daily living.

(b) A licensee with a Class 2 license may provide care for residents who require assistance in all activities of daily living, but require full assistance in no more than three activities of daily living.

(c) A licensee with a Class 3 license may provide care for residents who require full assistance in four or more activities of daily living, but only one resident who requires bed-care or full assistance with all activities of daily living.

(5) A licensee must request, in writing, a variance from the local licensing authority if:

(a) A new resident wishes to be admitted whose impairment level exceeds the license classification;

(b) A current resident becomes more impaired, exceeding the license classification; or

(c) There is more than one resident in the home who requires full bed-care or full assistance with all activities of daily living not including cognition or behavior.

(6) The local licensing authority may grant a variance that allows the resident to be admitted or remain in the adult foster home. The local licensing authority must respond in writing within 30 calendar days after receipt of the licensee's written variance request. The licensee must prove the following criteria are met by clear and convincing evidence that:

(a) It is the choice of the resident to reside in the home;

(b) The licensee is able to provide appropriate care and service to the resident in addition to meeting the care and service needs of the other residents;

(c) Additional staff is hired to meet the additional care requirements of all residents in the home as necessary;

(d) Outside resources are available and obtained to meet the resident's care needs;

(e) The variance shall not jeopardize the care, health, safety, or welfare of the residents; and

(f) The licensee is able to demonstrate how all occupants shall be safely evacuated in three minutes or less.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, & 443.790

Stats. Implemented: ORS 443.001 to 443.004, 443.705 to 443.825, 443.875, & 443.991
Hist.: SSD 14-1985, f. 12-31-85, ef. 1-1-86; SSD 11-1988, f. 10-18-88, cert. ef. 11-1-88; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1995, f. & cert. ef. 3-15-95; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1996, f. 3-29-96, cert. ef. 4-1-96; SDSD 4-2001, f. & cert. ef. 3-1-01; SPD 31-2006, f. 12-27-06, cert. ef. 1-1-07; SPD 22-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 9-2010, f. 6-30-10, cert. ef. 7-1-10; Renumbered from 411-050-0443, SPD 33-2013, f. 8-30-13, cert. ef. 9-1-13; APD 6-2014, f. 3-31-14, cert. ef. 4-1-14

411-050-0640

Renewal Application and Fees

(1) At least 60 calendar days prior to the expiration of a license, the local licensing authority must send a reminder notice and renewal application to the licensed provider. The local licensing authority must investigate any information in the renewal application and conduct an unannounced inspection of the adult foster home prior to the license renewal.

(2) A separate application is required for each location where an adult foster home is to be operated.

(3) RENEWAL APPLICATION REQUIREMENTS. To renew an adult foster home license, the licensee must complete the Department's Renewal Application form (SDS 448C) and submit the form to the local licensing authority with the non-refundable fee prior to the expiration date of the current license. Timely submission of the renewal application and non-refundable fee shall keep the license in effect until the local licensing authority or the Department takes action.

(a) The renewal application is not complete until all of the required application information is submitted to the local licensing authority.

(b) A renewal application remaining incomplete at the time of license expiration or failure to provide accurate information on the renewal application shall result in the denial of the application.

(4) The license renewal application must include:

(a) Complete contact information for the licensee including:

(A) A mailing address if different from the adult foster home; and

(B) A business address for electronic mail, if applicable.

(b) The maximum resident capacity;

(c) Identification of:

(A) Any relatives needing care;

(B) The maximum number of any room and board tenants;

(C) The maximum number of day care individuals; and

(D) The names of any other occupants in the home.

(d) A Health History and Physician or Nurse Practitioners' Statement (form SDS 0903). The Health History and Physician or Nurse Practitioners' Statement must be updated every third year or sooner if there is reasonable cause for health concerns;

(e) FINANCIAL INFORMATION FOR THE HOME'S FIRST LICENSE RENEWAL. A completed Financial Information Worksheet (form SDS 0448A) demonstrating the financial ability to maintain sufficient liquid resources to pay the home's operating costs for at least two months;

(f) If the home is leased or rented, a copy of the current signed and dated lease or rental agreement. The agreement must be a standard lease or rental agreement for residential use and include the following:

(A) The owner and landlord's name;

(B) Verification that the rent is a flat rate; and

(C) Signatures and date signed by the landlord and applicant, as applicable;

(g) Documentation of a current approved background check for each subject individual as described in OAR 411-050-0620;

(h) Identification of any structural changes to the home that have occurred since the last approved application was submitted to the local licensing authority. If there has been a structural change to the home, the licensee must submit copies of all required permits and a current and accurate floor plan that indicates:

(A) The size of rooms;

(B) Which bedrooms are to be used by residents, the licensee, caregivers, for day care, and room and board tenants, as applicable;

(C) The location of all the exits on each level of the home, including emergency exits such as windows;

(D) The location of any wheelchair ramps;

(E) The location of all fire extinguishers, smoke alarms, and carbon monoxide alarms;

(F) The planned evacuation routes, initial point of safety, and final point of safety; and

(G) Any designated smoking areas in or on the adult foster home's premises.

(i) A \$20 per bed non-refundable fee for each non-relative resident;

(j) If the licensee intends to use a resident manager, floating resident manager, or shift caregivers, the Department's supplemental application (form SDS 448B) completed by the applicant or applicants, as appropriate;

(k) Written information describing the operational plan for the adult foster home including:

(A) The use of substitute caregivers and other staff;

(B) A plan of coverage for the absence of the resident manager or the shift caregivers, if applicable; and

(C) The name of a qualified back-up licensee, approved resident manager, or floating resident manager who does not live in the home but has been oriented to the home. The licensee must submit a signed agreement with the listed back-up provider annually and maintain a copy in the facility records.

(l) Proof of required continuing education credits as specified in OAR 411-050-0625.

(5) LATE RENEWAL REQUIREMENTS (UNLICENSED ADULT FOSTER HOME). The home shall be treated as an unlicensed facility, subject to civil penalties, if the required renewal information and fee are not submitted to the local licensing authority prior to the license expiration date and residents remain in the home. (See OAR 411-050-0685)

(6) The local licensing authority shall provide the licensee a copy of the Department's inspection report, (form SDS 517A and, if applicable, form SDS 517B) citing any violations and specifying a time frame for correction. The time frame for correction of violations may not exceed 30 calendar days from the date of inspection.

ADMINISTRATIVE RULES

(7) The Department shall deny a renewal application if cited violations are not corrected within the time frame specified by the local licensing authority.

(8) The local licensing authority shall not renew a license unless the following requirements are met:

(a) The applicant and the adult foster home are in compliance with ORS 443.705 to 443.825 and these rules, including any applicable conditions and other final orders of the Department;

(b) The local licensing authority has completed an inspection of the adult foster home;

(c) The Department has completed a background check in accordance with OAR 411-050-0620;

(d) The local licensing authority has reviewed the record of sanctions available from the local licensing authority's files;

(e) The local licensing authority has determined that the nursing assistant registry maintained under 42 CFR 483.156 contains no finding that the licensee or any nursing assistant employed by the licensee has been responsible for abuse; and

(f) The local licensing authority has determined the licensee is not listed on the Office of Inspector General's and General Services Administration's Exclusion Lists.

(9) In seeking the renewal of a license when an adult foster home has been licensed for less than 24 months, the burden of proof to establish compliance with ORS 443.705 to 443.825 and these rules is upon the licensee.

(10) In seeking the renewal of a license when an adult foster home has been licensed for 24 or more continuous months, the burden of proof to establish noncompliance with ORS 443.705 to 443.825 and these rules is upon the Department.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, & 443.790

Stats. Implemented: ORS 443.001 to 443.004, 443.705 to 443.825, 443.875, & 443.991
Hist.: SSD 14-1985, f. 12-31-85, ef. 1-1-86; SSD 11-1988, f. 10-18-88, cert. ef. 11-1-88; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1996, f. 3-29-96, cert. ef. 4-1-96; SDSA 4-2001, f. & cert. ef. 3-1-01; SPD 31-2006, f. 12-27-06, cert. ef. 1-1-07; SPD 9-2007, f. 6-27-07, cert. ef. 7-1-07; SPD 22-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 9-2010, f. 6-30-10, cert. ef. 7-1-10; Renumbered from 411-050-0420, SPD 33-2013, f. 8-30-13, cert. ef. 9-1-13; SPD 42-2013(Temp), f. & cert. ef. 10-16-13 thru 4-13-14; APD 6-2014, f. 3-31-14, cert. ef. 4-1-14

411-050-0642

Variances

(1) An applicant or licensee may request a variance to the provisions of these rules. The variance request must be in writing and must include clear and convincing evidence that:

(a) The requested variance does not jeopardize the care, health, welfare, or safety of the residents and all of the residents' needs shall be met; and

(b) All residents, in addition to other occupants in the home, may be evacuated in three minutes or less.

(2) VARIANCES NOT ALLOWED. Notwithstanding section (1) of this rule, no variance shall be granted by the local licensing authority from a regulation or provision of these rules pertaining to:

(a) Resident capacity as described in OAR 411-050-0632;

(b) Minimum age of licensee and any caregivers as described in OAR 411-050-0625;

(c) The training requirements of a licensee and all other caregivers except as allowed for provisional licenses as described in OAR 411-050-0635, or when a substitute caregiver holds an Oregon health care professional license as described in 411-050-0625;

(d) Standards and practices for care and services as described in OAR 411-050-0655);

(e) Inspections of the facility as described in OAR 411-050-0670; or

(f) Background checks as described in OAR 411-050-0620.

(3) The local licensing authority shall not grant a variance request to any rule that is inconsistent with Oregon Revised Statutes.

(4) The local licensing authority shall not grant a variance request related to fire and life safety without prior consultation with the Department.

(5) In making a determination to grant a variance, the local licensing authority must consider the licensee's history of compliance with rules governing adult foster homes or other long-term care facilities for adults who are older or adults with physical disabilities in Oregon and any other jurisdiction, if appropriate. The local licensing authority must determine that the variance is consistent with the intent and purpose of these rules prior to granting the variance. (See OAR 411-050-0600) The local licensing authority must respond in writing within 30 days of receiving a request for a variance. The written response must include the frequency of renewal.

(6) A variance is not effective until granted in writing by the local licensing authority. Variances are reviewed pursuant to these rules. If applicable, the licensee must re-apply for a variance at the time of license renewal or more often if determined necessary by the local licensing authority.

(7) In seeking a variance, the burden of proof that the requirements of these rules have been met is upon the applicant or licensee.

(8) If a variance to any provision of these rules is denied, the applicant or licensee may request a meeting with the local licensing authority.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, & 443.790

Stats. Implemented: ORS 443.001 to 443.004, 443.705 to 443.825, 443.875, & 443.991
Hist.: SSD 14-1985, f. 12-31-85, ef. 1-1-86; SSD 11-1988, f. 10-18-88, cert. ef. 11-1-88; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1996, f. 3-29-96, cert. ef. 4-1-96; SDSA 4-2001, f. & cert. ef. 3-1-01; SPD 31-2006, f. 12-27-06, cert. ef. 1-1-07; SPD 9-2010, f. 6-30-10, cert. ef. 7-1-10; Renumbered from 411-050-0442, SPD 33-2013, f. 8-30-13, cert. ef. 9-1-13; APD 6-2014, f. 3-31-14, cert. ef. 4-1-14

411-050-0645

Operational Standards

(1) GENERAL PRACTICES.

(a) A licensee must own, rent, or lease the home to be licensed, however the local licensing authority may grant a variance to churches, hospitals, non-profit associations, or similar organizations. If a licensee rents or leases the premises where the adult foster home is located, the licensee may not enter into a contract that requires anything other than a flat rate for the lease or rental. A licensed provider of a building in which an adult foster home is located may not allow the owner, landlord, or lessor to interfere with the admission, transfer, or voluntary or involuntary move of any resident in the adult foster home unless the owner, landlord, or lessor is named on the license.

(b) Each adult foster home must meet:

(A) All applicable local business license, zoning, building, and housing codes;

(B) The Fair Housing Act; and

(C) State and local fire and safety regulations for a single-family residence.

(c) ZONING. Adult foster homes are subject to applicable sections of ORS 197.660 to 197.670.

(d) COOPERATION AND ACCESS. The licensee must cooperate with the Department, Centers for Medicare and Medicaid Services (CMS), and local licensing and investigative personnel in inspections, complaint investigations, planning for resident care, application procedures, and other necessary activities.

(A) Department, CMS, local licensing, and investigative personnel must be provided access to all resident and facility records and may conduct private interviews with residents.

(B) The State Long-Term Care Ombudsman must be provided access to all resident and facility records. Deputy Ombudsman and Certified Ombudsman Volunteers must be provided access to facility records and, with written permission from the resident or the resident's legal representative, may have access to resident records. (See OAR 114-005-0030)

(e) CONFIDENTIALITY. Information related to residents must be kept confidential, except as may be necessary in the planning or provision of care or medical treatment, or related to an inspection, investigation, or sanction action under these rules.

(f) TRANSPORTATION. A licensee must arrange for or provide appropriate transportation for residents when needed.

(g) STAFFING STANDARDS. The licensee must have qualified caregivers, including awake caregivers as necessary, sufficient in number to meet the 24-hour needs of each resident in addition to caring for any children or relatives beyond the license capacity of the adult foster home.

(A) A licensee may not employ a resident manager, floating resident manager, or shift caregiver who does not meet or exceed the qualifications, training, and classification standards for the adult foster home as described in OAR 411-050-0625 and 411-050-0630; and

(B) A licensee may not employ or allow any caregiver to train or work in the home who is on the Office of Inspector General's or General Services Administration's Exclusion Lists.

(h) ABSENCE OF A PRIMARY CAREGIVER. If a primary caregiver is absent from the home for 10 days or more, the licensee must notify the local licensing authority in writing at least seven days prior to the primary caregiver's absence or immediately upon knowing. Notification must state the reason for and anticipated length of the absence. The licensee must also submit a staffing plan to the local licensing authority, signed by the backup provider, demonstrating coverage that meets the needs of the residents during the primary caregiver's absence.

ADMINISTRATIVE RULES

(i) **CHANGE OF PRIMARY CAREGIVER.** If a primary caregiver changes during the period the license covers, the licensee must notify the local licensing authority within 24 hours and identify who is providing care.

(A) If a licensee assumes the role as the primary caregiver or shift caregiver when there has been a change in primary caregiver, the licensee must submit an updated plan of 24-hour coverage to the local licensing authority within seven days.

(B) If a resident manager, floating resident manager, or shift caregiver changes, the licensee must submit a request for a change of resident manager, floating resident manager, or shift caregiver as applicable, to the local licensing authority along with:

(i) The Department's supplemental application form (SDS 448B) completed by the resident manager applicant, floating resident manager applicant, or shift caregiver applicant;

(ii) A completed Health History and Physician or Nurse Practitioner's Statement (form SDS 903) for the new applicant;

(iii) Documentation of the initiation of or a copy of an approved background check; and

(iv) A \$10 non-refundable fee.

(C) When there is a change in primary caregiver, an approved floating resident manager may assume the responsibilities of the live-in, primary caregiver until a new primary caregiver is employed. If a new primary caregiver is not employed within 60 calendar days, the floating resident manager must be designated as the home's resident manager and the licensee must notify the local licensing authority of the change in status.

(D) The local licensing authority shall issue a revised license when there is a change in a primary caregiver who is identified on the license.

(j) **UNEXPECTED AND URGENT STAFFING NEED.** If the local licensing authority determines an unexpected and urgent staffing need exists, the local licensing authority may authorize a person who has not completed the Department's current Ensuring Quality Care Course and passed the current examination to act as a resident manager or shift caregiver until training and testing are completed, or for 60 calendar days, whichever period is shorter. The licensee must notify the local licensing authority of the unexpected and urgent staffing need in writing and satisfactorily demonstrate:

(A) The licensee's inability to live in the home and act as the primary caregiver;

(B) The licensee's inability to find a qualified resident manager or shift caregiver as applicable; and

(C) The proposed staff person is 21 years of age and meets the requirements of a substitute caregiver for the adult foster home as described in OAR 411-050-0625 and 411-050-0630.

(k) **RESPONSIBILITY.** A licensee is responsible for the supervision, training, and overall conduct of all caregivers, family members, and friends when acting within the scope of their employment, duties, or when present in the home.

(l) **SEXUAL RELATIONS.** Sexual relations between residents and any employee of the adult foster home, licensee, or any member of the licensee's household or family is prohibited unless a pre-existing relationship existed.

(m) **COMMUNICATION.**

(A) Applicants for an initial license must obtain and provide to the local licensing authority a current, active business address for electronic mail prior to obtaining a license.

(B) A licensee must notify the local licensing authority within 24 hours upon a change in the home's business address for electronic mail;

(C) A licensee must notify the local licensing authority, the residents and the resident's family members, legal representatives, and case managers, as applicable, of any change in the telephone number for the licensee or the adult foster home within 24 hours of the change.

(D) A licensee must notify the local licensing authority in writing prior to any change of the licensee's residence or mailing address.

(2) **SALE OR LEASE OF EXISTING ADULT FOSTER HOMES AND TRANSFER OF LICENSES.**

(a) A license is not transferable and does not apply to any location or person other than the location and the person indicated on the license obtained from the local licensing authority.

(b) The licensee must inform real estate agents, prospective buyers, lessees, and transferees in all written communication including advertising and disclosure statements that the license to operate the adult foster home is not transferable and the licensee must refer them to the local licensing authority for information about licensing.

(c) When a home is to be sold or otherwise transferred or conveyed to another person who intends to operate the home as an adult foster home,

that person must apply for and obtain a license from the local licensing authority prior to the transfer of operation of the home.

(d) The licensee must promptly notify the local licensing authority in writing about the licensee's intent to close or intent to convey the adult foster home to another person. The licensee must provide written notice to the residents and the residents' representatives and case managers as applicable, according to section (13)(a) of this rule.

(e) The licensee must inform a person intending to assume operation of an existing adult foster home that the residents currently residing in the home must be given at least 30 calendar days' written notice of the licensee's intent to close the adult foster home for the purpose of conveying the home to another person.

(f) The licensee must remain licensed and responsible for the operation of the home and care of the residents in accordance with these rules until the home is closed and the residents have been relocated, or the home is conveyed to a new licensee who is licensed by the local licensing authority at a level appropriate to the care needs of the residents in the home.

(3) **FORECLOSURE.**

(a) A licensee must provide written notification to the local licensing authority within 10 calendar days after receipt of any notice of default, or any notice of potential default, with respect to a real estate contract, trust deed, mortgage, or other security interest affecting any property occupied or used by the licensee.

(b) The licensee must provide a copy of the notice of default or warning of potential default to the local licensing authority.

(c) The licensee must provide written updates to the local licensing authority at least every 30 days until the default or warning of potential default has been resolved and no additional defaults or potential defaults have been declared and no additional warnings have been issued. Written updates must include:

(A) The current status on what action has been or is about to be taken by the licensee with respect to the notice received;

(B) The action demanded or threatened by the holder of the security interest; and

(C) Any other information reasonably requested by the local licensing authority.

(d) The licensee must provide written notification within 24 hours to the local licensing authority upon final resolution of the matters leading up to or encompassed by the notice of default or the notice warning of potential default.

(e) If the subject default property is licensed as an adult foster home, the licensee must provide written notification of the following within 24 hours to the local licensing authority, and all the residents and the residents' representatives, if applicable, regarding:

(A) The filing of any litigation regarding such security interest, including the filing of a bankruptcy petition by or against the licensee or an entity owning any property occupied or used by the licensee;

(B) The entry of any judgment with respect to such litigation;

(C) The passing of the date 40 days prior to any sale scheduled pursuant to the exercise of legal rights under a security interest, or a settlement or compromise related thereto, of the licensee's property or property occupied or used by the licensee; and

(D) The sale, pursuant to the exercise of legal rights under a security interest, or a settlement or compromise related thereto, of the licensee's property or property occupied or used by the licensee.

(4) **MEALS.**

(a) Three nutritious meals must be served daily at times consistent with those in the community. Each meal must include food from the basic food groups according to the United States Department of Agriculture (USDA's) My Plate and include fresh fruit and vegetables when in season.

(b) Meals must reflect consideration of a resident's preferences and cultural and ethnic background. This does not mean that the licensee must prepare multiple, unique meals for the residents at the same time.

(c) A schedule of meal times and menus for the coming week must be prepared and posted weekly in a location accessible to residents and families.

(A) Meal substitutions for scheduled menu items in compliance with section (4)(a) of this rule are acceptable and must be documented on, or attached to, the weekly menu.

(B) The licensee must maintain the weekly menus for a minimum of the 12 most recent months during which the home has conducted business.

(d) There must be no more than a 14-hour span between the evening and morning meals. (Snacks do not substitute for a meal determining the 14-hour span.) Nutritious snacks and liquids must be offered to fulfill each resident's nutritional requirements.

ADMINISTRATIVE RULES

(e) Food may not be used as an inducement to control the behavior of a resident.

(f) Home-canned foods must be processed according to the guidelines of the Oregon State University Extension Service. Freezing is the most acceptable method of food preservation. Milk must be pasteurized.

(g) Special consideration must be given to a resident with chewing difficulties and other eating limitations. Special diets must be followed as prescribed in writing by the resident's physician, nurse practitioner, or physician assistant.

(h) Adequate storage must be available to maintain food at a proper temperature, including a properly working refrigerator. Storage areas and food preparation areas must be free from food that is spoiled or expired.

(i) The household utensils, dishes, glassware, and household food may not be stored in bedrooms, bathrooms, or living areas.

(j) Meals must be prepared and served in the home where the residents live. Payment for meals eaten away from the home for the convenience of the licensee (e.g., restaurants, senior meal sites) is the responsibility of the licensee. Meals and snacks, as part of an individual recreational outing by choice, are the responsibility of the resident.

(k) Utensils, dishes, and glassware must be washed in hot soapy water, rinsed, and stored to prevent contamination. A dishwasher with a sani-cycle is recommended.

(l) Food preparation areas and equipment, including utensils and appliances, must be clean, free of offensive odors, and in good repair.

(5) TELEPHONE.

(a) The home must have a working landline and corded telephone with a listed number that is separate from any other number the home has, such as but not limited to internet or fax lines, unless the system includes features that notify the caregiver of an incoming call, or automatically switches to the appropriate mode. If a licensee has a caller identification service on the home number, the blocking feature must be disabled to allow incoming calls to be received unhindered. A licensee may have only one phone line as long as the phone line complies with the requirements of these rules. Voice over internet protocol (VoIP), voice over broadband (VoBB), or cellular telephone service may not be used in place of a landline.

(b) The licensee must make a telephone that is in good working order available and accessible for the residents use with reasonable accommodation for privacy during telephone conversations. A resident with a hearing impairment, to the extent the resident may not hear a normal telephone conversation, must be provided with a telephone that is amplified with a volume control or a telephone that is hearing aid compatible.

(c) Restrictions on the use of the telephone by the residents must be specified in the written house policies and may not violate the residents' rights. Individual restrictions must be well documented in the resident's care plan.

(6) FACILITY RECORDS.

(a) Facility records must be kept current, maintained in the adult foster home, and made available for review upon request. Facility records include but are not limited to:

(A) Proof that the licensee and all subject individuals have a background check approved by the Department as required by OAR 411-050-0620;

(B) Proof that the licensee and all other caregivers have met and maintained the minimum qualifications as required by OAR 411-050-0625 including:

(i) Proof of required continuing education. Documentation must include the date of each training, subject matter, name of agency or organization providing the training, and number of Department-approved classroom hours;

(ii) Completed certificates to document the substitute caregivers' completion of the Department's Caregiver Preparatory Training Study Guide and Workbook and to document the resident manager, floating resident manager, and shift caregivers, as applicable, completion and passing of the Department's Ensuring Quality Care Course and examination;

(iii) Documentation of orientation to the adult foster home for the resident manager, floating resident manager, shift caregivers, and substitute caregivers as applicable;

(iv) Employment applications and the names, addresses, and telephone numbers of all caregivers employed or used by the licensee; and

(v) Verification that all caregivers are not listed on the Office of Inspector General's or General Services Administration's Exclusion Lists.

(C) Copies of notices sent to the local licensing authority pertaining to changes in the resident manager, floating resident manager, shift caregiver, or other primary caregiver;

(D) Proof of required vaccinations for animals on the premises;

(E) Well water tests, if required, according to OAR 411-050-0650. Test records must be retained for a minimum of three years;

(F) Agreements and specialized contracts with the Department, copies of the adult foster home's private-pay contracts, any contracts with residents eligible for Medicaid services such as an agreement pertaining to storage fees after leaving the home, and any other contracts such as contracts with room and board tenants or individuals receiving day care services; and

(G) Records of evacuation drills according to OAR 411-050-0650, including the date, time of day, evacuation route, length of time for evacuation of all occupants, names of all residents and occupants, and which residents and occupants required assistance. The records must be kept at least three years.

(b) REQUIRED POSTED ITEMS. The following items must be posted in one location in the entryway or other equally prominent place in the home where residents, visitors, and others may easily read them:

(A) The adult foster home license;

(B) Conditions attached to the license, if any;

(C) A copy of a current floor plan meeting the requirements of OAR 411-050-0650;

(D) The Residents' Bill of Rights;

(E) The home's current house policies that have been reviewed and approved by the local licensing authority;

(F) The Department's procedure for making complaints;

(G) The Long-Term Care Ombudsman poster;

(H) The Department's inspection forms (form SDS 517A and if applicable, form SDS 517B) including how corrections were made since the last annual inspection;

(I) The Department's notice pertaining to the use of any intercoms, monitoring devices, and video cameras that may be used in the adult foster home; and

(J) A weekly menu according to section (4) of this rule.

(c) POST BY PHONE. Emergency telephone numbers including the contact number for at least one back-up provider who has agreed to respond in person in the event of an emergency and an emergency contact number for the licensee must be readily visible and posted by a central telephone in the adult foster home.

(7) RESIDENT RECORDS.

(a) An individual resident record must be developed, kept current, and readily accessible on the premises of the home for each individual admitted to the adult foster home. The record must be legible and kept in an organized manner so as to be utilized by staff. The record must contain the following information:

(A) A complete initial screening assessment and general information form (SDS 902) as described in OAR 411-050-0655;

(B) Documentation on form SDS 913 that the licensee has informed private-pay residents of the availability of a long-term care assessment;

(C) Documentation that the licensee has informed all residents of the right to formulate an Advance Directive;

(D) FINANCIAL INFORMATION:

(i) Detailed records and receipts if the licensee manages or handles a resident's money. The Resident Account Record (form SDS 713) or other expenditure forms may be used if the licensee manages or handles a resident's money. The record must show amounts and sources of funds received and issued to, or on behalf of, the resident and be initialed by the person making the entry. Receipts must document all deposits and purchases of \$5 or more made on behalf of a resident.

(ii) Contracts signed by residents or the residents' representatives may be kept in a separate file but must be made available for inspection by the local licensing authority.

(E) Medical and legal information including but not limited to:

(i) Medical history, if available;

(ii) Current prescribing practitioner orders;

(iii) Nursing instructions, delegations, and assessments as applicable;

(iv) Completed medication administration records retained for at least the last six months or from the date of admission, whichever is less. (Older records may be stored separately); and

(v) Copies of Guardianship, Conservatorship, Advance Directive for Health Care, Health Care Power of Attorney, and Physician's Order for Life Sustaining Treatment (POLST) documents, as applicable.

(F) A complete, accurate, and current care plan;

(G) A copy of the current house policies and the current Residents' Bill of Rights, signed and dated by the resident or the resident's representative;

ADMINISTRATIVE RULES

(H) **SIGNIFICANT EVENTS.** A written report (using form SDS 344 or its equivalent) of all significant incidents relating to the health or safety of the resident including how and when the incident occurred, who was involved, what action was taken by the licensee and staff, as applicable, and the outcome to the resident;

(I) **NARRATIVE OF RESIDENT'S PROGRESS.** Narrative entries describing each resident's progress must be documented at least weekly and maintained in each resident's individual record. All entries must be signed and dated by the person writing them; and

(J) Non-confidential information or correspondence pertaining to the care needs of the resident.

(b) **ACCESS TO RESIDENT RECORDS.**

(A) Resident records must be readily available at the adult foster home to residents, the residents' authorized representatives or other legally authorized persons, all caregivers working in the home, and the Department, the local licensing authority, the investigative authority, case managers, and the Centers for Medicare and Medicaid Services (CMS) for the purpose of conducting inspections or investigations.

(B) The State Long-Term Care Ombudsman must be provided access to all resident and facility records. A Deputy Ombudsman and Certified Ombudsman Volunteers must be provided access to facility records relevant to caregiving and resident records with written permission from the resident or the resident's legal representative. (See OAR 114-005-0030)

(c) **RECORD RETENTION.** Records, including any financial records for residents, must be kept for a period of three years from the date the resident left the home.

(d) **CONFIDENTIALITY.** In all other matters pertaining to confidential records and release of information, licensees must be guided by the principles and definitions described in OAR chapter 411, division 005 (Privacy of Protected Information).

(8) **HOUSE POLICIES.** House policies must be in writing and a copy given to the resident and the resident's family or representative at the time of admission and at the time the screening and assessment is conducted. A signed copy of the house policies must be obtained at the time of admission and placed in the resident's record. House policies must be consistent with the practices of the licensee, staff, occupants, and visitors of the home. House policies established by the licensee must:

(a) Include any restrictions the adult foster home may have on the use of alcohol, tobacco, pets, visiting hours, dietary restrictions, or religious preferences;

(b) Indicate the home's policy regarding the presence and use of legal marijuana on the premises;

(c) Include a schedule of meal times;

(d) Include the home's policy regarding refunds for residents eligible for Medicaid services including pro-rating partial months and if the room and board is refundable;

(e) Include a clear and precise statement of any limitation to the implementation of Advance Directives on the basis of conscience. This rule does not apply to medical professional or hospice orders for administration of medications. The statement must include:

(A) A description of conscientious objections as they apply to all occupants of the adult foster home;

(B) The legal authority permitting such objections under ORS 127.505 to 127.660; and

(C) Description of the range of medical conditions or procedures affected by the conscientious objection. (See OAR 411-050-0655)

(f) Not be in conflict with the Residents' Bill of Rights, the family atmosphere of the home, or any of these rules;

(g) Be reviewed and approved by the local licensing authority prior to the issuance of a license and prior to implementing any changes; and

(h) Be posted with the required posted items, in a location where they are easily seen and read by residents and visitors as described in section (7) of this rule.

(9) **RESIDENT MOVES AND TRANSFERS.** The Department encourages licensees to support a resident's choice to remain in his or her living environment while recognizing that some residents may no longer be appropriate for the adult foster care setting due to safety and medical limitations.

(a) If a resident moves out of an adult foster home for any reason, the licensee must submit copies of pertinent information from the resident's record to the resident's new place of residence at the time of move. Pertinent information must include at a minimum:

(A) Copies of current prescribing medical practitioner's orders for medications, current medication sheets, and an updated care plan; and

(B) Documentation of actions taken by the adult foster home staff, resident, or the resident's representative pertaining to the move or transfer.

(b) A licensee must immediately document voluntary and involuntary moves or transfers from the adult foster home in the resident's record as events take place. (See sections (11) and (12) of this rule)

(10) **VOLUNTARY MOVES AND TRANSFERS.**

(a) If a resident eligible for Medicaid services or the resident's representative gives notice of the resident's intent to leave the adult foster home, or the resident leaves the home abruptly, the licensee must promptly notify the resident's case manager.

(b) A licensee must obtain prior authorization from the resident, the resident's legal representative, and case manager, as applicable, prior to the resident's:

(A) Voluntary move from one bedroom to another in the adult foster home;

(B) Voluntary transfer from one adult foster home to another home that has a license issued to the same person; or

(C) Voluntary move to any other location.

(c) Notifications and authorizations of voluntary moves and transfers must be documented and available in the resident's record.

(d) The licensee remains responsible for the provision of care and services until the resident has moved from the home.

(11) **INVOLUNTARY MOVES AND TRANSFERS.**

(a) A resident may only be moved involuntarily to another room within the adult foster home, transferred to another adult foster home operated by the same licensee for a temporary or permanent stay, or moved from the adult foster home for the following reasons:

(A) Medical reasons. The resident has a medical or nursing condition that is complex, unstable, or unpredictable that exceeds the level of care and services the facility provides;

(B) The adult foster home is unable to accomplish evacuation of the adult foster home in accordance with OAR 411-050-0650;

(C) Welfare of the resident or other residents;

(i) The resident exhibits behavior that poses an imminent danger to self or others including acts that result in the resident's arrest or detention;

(ii) The resident engages in behavior or action that repeatedly and substantially interfere with the rights, health, or safety of the residents or others; or

(iii) The resident engages in illegal drug use or commits a criminal act that causes potential harm to the resident or others.

(D) Failure to make payment for care or failure to make payment for room and board;

(E) The adult foster home has had its license revoked, not renewed, or the license was voluntarily surrendered by the licensee;

(F) The licensee's Medicaid Provider Enrollment Agreement or specialized contract is terminated (pertains only to residents eligible for Medicaid); or

(G) The resident engages in the use of medical marijuana in violation of the home's written policies or contrary to Oregon Law under the Oregon Medical Marijuana Act, ORS 475.300 to 475.346.

(b) **MANDATORY WRITTEN NOTICE.** A resident may not be moved involuntarily from the adult foster home, or to another room within the adult foster home, or transferred to another adult foster home for a temporary or permanent stay without a minimum of 30 calendar days' written notice. The notice must be delivered in person to the resident and must be delivered in person or sent by registered or certified mail to the resident's legal representative, guardian, or conservator, and a copy must be immediately submitted to the resident's case manager, as applicable. Where a resident lacks capacity and there is no legal representative, a copy of the notice must be immediately submitted to the State Long Term Care Ombudsman. The written notice must:

(A) Be on the Department's Notice of Involuntary Move or Transfer of Resident form (SDS 901);

(B) Be completed by the licensee; and

(C) Include the following information:

(i) The resident's name;

(ii) The reason for the proposed move or transfer including the specific reasons the facility is unable to meet the resident's needs;

(iii) The date of the proposed change;

(iv) The location to which the resident is going, if known;

(v) A notice of the right to hold an informal conference and hearing;

(vi) The name, address, and telephone number of the person giving the notice; and

(vii) The date the notice is issued.

ADMINISTRATIVE RULES

(c) **LESS THAN 30 DAYS' WRITTEN NOTICE.** A licensee may give less than 30 calendar days' written notice in specific circumstances as identified in paragraphs (A) or (B) below, but must do so as soon as possible using the Department's Notice of Involuntary Move or Transfer of Resident form (SDS 901). The notice must be given in person to the resident, the resident's representative, guardian, conservator, and a copy must be immediately submitted to the resident's case manager, as applicable. The reasons for the notice must be fully documented in the resident's record. The licensee remains responsible for the provision of care and services until the resident has moved from the home. A licensee may give less than 30 calendar days' notice ONLY if:

(A) Undue delay in moving the resident would jeopardize the health, safety, or well-being of the resident.

(i) The resident has a medical emergency that requires the immediate care of a level or type that the adult foster home is unable to provide.

(ii) The resident exhibits behavior that poses an immediate danger to self or others.

(B) The resident is hospitalized or is temporarily out of the home and the licensee determines that he or she is no longer able to meet the needs of the resident.

(12) **RESIDENT HEARING RIGHTS.** A resident, who has been given formal notice of an involuntary move or refused the right of return or re-admission, is entitled to an informal conference and hearing prior to the involuntary move or transfer as follows:

(a) **INFORMAL CONFERENCE.** The local licensing authority must hold an informal conference as promptly as possible after the request is received. The local licensing authority must send written notice of the time and place of the conference to the licensee and all persons entitled to the notice. Participants may include the resident and at the resident's request a family member, case manager, Ombudsman, legal representative of the resident, the licensee, and a representative from an adult foster home association or SEIU if requested by the licensee. The purpose of the informal conference is to resolve the matter without an administrative hearing. If a resolution is reached at the informal conference, the local licensing authority must document the outcome in writing and no administrative hearing is needed.

(b) **ADMINISTRATIVE HEARING.** If a resolution is not reached as a result of the informal conference, the resident or the resident's representative may request an administrative hearing. If the resident is being moved or transferred with less than 30 calendar days' notice according to section (11)(c) of this rule, the hearing must be held within seven business days of the move or transfer. The licensee must hold a space available for the resident pending receipt of an administrative order. These administrative rules and ORS 441.605(4) governing transfer notices and hearings for residents of long-term care facilities apply to adult foster homes.

(13) **CLOSURE OF ADULT FOSTER HOMES.**

(a) A licensee must notify the local licensing authority prior to the voluntary closure, proposed sale, or transfer of ownership of the home, and give the residents and the residents' families, representatives, and case managers, as appropriate, a minimum of 30 calendar days' written notice on the Department's form (SDS 901) according to section (11) of this rule.

(b) In circumstances where undue delay might jeopardize the health, safety, or well-being of residents, licensees, or staff, written notice must be given as soon as possible, according to section (11)(c).

(c) A licensee must surrender the physical license to operate an adult foster home to the local licensing authority at the time of the adult foster home's closure.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.705 to 443.795, & 443.880
Stats. Implemented: ORS 197.660 to 197.670, 443.001 to 443.004, 443.705 to 443.825, 443.875, & 443.991

Hist.: SPD 31-2006, f. 12-27-06, cert. ef. 1-1-07; SPD 22-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 9-2010, f. 6-30-10, cert. ef. 7-1-10; Renumbered from 411-050-0644, SPD 33-2013, f. 8-30-13, cert. ef. 9-1-13; APD 6-2014, f. 3-31-14, cert. ef. 4-1-14

411-050-0650

Facility and Safety Standards

In order to qualify for or maintain a license, an adult foster home must comply with the following provisions:

(1) **GENERAL CONDITIONS.**

(a) **INTERIOR AND EXTERIOR PREMISES.** The building and furnishings, patios, decks, and walkways, as applicable, must be clean and in good repair. The interior and exterior premises must be well maintained and accessible according to the individual needs of the residents. There must be no accumulation of garbage, debris, rubbish, or offensive odors. Walls, ceilings, and floors must be of such character to permit washing, cleaning, or painting, as appropriate.

(b) **ADDRESS.** The address numbers of the adult foster home must be placed on the home in a position that is legible and clearly visible from the street or road fronting the property. Address numbers must be a minimum of 4 inches in height, made of reflective material, and contrast with their background.

(c) **LIGHTING.** Adequate lighting, based on the needs of the occupants, must be provided in each room, stairway, and exit way. Incandescent light bulbs and florescent tubes must be protected with appropriate covers.

(d) **TEMPERATURE.** The heating system must be in working order. Areas of the home used by the residents must be maintained at a comfortable temperature. Minimum temperatures during the day must be not less than 68 degrees, no greater than 85 degrees, and not less than 60 degrees during sleeping hours. Variations from the requirements of this rule must be based on resident care needs or preferences and must be addressed in each resident's care plan.

(A) During times of extreme summer heat, the licensee must make reasonable effort to keep the residents comfortable using ventilation, fans, or air conditioning. Precautions must be taken to prevent resident exposure to stale, non-circulating air.

(B) If the facility is air-conditioned, the system must be functional and the filters must be cleaned or changed as needed to ensure proper maintenance.

(C) If the licensee is unable to maintain a comfortable temperature for the residents during times of extreme summer heat, air conditioning or another cooling system may be required.

(e) **COMMON USE AREAS.** Common use areas for the residents must be accessible to all residents. There must be at least 150 square feet of common living space and sufficient furniture in the home to accommodate the recreational and socialization needs of all the occupants at one time. Common space may not be located in an unfinished basement or garage unless such space was constructed for that purpose or has otherwise been legalized under permit. There may be additional space required if wheelchairs are to be accommodated. An additional 40 square feet of common living space is required for each day care individual, room and board tenant, or relative receiving care for remuneration that exceeds the limit of five.

(f) **VIDEO MONITORS.** Use of video monitors detracts from a home-like environment and the licensee may not use video monitors in any area of the home that would violate a resident's privacy unless requested by the resident or the resident's legal representative. The licensee may not ask the resident or the resident's legal representative to waive the resident's right to privacy as a condition of admission to the home.

(2) **SANITATION AND PRECAUTIONS.**

(a) **NON-MUNICIPAL WATER SOURCE.** A public water supply must be utilized if available. If a non-municipal water source is used, the licensor, a sanitarian, or a technician from a certified water-testing laboratory must collect a sample annually or as required by the Department. The water sample must be tested for coliform bacteria. Water testing and any necessary corrective action to ensure water is suitable for drinking must be completed at the licensee's expense. Water testing records must be retained for three years.

(b) Septic tanks or other non-municipal sewage disposal systems must be in good working order.

(c) **COMMODOES AND INCONTINENCE GARMENTS.** Commodes used by residents must be emptied frequently and cleaned daily, or more frequently if necessary. Incontinence garments must be disposed of in closed containers.

(d) **WATER TEMPERATURE.** A resident who is unable to safely regulate the water temperature must be supervised.

(e) **LAUNDRY.** Prior to laundering, soiled linens and clothing must be stored in closed containers in an area that is separate from food storage, kitchen, and dining areas. Pre-wash attention must be given to soiled and wet bed linens. Sheets and pillowcases must be laundered at least weekly and more often if soiled.

(f) Garbage and refuse must be suitably stored in readily cleanable, rodent-proof, covered containers, pending weekly removal.

(g) **VENTILATION.** All doors and windows that are used for ventilation must have screens in good condition.

(h) **INFECTION CONTROL.** Standard precautions for infection control must be followed in resident care. Hands and other skin surfaces must be washed immediately and thoroughly if contaminated with blood or other body fluids.

(i) **DISPOSAL OF SHARPS.** Precautions must be taken to prevent injuries caused by needles, scalpels, and other sharp instruments or devices during procedures. After use, disposable syringes and needles, scalpel

ADMINISTRATIVE RULES

blades, and other sharp items must be placed in a puncture-resistant, red container for disposal. The puncture-resistant container must be located as close as practical to the use area. Disposal must be made according to local regulations and resources (ORS 459.386 to 459.405).

(j) **FIRST AID.** Current, basic first-aid supplies and a first-aid manual must be readily available in the home.

(k) **PESTS.** Reasonable precautions must be taken to prevent pests (e.g., ants, cockroaches, other insects, and rodents).

(l) **PETS OR OTHER ANIMALS.** Sanitation for household pets and other domestic animals on the premises must be adequate to prevent health hazards. Proof of rabies vaccinations and any other vaccinations that are required for the pet by a licensed veterinarian must be maintained on the premises. Pets not confined in enclosures must be under control and not present a danger to the residents or guests.

(m) **SAFETY BARRIERS.** Patios, decks, walkways, swimming pools, hot tubs, spas, saunas, water features, and stairways, as appropriate, must be equipped with safety barriers designed to prevent injury. Resident access to or use of swimming or other pools, hot tubs, spas, or saunas on the premises must be supervised.

(3) **BATHROOMS.** Bathrooms must:

(a) Provide individual privacy and have a finished interior with a door that opens to a hall or common-use room. If a bedroom includes a private bathroom, the door for the private bathroom must open to the bedroom. No person must have to walk through another person's bedroom to access a bathroom;

(b) Be large enough to accommodate the individual needs of the residents and any equipment that may be necessary;

(c) Have a mirror, a window that opens or other means of ventilation, and a window covering for privacy;

(d) Be clean and free of objectionable odors;

(e) Have bathtubs, showers, toilets, and sinks in good repair. A sink must be located near each toilet and a toilet and sink must be available for the resident's use on each floor with resident rooms. There must be at least one toilet, one sink, and one bathtub or shower for each six household occupants (including residents, day care individuals, room and board tenants, the licensee, and the licensee's family);

(f) Have hot and cold water at each bathtub, shower, and sink in sufficient supply to meet the needs of the residents;

(g) Have nonporous surfaces for shower enclosures. Glass shower doors, if applicable, must be tempered safety glass, otherwise, shower curtains must be clean and in good condition;

(h) Have non-slip floor surfaces in bathtubs and showers;

(i) Have grab bars for each toilet, bathtub, and shower to be used by the residents for safety;

(j) Have barrier-free access to toilet and bathing facilities; and

(k) Have adequate supplies of toilet paper and soap supplied by the licensee. Residents must be provided with individual towels and washcloths that are laundered in hot water at least weekly or more often if necessary. Residents must have appropriate racks or hooks for drying bath linens. If individual hand towels are not provided, roller-dispensed hand towels or paper towels in a dispenser must be provided for the residents' use.

(4) **BEDROOMS.**

(a) Bedrooms for all household occupants must:

(A) Have been constructed as a bedroom when the home was built, or remodeled under permit;

(B) Be finished with walls or partitions of standard construction that go from floor to ceiling;

(C) Have a door that opens directly to a hallway or common use room without passage through another bedroom or common bathroom. The bedroom door must be large enough to accommodate the occupant of the room and any mobility equipment that may be needed by the resident;

(D) Be adequately ventilated, heated, and lighted with at least one window that opens and meets the requirements in section (5)(e) of this rule;

(E) Be at least 70 square feet of usable floor space for one resident or 120 square feet for two residents excluding any area where a sloped ceiling does not allow a person to stand upright; and

(F) Have no more than two occupants per room. (See also OAR 411-050-0632 pertaining to a child's bedroom.) This rule is not intended to prohibit a child five years of age or younger from occupying their parent's bedroom.

(b) The licensee, any other caregivers, and family members may not sleep in areas designated as living areas or share a bedroom with a resident. This rule is not intended to prohibit a caregiver or other person of the resi-

dent's choosing from temporarily staying in the resident's room when required by the resident's condition.

(c) There must be a bed at least 36 inches wide for each resident consisting of a mattress and springs, or equivalent, in good condition. Cots, rollaways, bunks, trundles, daybeds with restricted access, couches, and folding beds may not be used for residents. Each bed must have clean bedding in good condition consisting of a bedspread, mattress pad, two sheets, a pillow, a pillowcase, and blankets adequate for the weather. Waterproof mattress covers must be used for incontinent residents. Day care individuals may use a cot or rollaway bed if bedroom space is available that meets the requirements of section (4)(a) of this rule. A resident's bed may not be used by a day care individual.

(d) Each resident's bedroom must have separate, private dresser and closet space sufficient for the resident's clothing and personal effects including hygiene and grooming supplies. A resident must be provided private, secure storage space to keep and use reasonable amounts of personal belongings. A licensee may not use a resident's bedroom for storage of items, supplies, devices, or appliances that do not belong to the resident.

(e) Drapes or shades for bedroom windows must be in good condition and allow privacy for the residents.

(f) A resident who is non-ambulatory, has impaired mobility, or is cognitively impaired must have a bedroom with a safe, second exit at ground level. A resident with a bedroom above or below the ground floor must demonstrate their capability for self-preservation.

(g) Resident bedrooms must be in close enough proximity to the licensee or caregiver in charge to alert the licensee or caregiver in charge to resident nighttime needs or emergencies, or the bedrooms must be equipped with a functional call bell or intercom within the residents' abilities to operate. Intercoms may not violate the resident's right to privacy and must have the capability of being turned off by the resident or at the resident's request.

(h) Bedrooms used by the licensee, resident manager, shift caregiver, and substitute caregiver, as applicable, must be located in the adult foster home and must have direct access to the residents through an interior hallway or common use room.

(5) **SAFETY.**

(a) **FIRE AND LIFE SAFETY.** Buildings must meet all applicable state and local building, mechanical, and housing codes for fire and life safety. The home may be inspected for fire safety by the State Fire Marshal's Office, or the State Fire Marshal's designee, at the request of the local licensing authority or the Department using the standards in these rules, as appropriate.

(b) **HEAT SOURCES.** All heating equipment, including but not limited to wood stoves, pellet stoves, and fireplaces must be installed in accordance with all applicable state and local building and mechanical codes. Heating equipment must be in good repair, used properly, and maintained according to the manufacturer's or a qualified inspector's recommendations.

(A) A licensee who does not have a permit verifying proper installation of an existing woodstove, pellet stove, or gas fireplace must have it inspected by a qualified inspector, Certified Oregon Chimney Sweep Association member, or Oregon Hearth, Patio, and Barbecue Association member and follow their recommended maintenance schedule.

(B) Fireplaces must have approved and listed protective glass screens or metal mesh screens anchored to the top and bottom of the fireplace opening.

(C) The local licensing authority may require the installation of a non-combustible, heat-resistant, safety barrier 36 inches around a woodstove to prevent residents with ambulation or confusion problems from coming in contact with the stove.

(D) Unvented, portable oil, gas, or kerosene heaters are prohibited. Sealed electric transfer heaters or electric space heaters with tip-over, shut-off capability may be used when approved by the State Fire Marshal or the State Fire Marshal's designee. A heater must be directly connected to an electrical outlet and may not be connected to an extension cord.

(c) **EXTENSION CORDS AND ADAPTORS.** Extension cord wiring and multi-plug adaptors may not be used in place of permanent wiring. UL-approved, re-locatable power taps (RPTs) with circuit breaker protection and no more than six electrical sockets are permitted for indoor use only and must be installed and used in accordance with the manufacturer's instructions. If RPTs are used, the RPT must be directly connected to an electrical outlet, never connected to another RPT (known as daisy-chaining or piggy-backing), and never connected to an extension cord.

(d) **LOCKS AND ALARMS.** Hardware for all exit doors and interior doors must be readily visible, have simple hardware that may not be locked against exit, and have an obvious method of operation. Hasps, sliding bolts,

ADMINISTRATIVE RULES

hooks and eyes, slide chain locks, and double key deadbolts are not permitted. If a home has a resident with impaired judgment who is known to wander away, the home must have an activated alarm system to alert a caregiver of the resident's unsupervised exit.

(e) **WINDOWS.** Bedrooms must have at least one window or exterior door that leads directly outside, readily opens from the inside without special tools, and provides a clear opening of not less than 821 square inches (5.7 sq. ft.), with the least dimensions not less than 24 inches in height or 20 inches in width. If the interior sill height of the window is more than 44 inches from the floor level, approved steps or other aids to the window exit that the occupants are capable of using must be provided. Windows with a clear opening of not less than 5.0 square feet or 720 square inches with interior sill heights of no more than 48 inches above the floor may be accepted when approved by the State Fire Marshal or the State Fire Marshal's designee.

(f) **CONSTRUCTION.** Interior and exterior doorways must be wide enough to accommodate the mobility equipment used by the residents such as wheelchairs and walkers. All interior and exterior stairways must be unobstructed, equipped with handrails on both sides, and appropriate to the condition of the residents. (See also section (5)(q) of this rule)

(A) Buildings must be of sound construction with wall and ceiling flame spread rates at least substantially comparable to wood lath and plaster or better. The maximum flame spread index of finished materials may not exceed 200 and the smoke developed index may not be greater than 450. If more than 10 percent of combined wall and ceiling areas in a sleeping room or exit way is composed of readily combustible material such as acoustical tile or wood paneling, such material must be treated with an approved flame retardant coating. Exception: Buildings supplied with an approved automatic sprinkler system.

(i) **MANUFACTURED HOMES.** A manufactured home (formerly mobile homes) must have been built since 1976 and designed for use as a home rather than a travel trailer. The manufactured home must have a manufacturer's label permanently affixed on the unit itself that states the manufactured home meets the requirements of the Department of Housing and Urban Development (HUD). The required label must read as follows: "As evidenced by this label No. ABC000001, the manufacturer certifies to the best of the manufacturer's knowledge and belief that this mobile home has been inspected in accordance with the requirements of the Department of Housing and Urban Development and is constructed in conformance with the Federal Mobile Home Construction and Safety Standards in effect on the date of manufacture. See date plate."

(ii) If such a label is not evident and the licensee believes the manufactured home meets the required specifications, the licensee must take the necessary steps to secure and provide verification of compliance from the home's manufacturer.

(iii) Manufactured homes built since 1976 meet the flame spread rate requirements and do not have to have paneling treated with a flame retardant coating.

(B) **STRUCTURAL CHANGES.** The licensee must notify the local licensing authority in writing at least 15 calendar days prior to any remodeling, renovations, or structural changes in the home that require a building permit. Such activity must comply with local building, sanitation, utility, and fire code requirements applicable to a single-family dwelling (see ORS 443.760(1)). The licensee must forward all required permits and inspections, an evacuation plan as described in section (5)(k) of this rule, and a revised floor plan as described in section (5)(o) of this rule to the local licensing authority within 30 calendar days of completion.

(g) **FIRE EXTINGUISHERS.** At least one fire extinguisher with a minimum classification of 2-A:10-B:C must be mounted in a location visible and readily accessible to any occupant of the home on each floor, including basements. Fire extinguishers must be checked at least once a year by a qualified person who is well versed in fire extinguisher maintenance. All recharging and hydrostatic testing must be completed by a qualified agency properly trained and equipped for this purpose.

(h) **CARBON MONOXIDE AND SMOKE ALARMS.**

(A) **CARBON MONOXIDE ALARMS.** Carbon monoxide alarms must be listed as complying with ANSI/UL 2034 and must be installed and maintained in accordance with the manufacturer's instructions. Carbon monoxide alarms must be installed within 15 feet of each bedroom at the height recommended by the manufacturer.

(i) If bedrooms are located in multi-level homes, carbon monoxide alarms must be installed on each level including the basement.

(ii) Carbon monoxide alarms may be hard-wired, plug-in, or battery operated. Hard wired and plug-in alarms must be equipped with a battery

back-up. Battery operated carbon monoxide alarms must be equipped with a device that warns of a low battery.

(iii) A bedroom used by a hearing-impaired occupant who may not hear the sound of a regular carbon monoxide alarm must be equipped with an additional carbon monoxide alarm that has visual or vibrating capacity.

(B) **SMOKE ALARMS.** Smoke alarms must be installed in accordance with the manufacturer's instructions in each bedroom, in hallways or access areas that adjoin bedrooms, the family room or main living area where occupants congregate, any interior designated smoking area, and in basements. In addition, smoke alarms must be installed at the top of all stairways in multi-level homes.

(i) Ceiling placement of smoke alarms is recommended.

(ii) Battery operated smoke alarms or hard-wired smoke alarms with a battery backup must be equipped with a device that warns of a low battery.

(iii) A bedroom used by a hearing-impaired occupant who may not hear the sound of a regular smoke alarm must be equipped with an additional smoke alarm that has visual or vibrating capacity.

(C) All carbon monoxide alarms and smoke alarms must contain a sounding device or be interconnected to other alarms to provide, when actuated, an alarm that is audible in all sleeping rooms. The alarms must be loud enough to wake occupants when all bedroom doors are closed. Intercoms and room monitors may not be used to amplify alarms.

(D) The licensee must test all carbon monoxide alarms and smoke alarms in accordance with the manufacturer's instructions at least monthly (per NFPA 72). Testing must be documented in the facility records. The licensee must maintain carbon monoxide alarms, smoke alarms, and fire extinguishers in functional condition. If there are more than two violations in maintaining battery operated alarms in working condition, the Department may require the licensee to hard wire the alarms into the electrical system.

(i) **COMBUSTIBLES AND FIREARMS.** Flammables, combustible liquids, and other combustible materials must be safely and properly stored in their original, properly labeled containers or safety containers and secured in areas to prevent tampering by residents or vandals.

(A) Oxygen and other gas cylinders in service or in storage must be adequately secured to prevent the cylinders from falling or being knocked over;

(B) No smoking signs must be visibly posted where oxygen cylinders are present;

(C) Firearms must be stored, unloaded, in a locked cabinet. The firearms cabinet must be located in an area of the home that is not accessible to the residents; and

(D) Ammunition must be secured in a locked area separate from the firearms.

(j) **HAZARDOUS MATERIALS.** Cleaning supplies, medical sharps containers, poisons, insecticides, and other hazardous materials must be properly stored in their original, properly labeled containers in a safe area that is not accessible to residents or near food preparation or food storage areas, dining areas, or medications.

(k) **EVACUATION PLAN.** An emergency evacuation plan must be developed and revised as necessary to reflect the current condition of the residents in the home. The evacuation plan must be rehearsed with all occupants.

(l) **ORIENTATION TO EMERGENCY PROCEDURES.** Within 24 hours of arrival, any new resident or caregiver must be shown how to respond to a smoke alarm, shown how to participate in an emergency evacuation drill, and receive an orientation to basic fire safety. New caregivers must also be oriented in how to conduct an evacuation.

(m) **EVACUATION DRILL.** An evacuation drill must be held at least once every 90 calendar days, with at least one evacuation drill per year conducted during sleeping hours. The evacuation drill must be clearly documented, signed by the caregiver conducting the drill, and maintained according to OAR 411-050-0645.

(A) The licensee and all other caregivers must:

(i) Be able to demonstrate the ability to evacuate all occupants from the facility to the initial point of safety within three minutes or less. The initial point of safety must:

(I) Be exterior to and a minimum of 25 feet away from the structure;

(II) Have direct access to a public sidewalk or street; and

(III) Not be in the backyard of a home unless the backyard directly accesses a public street or sidewalk.

(ii) Be able to demonstrate the ability to further evacuate all occupants from the initial point of safety to the final point of safety within two minutes or less. The final point of safety must:

ADMINISTRATIVE RULES

- (I) Be a minimum of 50 feet away from the structure; and
- (II) Located on a public sidewalk or street;
- (B) Conditions may be applied to a license if the licensee or caregivers demonstrate the inability to meet the evacuation times described in this section. Conditions may include but are not limited to reduced capacity of residents, additional staffing, or increased fire protection. Continued problems are grounds for revocation or non-renewal of the license.
- (n) FLOOR PLAN. The licensee must develop a current and accurate floor plan that indicates:
 - (A) The size of rooms;
 - (B) Which bedrooms are to be used by residents, the licensee, caregivers, for day care, and room and board tenants, as applicable;
 - (C) The location of all the exits on each level of the home, including emergency exits such as windows;
 - (D) The location of wheelchair ramps;
 - (E) The location of all fire extinguishers, smoke alarms, and carbon monoxide alarms;
 - (F) The planned evacuation routes, initial point of safety, and final point of safety; and
 - (G) Any designated smoking areas in or on the adult foster home's premises.
- (o) RESIDENT PLACEMENT. A resident, who is unable to walk without assistance or not capable of self-preservation, may not be placed in a bedroom on a floor without a second ground level exit. (See also section (4)(f) of this rule)
- (p) STAIRS. Stairs must have a riser height of between 6 to 8 inches and tread width of between 8 to 10.5 inches. Lifts or elevators are not an acceptable substitute for a resident's capability to ambulate stairs. (See also section (5)(f) of this rule)
- (q) EXIT WAYS. All exit ways must be barrier free and the corridors and hallways must be a minimum of 36 inches wide or as approved by the State Fire Marshal or the State Fire Marshal's designee. Interior doorways used by the residents must be wide enough to accommodate wheelchairs and walkers if used by residents and beds if used for evacuation purposes. Any bedroom window or door identified as an exit must remain free of obstacles that would interfere with evacuation.
- (r) RAMPS. There must be at least one wheelchair ramp from a minimum of one exterior door if an occupant of the home is non-ambulatory. A licensee may be required to bring existing ramps into revised compliance if necessary to meet the needs of new residents or current residents with increased care needs. Wheelchair ramps must comply with the Americans with Disabilities Act (ADA) and must:
 - (A) Have the least possible slope with a maximum slope of 1 inch rise in each 12 inches of distance;
 - (B) Have a maximum rise for any run of 30 inches;
 - (C) Have a minimum clear width of 36 inches;
 - (D) Have landings with a minimum clear length of 60 inches at the top and bottom of each ramp and each ramp run;
 - (E) Have handrails on both sides of the ramp if the ramp has a rise of 6 inches or more or a run of 72 inches or more. Handrails must:
 - (i) Be continuous or must extend 12 inches beyond the top and bottom of the ramp segment;
 - (ii) Have a clear space of 1 1/2 inches between the handrail and the wall;
 - (iii) Mounted between 34 and 38 inches above the ramp surface; and
 - (iv) Rounded at the ends or returned smoothly to the floor, wall, or post.
 - (F) Have curbs, walls, railings, or projecting surfaces that prevent people from slipping off the ramp if the ramp or landing has a drop off. Curbs must be a minimum of 2 inches high;
 - (G) Be designed so water does not accumulate on walking surfaces; and
 - (H) Have non-skid surfaces.
- (s) EMERGENCY EXITS. There must be a second safe means of exit from all sleeping rooms. A provider whose sleeping room is above the first floor may be required to demonstrate at the time of licensure, renewal, or inspection, an evacuation drill from the provider's sleeping room using the secondary exit.
- (t) FLASHLIGHT. There must be at least one plug-in, rechargeable flashlight in good functional condition available on each floor of the home for emergency lighting.
- (u) SMOKING. If smoking is allowed in a home, the licensee must adopt house policies that restrict smoking to designated areas.
 - (A) Smoking is prohibited in:

- (i) Any bedroom including that of the residents, licensee, resident manager, any other caregiver, occupant, or visitor;
- (ii) Any room where oxygen is used; and
- (iii) Anywhere flammable materials are stored.
- (B) Ashtrays of noncombustible material and safe design must be provided in areas where smoking is permitted.
- (v) EMERGENCY PREPAREDNESS PLAN. A licensee must develop and maintain a written emergency preparedness plan for the protection of all occupants in the home in the event of an emergency or disaster.
 - (A) The written emergency plan must:
 - (i) Include an evaluation of potential emergency hazards including but not limited to:
 - (I) Prolonged power failure or water or sewer loss;
 - (II) Fire, smoke, or explosion;
 - (III) Structural damage;
 - (IV) Hurricane, tornado, tsunami, volcanic eruption, flood, or earthquake;
 - (V) Chemical spill or leak; and
 - (VI) Pandemic.
 - (ii) Include an outline of the caregiver's duties during an evacuation;
 - (iii) Consider the needs of all occupants of the home including but not limited to:
 - (I) Access to medical records necessary to provide services and treatment;
 - (II) Access to pharmaceuticals, medical supplies, and equipment during and after an evacuation; and
 - (III) Behavioral support needs.
 - (iv) Include provisions and supplies sufficient to shelter in place for a minimum of three days without electricity, running water, or replacement staff; and
 - (v) Planned relocation sites.
 - (B) The licensee must notify the Department or the local licensing authority of the homes status in the event of an emergency that requires evacuation and during any emergent situation when requested.
 - (C) The licensee must re-evaluate the emergency preparedness plan at least annually and whenever there is a significant change in the home.
Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, & 443.790
Stats. Implemented: ORS 443443.001 to 443.004, 443.705 to 443.825, 443.875, & 443.991
Hist.: SSD 14-1985, f. 12-31-85 ef. 1-1-86; SSD 11-1988, f. 10-18-88, cert. ef. 11-1-88, Sections (8) thru (10) renumbered to 411-050-0447; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1996, f. 3-29-96, cert. ef. 4-1-96; SDSD 2-1998(Temp), f. & cert. ef. 2-6-98 thru 8-1-98; SDSD 6-1998, f. 7-31-98, cert. ef. 8-1-98; SDSD 4-2001, f. & cert. ef. 3-1-01; SPD 31-2006, f. 12-27-06, cert. ef. 1-1-07; SPD 9-2007, f. 6-27-07, cert. ef. 7-1-07; SPD 9-2010, f. 6-30-10, cert. ef. 7-1-10; Renumbered from 411-050-0445, SPD 33-2013, f. 8-30-13, cert. ef. 9-1-13; APD 6-2014, f. 3-31-14, cert. ef. 4-1-14

411-050-0660

Qualifications and Requirements for Ventilator-Assisted Care

Adult foster homes that provide ventilator-assisted care for residents must meet the following requirements in addition to the other requirements set forth in these rules:

- (1) LICENSE REQUIRED. A person or entity may not represent themselves as operating an adult foster home that provides ventilator-assisted care or accept placement of an individual requiring ventilator-assisted care without being licensed as a ventilator-assisted care adult foster home.
- (2) APPLICATION. An applicant or licensee must meet and maintain compliance with OAR 411-050-0610.
 - (a) To apply for a license to provide ventilator-assisted care, an applicant or licensee must complete the Department's ventilator-assisted care application form (SDS 448V) and submit the application with the required information and nonrefundable fee as outlined in OAR 411-050-0610(3) and (4) to the local licensing authority.
 - (b) To renew a license to provide ventilator-assisted care, a licensee must complete the Department's ventilator-assisted care application form (SDS 448V) and submit the application with the required information and nonrefundable fee as outlined in OAR 411-050-0640(3) to the local licensing authority.
 - (c) Applications are processed according to OAR 411-050-0610 and 411-050-0640.
 - (d) Applications must be approved by the Department prior to the issuance of a ventilator-assisted care license.
 - (3) QUALIFICATIONS AND TRAINING. An applicant, licensee, and all other caregivers must meet and maintain compliance with OAR 411-050-0625. In addition:
 - (a) The applicant, licensee, resident manager, floating resident manager, or shift caregivers, as applicable, must demonstrate one year of full-time experience in providing ventilator-assisted care.

ADMINISTRATIVE RULES

(b) The applicant or licensee, as applicable, must have experience operating a Class 3 adult foster home in substantial compliance with these rules for at least one year.

(c) An applicant for an adult foster home providing ventilator-assisted care must be the primary caregiver and live in the home where ventilator-assisted care is to be provided for a minimum of one year from the date the initial ventilator-assisted care license is issued. The licensee may employ a resident manager to be the primary live-in caregiver after providing ventilator-assisted care for the one year period. The resident manager must be approved by the local licensing authority and the Department.

(d) The applicant, licensee, and all other caregivers must successfully complete the Department's approved training pertaining to ventilator-assisted care and other training as required. Training is required on an annual basis and must be completed by the licensee, resident manager, floating resident manager, shift caregivers, and substitute caregivers, as applicable, prior to approval of a renewed ventilator-assisted care license.

(4) **CLASSIFICATION.** An applicant for a ventilator-assisted care license must possess the minimum qualifications outlined in section (3) of this rule. The applicant and licensee must meet and maintain compliance with OAR 411-050-0630. The local licensing authority shall issue a Level A, Level B, or Level C ventilator-assisted care adult foster home license to qualified applicants.

(a) A licensee with a Level C ventilator-assisted care license may admit a maximum of one resident who requires ventilator-assisted care. The local licensing authority may issue a Level C license if the applicant has:

- (A) Satisfied the requirements described in section (3) above; and
- (B) Successfully operated a Class 3 home in substantial compliance with these rules for a period of not less than one year.

(b) A licensee with a Level B ventilator-assisted care license may admit a maximum of three residents who require ventilator-assisted care. The local licensing authority may issue a Level B license if the licensee has:

- (A) Satisfied the requirements described in section (3) above; and
- (B) Successfully operated and provided ventilator-assisted care in their Level C home in substantial compliance with these rules for a period of not less than one year; or

(C) The applicant or licensee, as applicable, has a current license as a health care professional in Oregon.

(c) A licensee with a Level A ventilator-assisted care license may admit a maximum of five residents who require ventilator-assisted care. The local licensing authority may issue a Level A license if the licensee has:

- (A) Satisfied the requirements described in section (3) above; and
- (B) Successfully operated and provided ventilator-assisted care in their Level B home in substantial compliance with these rules for a period of not less than one year.

(5) **CAPACITY.** An applicant and licensee must meet and maintain compliance with OAR 411-050-0632. The number of residents permitted to reside in a ventilator-assisted care adult foster home is determined by the level of the home, the ability of the staff to meet the care needs of the residents, the fire and life safety standards, and compliance with these rules. A licensee may only admit or continue to provide ventilator-assisted care for residents according to the level of the home's license. A licensee may admit other residents who do not require ventilator-assisted care within the approved license capacity listed on the home's license.

(6) **OPERATIONAL STANDARDS.** A licensee must meet and maintain compliance with OAR 411-050-0645. In addition:

(a) A minimum of two qualified and approved caregivers must be on site and available to meet the routine and emergency care and service needs of the residents 24 hours a day. A minimum of one of the two qualified and approved caregivers must be awake during nighttime hours.

(b) All caregivers must demonstrate competency in providing ventilator-assisted care.

(c) All caregivers must be able to evacuate the residents and any other occupants of the home within three minutes or less.

(d) The applicant and licensee must have a satisfactory system in place to ensure the caregivers are alert to the 24-hour needs of residents who may be unable to independently call for assistance.

(e) All caregivers must know how to operate the back-up generator without assistance and be able to demonstrate how to operate the back-up generator upon request by the Department or local licensing authority.

(7) **FACILITY STANDARDS.** An applicant and licensee must meet and maintain compliance with OAR 411-050-0650. In addition:

(a) The residents' bedrooms must be a minimum of 100 square feet, or larger if necessary, to accommodate the standard requirements of OAR 411-050-0650, the needs of the resident, and the equipment and supplies

necessary for the care and services needed by individuals requiring ventilator-assisted care.

(b) Homes that provide ventilator-assisted care for residents must have a functional, emergency back-up generator. The generator must be adequate to maintain electrical service for resident needs until regular service is restored. Hard wired, back-up generators must be installed by a licensed electrician. Back-up generators must be tested monthly and the test must be documented in the facility records.

(c) The home must have a functional, interconnected carbon monoxide and smoke alarm system with back-up batteries.

(d) The home must have a functional sprinkler system and maintenance of the sprinkler system must be completed as recommended by the manufacturer. A home that does not have a functional sprinkler system but was approved to provide ventilator-assisted care prior to September 1, 2013, must install a functional whole-home sprinkler system no later than July 31, 2015.

(e) Each resident's bedroom must have a mechanism in place that enables the resident to summon a caregiver's assistance when needed. The mechanism must be within the abilities of the resident to use. The summons must be audible in all areas of the adult foster home.

(8) **STANDARDS AND PRACTICES FOR CARE AND SERVICES.** Licensees must meet and maintain compliance with OAR 411-050-0655. In addition:

(a) The licensee must conduct and document a thorough screening of a prospective resident on the Department's form (SDS 902).

(b) Prior to admitting a resident requiring ventilator care to the adult foster home, the licensee must obtain preauthorization from the Department.

(c) The licensee must have a primary care physician identified for each resident being considered for admission.

(d) The licensee must retain the services of a registered nurse (RN) consultant to work in the home who is licensed by the State of Oregon and trained in the care of individuals requiring ventilator-assisted care. RN services include but are not limited to the provision of medical consultation and supervision of resident care, skilled nursing care as needed, and delegation of nursing care to caregivers. When the licensee is an RN, a back-up RN licensed by the State of Oregon and trained in the care of individuals requiring ventilator-assisted care must be identified and available to provide nursing services in the absence of the licensee.

(e) The licensee must develop individual care plans for each resident with the RN consultant addressing the expected frequency of nursing supervision, consultation, and direct service intervention. The RN consultation must be documented on the resident's completed care plan with the RN's signature and date signed.

(f) The licensee must have physician, RN, and respiratory therapist consultation services, all licensed by the State of Oregon and trained in the care of individuals requiring ventilator-assisted care available on a 24-hour basis and for in-home visits as appropriate. The licensee must call the appropriate medical professional to attend to the emergent care needs of the residents.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, & 443.790

Stats. Implemented: ORS 410.070, 443.001 to 443.004, 443.705 to 443.825, 443.875, & 443.991

Hist.: SSD 14-1985, f. 12-31-85, ef. 1-1-86; SSD 11-1988, f. 10-18-88, cert. ef. 11-1-88, Renumbered from 411-050-0445(8) thru (10); SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1996, f. 3-29-96, cert. ef. 4-1-96; SDDS 4-2001, f. & cert. ef. 3-1-01; SPD 31-2006, f. 12-27-06, cert. ef. 1-1-07; SPD 9-2010, f. 6-30-10, cert. ef. 7-1-10; Renumbered from 411-050-0491, SPD 33-2013, f. 8-30-13, cert. ef. 9-1-13; APD 6-2014, f. 3-31-14, cert. ef. 4-1-14

411-050-0685

Civil Penalties

(1) Except as otherwise provided in this rule, civil penalties, not to exceed \$100 per violation to a maximum of \$250, may be assessed for a general violation of these rules.

(2) Mandatory penalties up to \$500, unless otherwise required by law, shall be assessed for falsifying resident or facility records or causing another to do so.

(3) A mandatory penalty of \$250 shall be imposed for failure to have either the licensee or other qualified caregiver on duty 24 hours per day in the adult foster home.

(4) A mandatory penalty of \$250 shall be imposed for dismantling or removing the battery from any required smoke alarm or failing to install any required smoke alarm.

(5) The Department shall impose a civil penalty of not less than \$250 nor more than \$500 on a licensee who admits a resident knowing that the

ADMINISTRATIVE RULES

resident's care needs exceed the license classification of the licensee and the admission places the resident or other residents at risk of harm.

(6) Civil penalties up to a maximum of \$1,000 per occurrence may be assessed for substantiated abuse.

(7) If the Department or the Department's designee conducts an investigation and abuse is substantiated and if the abuse resulted in the death, serious injury, rape, or sexual abuse of a resident, the Department shall impose a civil penalty of not less than \$2,500 for each violation.

(a) To impose this civil penalty, the Department must establish that:

(A) The abuse arose from deliberate or other than accidental action or inaction;

(B) The conduct resulting in the abuse was likely to cause death, serious injury, rape, or sexual abuse of a resident; and

(C) The person with the finding of abuse had a duty of care toward the resident.

(b) For the purposes of this civil penalty, the following definitions apply:

(A) "Serious injury" means a physical injury that creates a substantial risk of death or that causes serious disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

(B) "Rape" means rape in the first, second, or third degree as described in ORS 163.355, 163.365, and 163.375.

(C) "Sexual abuse" means any form of nonconsensual sexual contact including but not limited to unwanted or inappropriate touching, sodomy, sexual coercion, sexually explicit photographing, or sexual harassment. The sexual contact must be in the form of any touching of the sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the actor for the purpose of arousing or gratifying the sexual desire of either party.

(D) "Other than accidental" means failure on the part of the licensee, or licensee's employees, agents, or volunteers for whose conduct licensee is responsible, to comply with applicable Oregon Administrative Rules.

(8) In addition to any other liability or penalty provided by law, the Department may impose a penalty for any of the following:

(a) Operating the home without a license;

(b) The number of residents exceeds the licensed capacity;

(c) The licensee fails to achieve satisfactory compliance with the requirements of these rules within the time specified, or fails to maintain such compliance;

(d) The home is unable to provide adequate level of care to the residents;

(e) There is retaliation or discrimination against a resident, family, employee, or any other person for making a complaint against the home;

(f) The licensee fails to cooperate with the Department or fails to cooperate with the prescribing practitioner or licensed health care professional in carrying out a resident's care plan; or

(g) The licensee fails to obtain an approved background check from the Department prior to employing a caregiver in the home.

(9) A civil penalty may be imposed for violations other than those involving the health, safety, or welfare of a resident if the licensee fails to correct the violation as required when a reasonable time frame for correction was given.

(10) Any civil penalty imposed under this rule becomes due and payable 10 calendar days after the order imposing the civil penalty becomes final by operation of law or on appeal. The notice must be delivered in person or sent by registered or certified mail and must include:

(a) A reference to the particular sections of the statute, rule, standard, or order involved;

(b) A short and plain statement of the matters asserted or charged;

(c) A statement of the amount of the penalty or penalties imposed; and

(d) A statement of the right to request a hearing.

(11) The person to whom the notice is addressed shall have 10 calendar days after receipt of the notice in which to make written application for a hearing. If a written request for a hearing is not timely received, the Department shall issue a final order by default.

(12) All hearings shall be conducted according to the applicable provisions of ORS 183.

(13) When imposing a civil penalty, the Department shall consider the following factors:

(a) The past history of the person incurring the penalty in taking all feasible steps or procedures to correct the violation;

(b) Any prior violations of statutes, rules, or orders pertaining to the facility;

(c) The economic and financial conditions of the person incurring the penalty;

(d) The immediacy and extent to which the violation threatens or threatened the health, safety, or welfare of one or more residents; and

(e) The degree of harm to residents.

(14) If the person notified fails to request a hearing within the time specified, or if after a hearing the person is found to be in violation of a license, rule, or order, an order may be entered assessing a civil penalty.

(15) Unless the penalty is paid within 10 calendar days after the order becomes final, the order constitutes a judgment and may be recorded by the county clerk, which becomes a lien upon the title to any interest in real property owned by that person. The Department may also initiate a notice of revocation for failure to comply with a final order.

(16) Civil penalties are subject to judicial review under ORS 183.480, except that the court may, at its discretion, reduce the amount of the penalty.

(17) All penalties recovered under ORS 443.790 to 443.815 are paid to the Quality Care Fund.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, & 443.790

Stats. Implemented: ORS 443.001 to 443.004, 443.705 to 443.825, 443.875, & 443.991
Hist.: SSD 11-1988, f. 10-18-88, cert. ef. 11-1-88; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1996, f. 3-29-96, cert. ef. 4-1-96; SDSD 4-2001, f. & cert. ef. 3-1-01; SPD 31-2006, f. 12-27-06, cert. ef. 1-1-07; SPD 22-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 9-2010, f. 6-30-10, cert. ef. 7-1-10 Renumbered from 411-050-0487, SPD 33-2013, f. 8-30-13, cert. ef. 9-1-13; APD 6-2014, f. 3-31-14, cert. ef. 4-1-14

Rule Caption: Long Term Care Assessment

Adm. Order No.: APD 7-2014

Filed with Sec. of State: 4-1-2014

Certified to be Effective: 4-1-14

Notice Publication Date: 3-1-2014

Rules Amended: 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

Rules Repealed: 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)

Subject: The Department of Human Services (Department) is permanently updating the rules in OAR chapter 411, division 069 for long term care assessment 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: Kimberly Colkitt-Hallman—(503) 945-6398

411-069-0000

Definitions

Unless the context indicates otherwise, the following definitions apply to the rules in OAR chapter 411, division 069:

(1) "Assessment Rate" means the rate established by the Director of the Department of Human Services.

(2) "Assessment Year" means a 12-month period, beginning July 1 and ending the following June 30, for which the assessment rate being determined, is to apply.

(3) "Deficiency" means the amount by which the assessment as correctly computed exceeds the assessment, if any, reported by the facility. If, after the original deficiency has been assessed, subsequent information shows the correct amount of assessment to be greater than previously determined, an additional deficiency arises.

(4) "Delinquency" means the facility failed to pay the assessment as correctly computed when the assessment was due.

(5) "Department" means the Department of Human Services.

(6) "Director" means the Director of the Department of Human Services.

(7) "Gross Revenue" means the revenue paid to a long term care facility for patient care, room, board, and services, less contractual adjustments. It does not include:

ADMINISTRATIVE RULES

(a) Revenue derived from sources other than long term care facility operations, including but not limited to donations, interest, guest meals, or any other revenue not attributable to patient care; and

(b) Hospital revenue derived from hospital operations.

(8) "Long Term Care Facility" means a facility with permanent facilities that includes inpatient beds and provides medical services, including nursing services but excluding surgical procedures except as may be permitted by the rules of the Director. A long term care facility provides treatment for two or more unrelated patients and includes licensed skilled nursing facilities and licensed intermediate care facilities, but does not include facilities licensed and operated pursuant to ORS 443.400 to 443.455. A long term care facility does not include any intermediate care facility for the mentally retarded.

(9) "Medicaid Patient Days" means patient days attributable to patients who receive medical assistance under a plan described in 42 U.S.C. 1396.

(10) "Patient Days" means the total number of patients occupying beds in a long term care facility for all days in the calendar period for which an assessment is being reported and paid. For purposes of this subsection, if a long term care facility patient is admitted and discharged on the same day, the patient shall be deemed to occupy a bed for one day.

(11) "Waivered Long Term Care Facility" means:

(a) A long term care facility operated by a Continuing Care Retirement Community (CCRC) that is registered under ORS 101.030 and that admits:

(A) Residents of the CCRC; or

(B) Residents of the CCRC and nonresidents; or

(b) A long term care facility that is annually identified by the Department as having a Medicaid recipient census that exceeds the census level established by the Department for the year for which the facility is identified.

Stat. Auth.: ORS 409.050, 410.070 & 411.060

Stats. Implemented: ORS 409.750 & OL 2003 Ch. 736

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0401, SDP 3-2011, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14; APD 7-2014, f. & cert. ef. 4-1-14

411-069-0010

General Administration

(1) The purpose of these rules is to implement the long term care facility assessment imposed on long term care facilities in Oregon.

(2) The Department shall administer, enforce, and collect the long term care facility assessment.

(3) The Department may assign employees, auditors, and other agents as designated by the Director to assist in the administration, enforcement, and collection of the assessments.

(4) The Department may establish rules and regulations, not inconsistent with legislative enactments, that it considers necessary to administer, enforce, and collect the assessments.

(5) The Department may prescribe forms and reporting requirements and change the forms and reporting requirements, as necessary, to administer, enforce, and collect the assessments.

Stat. Auth.: ORS 409.050, 410.070 & 411.060

Stats. Implemented: ORS 409.750 & OL 2003 Ch. 736

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0411, SDP 3-2011, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14; APD 7-2014, f. & cert. ef. 4-1-14

411-069-0020

Disclosure of Information

(1) Except as otherwise provided by law, the Department may not publicly divulge or disclose the amount of income, expense, or other particulars set forth or disclosed in any report or return required in the administration of the assessments. Particulars include but are not limited to social security numbers, employer numbers, or other facility identification numbers, and any business records required to be submitted to or inspected by the Department or its designee to allow it to determine the amounts of any assessments, delinquencies, deficiencies, penalties, or interest payable or paid, or otherwise administer, enforce, or collect a health care assessment to the extent that such information shall be exempt from disclosure under ORS 192.501(5).

(2) The Department may:

(a) Furnish any facility, or its authorized representative, upon request of the facility or representative, with a copy of the facility's report filed with the Department for any quarter, or with a copy of any report filed by the facility in connection with the report, or with a copy with any other information the Department considers necessary;

(b) Publish information or statistics so classified as to prevent the identification of income or any particulars contained in any report or return; and

(c) Disclose and give access to an officer or employee of the Department or its designee, or to the authorized representatives of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), the Controller General of the United States, the Oregon Secretary of State, the Oregon Department of Justice, the Oregon Department of Justice Medicaid Fraud Control Unit, and other employees of the state or federal government to the extent the Department deems disclosure or access necessary or appropriate for the performance of official duties in the Department's administration, enforcement, or collection of these assessments.

Stat. Auth.: ORS 409.050, 410.070, & 411.060

Stats. Implemented: ORS 409.225, 409.230, 410.140, 410.150, 411.300, & 411.320

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0421, SDP 3-2011, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14; APD 7-2014, f. & cert. ef. 4-1-14

411-069-0030

Entities Subject to the Long Term Care Facility Assessment

(1) Each long term care facility in Oregon is subject to the long term care facility assessment except the home and long term care facilities operated by the Oregon Department of Veterans' Affairs that receive written notice from the Department that they are exempt under the terms of a waiver. For these facilities, the exemption from the long term care facility assessment only applies for the specific period of time described in the notice from the Department.

(2) The Director shall determine on or before April 1 of each year those long term care facilities that meet the criteria of a waived long term care facility as defined by OAR 411-069-0000 that are exempt from the long term care facility assessment for the assessment year commencing July 1 of that year.

(3) A long term care facility that believes it meets the criteria of a waived long term care facility that has not received notice of exempt status or disagrees with the Department's decision, may request an administrative review from the Department.

(a) A request for an administrative review must be sent to: Administrator DHS Budget and Policy Analysis 500 Summer Street NE Salem, OR 97301.

(b) A request for administrative review must be received by the Department by April 15 prior to the assessment year.

(4) Effective January 1, 2014, each long term care facility in Oregon is subject to the long term care facility assessment, except nursing facilities operated by the Oregon Department of Veterans' Affairs. A waived long term care facility as defined in OAR 411-069-0000(11) is no longer exempt from the long term care facility assessment.

Stat. Auth.: ORS 409.050, 410.070 & 411.060

Stats. Implemented: ORS 409.750, OL 2003 Ch. 736, OL 2013 ch. 608

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; OMAP 31-2006(Temp), f. & cert. ef. 8-7-06 thru 2-2-07; Administrative correction, 2-16-07; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0431, SDP 3-2011, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14; APD 7-2014, f. & cert. ef. 4-1-14

411-069-0040

Long Term Care Facility Assessment: Calculation, Report, Due Date

(1) The assessment is assessed upon each patient day, including Medicaid patient day, at a long term care facility. The amount of the assessment equals the assessment rate times the number of patient days, including Medicaid patient days, at the long term care facility for the calendar quarter. The current rate of the assessment shall be determined in accordance with these rules.

(2) The facility must pay the assessment and file the report on a form approved by the Department on or before the last day of the month following the end of the calendar quarter for which the assessment is being reported, unless the Department permits a later payment date. If a facility requests an extension, the Department, in its sole discretion, shall determine whether to grant an extension.

(3) Each long term care facility must submit a revenue report on a form prescribed by the Department by September 30 of each year and pay any assessment amount due. Long term care facilities with a Medicaid contract with the Department that provide more than 1,000 Medicaid patient days must submit the nursing facility financial statement (cost report) annually as required by OAR 411-070-0300 which contains the revenue report. Long term care facilities that are not required to submit the annual cost report must submit the revenue report. Either a revenue report or a nursing facility financial statement, where applicable, must be filed by October 31

ADMINISTRATIVE RULES

of each year regardless of whether any additional assessment is owed as a result of that filing.

(4) Revenue reports submitted late are subject to penalty as set forth in OAR 411-069-0080. Nursing facility financial statements submitted late are subject to a penalty as set forth in 411-070-0300, where applicable.

(5) Any assessment amount due based on the cost report or revenue report as a reconciliation of the previously filed quarterly reports must be paid by the due date specified. Payments submitted late are subject to penalty as set forth in OAR 411-069-0080.

(6) Any refund due to the provider based on the cost report or revenue report may be requested in writing with the submission of the report.

(7) Any report, statement, or other document required to be filed under any provision of these rules shall be certified by the chief financial officer of the facility or an individual with delegated authority to sign for the facility's chief financial officer. The certification must attest, based on best knowledge, information, and belief, to the accuracy, completeness, and truthfulness of the document.

(8) Payments may be made electronically and the accompanying report may either be faxed to the Department at the fax number provided on the report form or mailed to the Department at the address provided on the report form.

(9) The Department may charge the facility a fee of \$100 if, for any reason, the check, draft, order, or electronic funds transfer request is honored. This charge is in addition to any penalty for nonpayment of the assessments that may also be due.

Stat. Auth.: ORS 409.050, 410.070 & 411.060

Stats. Implemented: ORS 409.750 & OL 2003 Ch. 736

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0451, SDP 3-2011, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14; APD 7-2014, f. & cert. ef. 4-1-14

411-069-0050

Filing an Amended Report

(1) Claims for refunds or payments for additional assessment must be submitted by the facility on a form approved by the Department. The facility must provide all information required on the report. The Department may audit the facility, request additional information, or request an informal conference prior to granting a refund or as part of its review of a payment of a deficiency.

(2) Claim for refund.

(a) If the amount of the assessment due is less than the amount paid by the facility and the facility does not then owe an assessment for any other calendar period, the overpayment may be refunded by the Department to the facility. The facility may request a refund by amending their quarterly report and submitting a written request for refund to the Department, or the facility may request a refund when filing their nursing facility financial statement or revenue report.

(b) If there is an amount due from the facility for any past due assessments or penalties, the refund otherwise allowable shall be applied to the unpaid assessments and penalties and the facility so notified.

(3) Payment of deficiency.

(a) If the amount of the assessment is more than the amount paid by the facility, the facility may file a corrected report on a form approved by the Department and pay the deficiency at any time. The penalty under OAR 411-069-0080 shall stop accruing after the Department receives payment of the total deficiency for the calendar quarter; and

(b) If there is an error in the determination of the assessment due, the facility may describe the circumstances of the late additional payment with the late filing of the amended report. The Department, at its sole discretion, may determine that a late additional payment does not constitute a failure to file a report or pay an assessment giving rise to the imposition of a penalty. In making this determination, the Department shall consider the circumstances, including but not limited to nature and extent of error, facility explanation of the error, evidence of prior errors, and evidence of prior penalties (including evidence of informal dispositions or settlement agreements). This provision only applies if the facility has filed a timely original return and paid the assessment identified in the return.

(4) If the Department discovers or identifies information in the administration of these assessment rules that it determines may give rise to the issuance of a notice of proposed action or the issuance of a refund, the Department shall issue notification pursuant to OAR 411-069-0100.

Stat. Auth.: ORS 409.050, 410.070 & 411.060

Stats. Implemented: ORS 409.750 & OL 2003 Ch. 736

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0461, SDP 3-2011, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14; APD 7-2014, f. & cert. ef. 4-1-14

411-069-0060

Determining the Date Filed

For the purpose of these rules, any reports, requests, appeals, payments, or other response by the facility must be either received by the Department before the close of business on the date due, or if mailed, post-marked before midnight of the due date. When the due date falls on a Saturday, Sunday, or legal holiday, the return is due on the next business day following the Saturday, Sunday, or legal holiday.

Stat. Auth.: ORS 409.050, 410.070 & 411.060

Stats. Implemented: ORS 409.750 & OL 2003 Ch. 736

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0471, SDP 3-2011, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14; APD 7-2014, f. & cert. ef. 4-1-14

411-069-0070

Assessment on Failure to File

In the case of a failure by the facility to file a report or to maintain necessary and adequate records, the Department shall determine the assessment liability of the facility according to the best of its information and belief. Best of its information and belief means the Department shall use evidence on which a reasonable person may rely in determining the assessment, including but not limited to estimating the days of patient days based upon the number of licensed beds in the facility. The Department's determination of assessment liability shall be the basis for the assessment due in a notice of proposed action.

Stat. Auth.: ORS 409.050, 410.070, & 411.060

Stats. Implemented: ORS 409.750 & OL 2003 Ch. 736

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0481, SDP 3-2011, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14; APD 7-2014, f. & cert. ef. 4-1-14

411-069-0080

Consequence of Failure to File a Report or Failure to Pay Assessment When Due

(1) A long term care facility that fails to file a quarterly report or pay a quarterly assessment when due under OAR 411-069-0040 is subject to a penalty of \$500 per day of delinquency. The penalty accrues from the date of deficiency, notwithstanding the date of any notice under these rules.

(2) A long term care facility that is exempt from paying provider assessments is not required to file a quarterly report, but is required to file an annual cost or revenue report. Even if exempt, a long term care facility that fails to file annual cost or revenue reports when due under OAR 411-069-0040 is subject to a penalty of up to \$500 per day of delinquency. The penalty accrues from the date of delinquency, notwithstanding the date of any notice under these rules.

(3) A long term care facility that fails to file an annual cost report or revenue report when due under OAR 411-069-0040 is subject to a penalty of up to \$500 per day of delinquency. The penalty accrues from the date of delinquency, notwithstanding the date of any notice under these rules.

(4) A long term care facility that files a cost report or annual revenue report, but fails to pay a fiscal year reconciliation assessment payment when due under OAR 411-069-0040 is subject to a penalty of up to \$500 per day of delinquency up to a maximum of five percent of the amount due. The penalty accrues from the date of delinquency, notwithstanding the date of any notice under these rules.

(5) The total amount of penalty imposed under this section for each reporting period may not exceed five percent of the assessment for the reporting period for which the penalty is being imposed.

(6) Penalties imposed under this section shall be collected by the Department and deposited in the Department's account established under ORS 409.060.

(7) Penalties paid under this section are in addition to the long term care facility assessment.

(8) If the Department determines that a facility is subject to a penalty under this section, the Department shall issue a notice of proposed action as described in OAR 411-069-0100.

(9) If a facility requests a contested case hearing pursuant to OAR 411-069-0120, the Director, at the Director's sole discretion, may waive or reduce the amount of penalty assessed.

(10) If a facility fails to report or pay the provider assessment after the Department issues a final order described in OAR 411-069-0130, then the Department shall pursue remedies described in 411-069-0140 that may include:

(a) A final order leading to collection activities;

(b) Nursing facility license denial, suspension, or revocation;

(c) Admission restrictions; or

(d) Terminating provider contracts.

Stat. Auth.: ORS 409.050, 410.070 & 411.060

ADMINISTRATIVE RULES

Stats. Implemented: ORS 409.750 & OL 2003 Ch. 736
Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; DMAP 29-2008, f. 8-29-08, cert. ef. 9-1-08; Renumbered from 410-050-0491, SDP 3-2011, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14; APD 7-2014, f. & cert. ef. 4-1-14

411-069-0090

Departmental Authority to Audit Records

(1) The facility must maintain clinical and financial records sufficient to determine the actual number of patient days for any calendar period for which an assessment may be due.

(2) The Department or its designee may audit the facility's records at any time for a period of three years following the date the assessment is due to verify or determine the number of patient days at the facility.

(3) The Department may issue a notice of proposed action or issue a refund based upon its findings during the audit.

(4) Any audit, finding, or position may be reopened if there is evidence of fraud, malfeasance, concealment, misrepresentation of material fact, omission of income, or collusion either by the facility or by the facility and a representative of the Department.

(5) The Department may issue a refund and otherwise take such actions as it deems appropriate based upon the audit findings.

Stat. Auth.: ORS 409.050, 410.070 & 411.060

Stats. Implemented: ORS 409.750 & OL 2003 Ch. 736

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; DMAP 29-2008, f. 8-29-08, cert. ef. 9-1-08; Renumbered from 410-050-0501, SDP 3-2011, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14; APD 7-2014, f. & cert. ef. 4-1-14

411-069-0100

Notice of Proposed Action

(1) Prior to issuing a notice of proposed action, the Department shall notify the facility of a potential deficiency or failure to report that may give rise to the imposition of a penalty. The Department shall issue a 30 day notification letter within 30 calendar days of the report or payment due date. The facility shall have 30 calendar days from the date of the notice to respond to the notification. The Department may consider the response, if any, and any amended report under OAR 411-069-0050 in its notice of proposed action. In all cases that the Department has determined that a facility has a deficiency or failure to report, the Department shall issue a notice of proposed action. The Department does not issue a notice of proposed action if the issue is resolved satisfactorily within 59 days from the date of mailing the 30 day notification letter.

(2) The Department shall issue a notice of proposed action within 60 calendar days from the date of mailing the 30 day notification letter.

(3) Contents of the notice of proposed action must include:

(a) The applicable calendar quarter;

(b) The basis for determining the corrected amount of assessment for the quarter;

(c) The corrected assessment due for the quarter as determined by the Department;

(d) The amount of assessment paid for the quarter by the facility;

(e) The resulting deficiency, which is the difference between the amount received by the Department for the calendar quarter and the corrected amount due as determined by the Department;

(f) Statutory basis for the penalty;

(g) Amount of penalty per day of delinquency;

(h) Date upon which the penalty began to accrue;

(i) Date the penalty stopped accruing or circumstances under which the penalty shall stop accruing;

(j) The total penalty accrued up to the date of the notice;

(k) Instructions for responding to the notice; and

(l) A statement of the facility's right to a hearing.

Stat. Auth.: ORS 409.050, 410.070 & 411.060

Stats. Implemented: ORS 409.750, OL 2003 Ch. 736

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; DMAP 29-2008, f. 8-29-08, cert. ef. 9-1-08; Renumbered from 410-050-0511, SDP 3-2011, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14; APD 7-2014, f. & cert. ef. 4-1-14

411-069-0110

Required Notice

(1) Any notice required to be sent to the facility shall be sent to the current licensee and any former licensee who was occupying the property during the time period to which the notice relates.

(2) Any notice required to be sent from the facility to the Department under these rules shall be sent to the point of contact identified on the communication from the Department to the facility.

Stat. Auth.: ORS 409.050, 410.070 & 411.060

Stats. Implemented: ORS 409.750 & OL 2003 Ch. 736

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0511, SDP 3-2021, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14; APD 7-2014, f. & cert. ef. 4-1-14

411-069-0120

Hearing Process

(1) Any facility that receives a notice of proposed action may request a contested case hearing as provided under ORS chapter 183.

(2) The written request must be received by the Department within 20 days of the date of the notice.

(3) Prior to the hearing, the facility shall meet with the Department for an informal conference.

(a) The informal conference may be used to negotiate a written settlement agreement.

(b) If the settlement agreement includes a reduction or waiver of penalties, the agreement must be approved and signed by the Director.

(4) Nothing in this section shall preclude the Department and the facility from agreeing to an informal disposition of the contested case at any time, consistent with ORS 183.417.

(5) If the case proceeds to a hearing, the administrative law judge shall issue a proposed order with respect to the notice of proposed action.

Stat. Auth.: ORS 409.050, 410.070 & 411.060

Stats. Implemented: ORS 409.750 & OL 2003 Ch. 736

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0551, SDP 3-2021, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14; APD 7-2014, f. & cert. ef. 4-1-14

411-069-0130

Final Order of Payment

The Department shall issue a final order of payment for deficiencies and/or penalties when:

(1) Any part of the deficiency or penalty is upheld after a hearing;

(2) The facility did not make a timely request for a hearing; or

(3) Upon the stipulation of the facility and the Department.

Stat. Auth.: ORS 409.050, 410.070 & 411.060

Stats. Implemented: ORS 409.750 & OL 2003 Ch. 736

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0541, SDP 3-2021, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14; APD 7-2014, f. & cert. ef. 4-1-14

411-069-0140

Remedies Available after Final Order of Payment

(1) Any amounts due and owing under the final order of payment and any interest thereon may be recovered by Oregon as a debt to the state, using any available legal and equitable remedies. These remedies include, but are not limited to:

(a) Collection activities including but not limited to deducting the amount of the final deficiency and penalty from any sum then or later owed to the facility or its owners or operators by the Department, CMS, or their designees to the extent allowed by law;

(b) Nursing facility license denial, suspension, or revocation under OAR 411-089-0040;

(c) Restrictions of admissions to the facility under OAR 411-089-0050; and

(d) Terminating the provider contract with the owners or operators of the facility under OAR 411-070-0015.

(2) Every payment obligation shall bear interest at the statutory rate of interest in ORS 82.010 accruing from the date of the final order of payment and continuing until the payment obligation, including interest, has been discharged.

Stat. Auth.: ORS 409.050, 410.070 & 411.060

Stats. Implemented: ORS 409.750 & OL 2003 Ch. 736

Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0551, SDP 3-2021, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14; APD 7-2014, f. & cert. ef. 4-1-14

411-069-0150

Calculation of Long Term Care Facility Assessment

(1) The amount of the assessment is based on the assessment rate determined by the Director multiplied by the number of patient days at the long term care facility for a calendar quarter.

(2) The Director shall establish an annual assessment rate for long term care facilities that applies for each 12-month period beginning July 1. The Director shall establish the assessment rate on or before June 15 preceding the 12-month period for which the rate applies.

(3) On or before October 31, the Department shall refund any overages from the prior fiscal year. For example, by October 31, 2013, the Department shall refund any overages from fiscal year 2012. Overages are defined as any amount of provider assessment that exceeds the federal maximum provider assessment limit in effect for the fiscal year.

ADMINISTRATIVE RULES

Stat. Auth.: ORS 409.050, 410.070 & 411.060
Stats. Implemented: ORS 409.750 & OL 2003 Ch. 736
Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0561, SDP 3-2021, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14; APD 7-2014, f. & cert. ef. 4-1-14

411-069-0160

Limitations on the Imposition of the Long Term Care Facility Assessment

The long term care facility assessment may be imposed only in a calendar quarter for which the long term care facility reimbursement rate that is part of the Oregon Medicaid reimbursement system was calculated according to the methodology described in Oregon Laws 2003, chapter 736, section 24.

Stat. Auth.: ORS 409.050, 410.070 & 411.060
Stats. Implemented: ORS 409.750 & OL 2003 Ch. 736
Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0591, SDP 3-2021, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14; APD 7-2014, f. & cert. ef. 4-1-14

411-069-0170

Sunset Provision

The long term care assessment applies to long term care facility gross revenue received on or after June 2003 and before July 1, 2020.

Stat. Auth.: ORS 409.050, 410.070 & 411.060
Stats. Implemented: ORS 409.750 & OL 2003 Ch. 736
Hist.: DMAP 2-2008, f. & cert. ef. 1-25-08; Renumbered from 410-050-0601, SDP 3-2021, f. & cert. ef. 2-1-11; SPD 41-2013(Temp), f. & cert. ef. 10-7-13 thru 4-5-14; APD 7-2014, f. & cert. ef. 4-1-14

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

Adm. Order No.: APD 8-2014

Filed with Sec. of State: 4-1-2014

Certified to be Effective: 4-1-14

Notice Publication Date: 3-1-2014

Rules Repealed: 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

Subject: The Department of Human Services is permanently repealing the rules in OAR chapter 411, division 335 for proctor care residential services for children with intellectual or developmental disabilities. 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: Kimberly Colkitt-Hallman—(503) 945-6398

Department of Human Services, Child Welfare Programs Chapter 413

Rule Caption: Repealing OARs regarding Interstate Services for Delinquent Juveniles

Adm. Order No.: CWP 5-2014

Filed with Sec. of State: 4-1-2014

Certified to be Effective: 4-1-14

Notice Publication Date: 3-1-2014

Rules Repealed: 413-040-0370, 413-040-0380, 413-040-0390

Subject: The Department of Human Services, Child Welfare Programs, is repealing 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.

Rules Coordinator: Kris Skaro—(503) 945-6067

Rule Caption: Repealing Child Welfare receipting rules

Adm. Order No.: CWP 6-2014

Filed with Sec. of State: 4-1-2014

Certified to be Effective: 4-1-14

Notice Publication Date: 3-1-2014

Rules Repealed: 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

Subject: 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 being repealed.

Rules Coordinator: Kris Skaro—(503) 945-6067

Rule Caption: Repealing OARs related to miscellaneous payments

Adm. Order No.: CWP 7-2014

Filed with Sec. of State: 4-1-2014

Certified to be Effective: 4-1-14

Notice Publication Date: 3-1-2014

Rules Repealed: 413-310-0100, 413-310-0110, 413-310-0120, 413-310-0130

Subject: 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 are being repealed.

Rules Coordinator: Kris Skaro—(503) 945-6067

Rule Caption: Repealing OARs related to Child Welfare contracts

Adm. Order No.: CWP 8-2014

Filed with Sec. of State: 4-1-2014

Certified to be Effective: 4-1-14

Notice Publication Date: 3-1-2014

Rules Repealed: 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

Subject: 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.

ADMINISTRATIVE RULES

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

Rules Coordinator: Kris Skaro—(503) 945-6067

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 8-2014

Filed with Sec. of State: 3-31-2014

Certified to be Effective: 3-31-14

Notice Publication Date: 2-1-2014

Rules Amended: 461-155-0150

Subject: OAR 461-155-0150 about the child care eligibility standard, payment rates, and copayments is being amended to make permanent temporary rule changes effective October 1, 2013 and November 1, 2013 that increased child care provider rates and updated child age categories definitions. These amendments updated references to the Child Care Division to state the office's new name as the Oregon Office of Child Care; updated the Infant age category for licensed providers and the provider rates for Registered Family and Certified Family care providers as determined by the Final Memorandum of Agreement with the AFSCME provider union; updated the provider rates for Standard and Enhanced Family care providers as determined through SEIU provider bargaining agreements; supported provider rate increases for Standard, Enhanced and Certified child care centers; and stated that providers are not reimbursed more than they charge.

Rules Coordinator: Kris Skaro—(503) 945-6067

461-155-0150

Child Care Eligibility Standard, Payment Rates, and Copayments

The following provisions apply to child care in the ERDC, JOBS, JOBS Plus, and TANF programs:

(1) The following definitions apply to the rules governing child care rates:

(a) Infant: For all providers other than licensed (registered or certified) care, a child aged newborn to 1 year. For licensed care, an infant is a child aged newborn to 2 years.

(b) Toddler: For all providers other than licensed (registered or certified) care, a child aged 1 year to 3 years. For licensed care, a toddler is a child aged 2 years to 3 years.

(c) Preschool: A child aged 3 years to 6 years.

(d) School: A child aged 6 years or older.

(e) Special Needs: A child who meets the age requirement of the program (ERDC or TANF) and who requires a level of care over and above the norm for his or her age due to a physical, behavioral or mental disability. The need for a higher level of care must be determined by the provider and the disability must be verified by one of the following:

(A) A physician, nurse practitioner, clinical social worker, or any additional sources in OAR 461-125-0830.

(B) Eligibility for Early Intervention and Early Childhood Special Education Programs, or school-age Special Education Programs.

(C) Eligibility for SSI.

(2) The following definitions apply to the types of care specified in the child care rate charts in subsections (4)(a) through (4)(c) of this rule:

(a) The Standard Family Rate applies to child care provided in the provider's own home or in the home of the child when the provider does not qualify for the enhanced rate allowed by subsection (b) of this section.

(b) The Enhanced Family Rate applies to child care provided in the provider's own home or in the home of the child when the provider meets the training requirements of the Oregon Registry, established by the Oregon Center for Career Development in Childhood Care and Education.

(c) The Registered Family Rate applies to child care provided in the provider's own home when the provider meets criteria established by the Office of Child Care.

(d) The Certified Family Rate applies to child care provided in a residential dwelling that is certified by the Office of Child Care as a Certified Family Home. To earn this designation, the facility must be inspected, and both provider and facility are required to meet certain standards not required of a registered family provider.

(e) The Standard Center Rate applies to child care provided in a facility that is not located in a residential dwelling and is exempt from Office of Child Care Certification rules (see OAR 414-300-0000).

(f) The Enhanced Center Rate applies to child care provided in an exempt center whose staff meet the training requirements of the Oregon Registry established by the Oregon Center for Career Development in Childhood Care and Education. Eligibility to receive the enhanced center rate for care provided in an exempt center is subject to the following requirements:

(A) A minimum of one staff member for every 20 children in care must meet the Oregon Registry training requirements noted in paragraph (2)(b) of this rule.

(B) New staff must meet the Oregon Registry training requirements within 90 days of hire, if necessary to maintain the trained staff-to-children ratio described in paragraph (A) of this subsection.

(C) There must be at least one person present where care is provided who has a current certificate in infant and child CPR and a current American Red Cross First Aid card or an equivalent.

(g) An enhanced rate will become effective not later than the second month following the month in which the Department receives verification that the provider has met the requirements of subsection (2)(b), (f), or (g) of this rule.

(h) The Certified Center Rate applies to child care provided in a center that is certified by the Office of Child Care.

(3) The following provisions apply to child care payments:

(a) Providers not eligible for the enhanced or licensed rate will be paid at an hourly rate for children in care less than 158 hours per month subject to the maximum full-time monthly rate.

(b) Providers eligible for the enhanced or licensed rate will be paid at an hourly rate for children in care less than 136 hours a month, unless the provider customarily bills all families at a part-time monthly rate (subject to the maximum full-time monthly rate) and is designated as the primary provider for the case.

(c) At their request, providers eligible for the enhanced or licensed rate may be paid at the part-time monthly rate if they provide 63 or more hours of care in the month, customarily bill all families at a part-time monthly rate, and are designated as the primary provider for the case.

(d) Unless required by the circumstances of the client or child, the Department will not pay for care at a part-time monthly or a monthly rate to more than one provider for the same child for the same month.

(e) The Department will pay at the hourly rate for less than 63 hours of care in the month subject to the maximum full-time monthly rate.

(f) The Department will pay for up to five days each month the child is absent if:

(A) The child was scheduled to be in care and the provider bills for the amount of time the child was scheduled to be in care; and

(B) It is the provider's policy to bill all families for absent days.

(g) The Department will not pay for more than five consecutive days of scheduled care for which the child is absent.

(4) The following are the child care rates, the rates are based on the type of provider, the location of the provider (shown by zip code), the age of the child, and the type of billing used (hourly or monthly):

(a) [Table not included. See ED. NOTE.]

(b) [Table not included. See ED. NOTE.]

(c) [Table not included. See ED. NOTE.]

(5) Except to the extent provided otherwise in section (12) of this rule, this section establishes the ERDC eligibility standard and the client's copayment (copay).

(a) The ERDC eligibility standard is met for need groups (see OAR 461-110-0630) of eight or less if monthly countable income (see OAR 461-

ADMINISTRATIVE RULES

001-0000) for the need group is less than 185 percent of the federal poverty level (FPL), as described in OAR 461-155-0180(6). The eligibility standard for a need group size of eight applies to any need group larger than eight.

(b) The minimum monthly ERDC copay is \$25.

(c) For filing groups (see OAR 461-110-0310) whose countable income is at or below 50 percent of the 2007 FPL, the copay is \$25 or 1.5 percent of the filing group's monthly countable income, whichever is greater.

(d) For filing groups whose countable income is over 50 percent of the 2007 FPL, the copay amount is determined with the following percentage of monthly income:

(A) Determine filing group's countable income as a percent of FPL (rounding to the nearest hundredth of the percentage), subtract 50, and multiply this difference by 0.12.

(B) Add 1.5 to the amount in paragraph (A) of this subsection. This sum is the percentage of monthly income to determine the copay amount.

(e) The 2007 federal poverty level used to determine copay amounts under subsections (c) and (d) of this section is set at the following amounts: [Table not included. See ED. NOTE.]

(6) Subject to the provisions in section (9) of this rule, the monthly limit for each child's child care payments is the lesser of the amount charged by the provider or providers and the following amounts:

(a) The monthly rate provided in section (4) of this rule.

(b) The product of the hours of care, limited by section (8) of this rule, multiplied by the hourly rate provided in section (4) of this rule.

(7) The limit in any month for child care payments on behalf of a child whose caretaker is away from the child's home for more than 30 days because the caretaker is a member of a reserve or National Guard unit that is called up for active duty is the lesser of the following:

(a) The amount billed by the provider or providers.

(b) The monthly rate established in this rule for 215 hours of care.

(8) The number of payable billed hours of care for a child is limited as follows:

(a) In the ERDC and TANF programs, the total payable hours of care in a month may not exceed:

(A) 125 percent of the number of hours necessary for the client to perform the duties of his or her job, or to participate in activities included in a case plan (see OAR 461-001-0025) including, for clients in the JOBS Plus program, the time the client searches for unsubsidized employment and for which the employer pays the client; or

(B) The monthly rate established in section (4) of this rule multiplied by a factor of not more than 1.5, determined by dividing the number of hours billed by 215, when the client meets the criteria for extra hours under section (10) of this rule.

(b) In the ERDC program, for a client who earns less than the Oregon minimum wage, the total may not exceed 125 percent of the anticipated earnings divided by the state minimum wage not to exceed 172 hours (which is full time). The limitation of this subsection is waived for the first three months of the client's employment.

(c) In the TANF program, for a client who earns less than the Oregon minimum wage or is self-employed, the total may not exceed 125 percent of the anticipated earnings divided by the state minimum wage not to exceed 172 hours (which is full time). The limitation of this subsection is waived for the first three months of the client's employment.

(9) The limit in any month for child care payments on behalf of a child whose caretaker has special circumstances, defined in section (10) of this rule, is the lesser of one of the following:

(a) The amount billed by the provider or providers; or

(b) The monthly rate established in section (4) of this rule multiplied by a factor, of not more than 1.5, determined by dividing the number of hours billed by 215.

(10) The limit allowed by section (9) of this rule is authorized once the Department has determined the client has special circumstances. For the purposes of this section, a client has special circumstances when it is necessary for the client to obtain child care in excess of 215 hours in a month to perform the requirements of his or her employment or training. This is limited to the following situations:

(a) The commute time to and from work exceeds two hours per day.

(b) The caretaker works an overnight shift and care is necessary for both work hours and sleep hours.

(c) The caretaker works a split shift and it is not feasible to care for the child between shifts.

(d) The caretaker consistently works more than 40 hours per week.

(e) Weekend work or other nonstandard work hours require care by more than one provider, and the total allowable hours billed by both providers exceeds the maximum limit.

(f) The caretaker needs child care for both full-time work and participation in Department assigned activities.

(11) The payment available for care of a child who meets the special needs criteria described in subsection (1)(e) of this rule is increased in accordance with OAR 461-155-0151 if the requirements of both of the following subsections are met:

(a) The child requires significantly more direct supervision by the child care provider than normal for a child of the same age; and

(b) The child is enrolled in a local school district Early Intervention or Early Childhood Special Education program or school-age Special Education Program. The enrollment required by this subsection is waived if determined inappropriate by a physician, nurse practitioner, licensed or certified psychologist, clinical social worker, or school district official.

(12) Starting May 1, 2012:

(a) The minimum monthly ERDC copay is \$27.

(b) Except as stated in subsection (a) of this section, the Department adds 10 percent to the monthly client co-payment amount set under section (5) of this rule.

(13) A provider caring for a child in a contracted child care slot with the Department will be paid the lesser of the monthly rate provided in section (4) of this rule or the amount charged by the provider.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.006 & 412.049

Stats. Implemented: ORS 409.010, 409.610, 411.060, 411.070, 412.006, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 19-1991(Temp), f. & cert. ef. 10-1-91; AFS 4-1992, f. 2-28-92, cert. ef. 3-1-92; AFS 14-1992, f. & cert. ef. 6-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 10-1993, f. & cert. ef. 6-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 9-1994, f. 4-29-94, cert. ef. 5-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 23-1995, f. 4-20-95, cert. ef. 10-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 14-1999, f. & cert. ef. 11-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 4-2000(Temp), f. 2-29-00, cert. ef. 3-1-00 thru 8-25-00; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; AFS 23-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 2-2003(Temp), f. & cert. ef. 2-7-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 24-2003(Temp), f. & cert. ef. 10-1-03 thru 12-31-03; SSP 35-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 35-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 7-2006(Temp), f. 3-31-06, cert. ef. 4-1-06 thru 9-28-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 4-2009(Temp), f. 3-11-09, cert. ef. 4-1-09 thru 9-28-09; SSP 27-2009, f. & cert. ef. 9-29-09; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 13-2012(Temp), f. & cert. ef. 4-10-12 thru 10-7-10; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 39-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-30-13; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 31-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 35-2013, f. & cert. ef. 11-1-13 thru 3-30-14; SSP 8-2014, f. & cert. ef. 3-31-14

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

Adm. Order No.: SSP 9-2014

Filed with Sec. of State: 4-1-2014

Certified to be Effective: 4-1-14

Notice Publication Date: 2-1-2014

Rules Amended: 461-001-0000, 461-025-0310, 461-025-0316, 461-135-0505, 461-135-0750, 461-135-0950, 461-145-0280, 461-175-0230, 461-195-0501, 461-195-0521, 461-195-0541, 461-195-0561

Rules Repealed: 461-001-0000(T), 461-135-0505(T), 461-145-0280(T), 461-195-0501(T), 461-195-0521(T), 461-195-0541(T), 461-195-0561(T)

Subject: OAR 461-001-0000 about definitions used in various DHS program rules is being amended to revise the definitions of "legally married", "marriage", "parent", and "spouse" so that the Department recognizes as being legally married those same-sex couples who have been united in marriage according to the law of the state or country in which the marriage occurred. The definitions of "legally married" and "spouse" are also being updated and clarified for the ERDC and SNAP programs to prevent unnecessary training in the context of this change.

OAR 461-025-0310 about hearing requests is being amended as part of the implementation of the federal Affordable Care Act and HB

ADMINISTRATIVE RULES

2859 to address the statutory changes to the definition of “public assistance”, and align the time periods for DHS medical programs with OHA OCCS medical programs, establishing 90 days to request a hearing, a good cause window, and allowing oral hearing requests. This amendment makes permanent a temporary rule change effective October 2, 2013.

OAR 461-025-0316 about Intentional Program Violation (IPV) Hearings for the SNAP Program is being amended to state that if the signature on the hearing waiver was obtained by fraud, the individual may obtain an IPV hearing on the merits. This rule is also being amended to state that the hearing may be conducted without the individual if the notice of hearing was sent using first class and returned as undeliverable; and to revise the policy about when an individual who misses the IPV hearing may obtain a hearing on the merits.

OAR 461-135-0505 about categorical eligibility for the Supplemental Nutrition Assistance Program (SNAP) is being amended make permanent a temporary rule change effective January 1, 2014 that implemented a \$25,000 liquid asset test for some households to be determined categorically eligible. Liquid assets are assets that are easily accessible like a bank account or cash on hand. The asset test does not include currently excluded resources for the SNAP program such as a person’s home, retirement accounts, or earned income tax refunds. The intent of the policy change is to identify individuals with large windfalls such as a lottery winning that exceeds \$25,000 in order to exclude them from receiving SNAP benefits and focus benefits on individuals who need them.

OAR 461-135-0750 about the eligibility of individuals in long-term care or home and community-based care for the OSIPM program is being amended to indicate that individuals in a psychiatric institution do not need to qualify for DHS APD long term care services to qualify for Medicaid reimbursement while they are in the State Hospital. This rule is also being amended to clarify current policy which applies this rule to individuals applying for and receiving long-term care services.

OAR 461-135-0950 about eligibility for inmates and residents of state hospitals is being amended to correctly state the requirements to determine eligibility for an individual in the State Hospital by expanding Medicaid eligibility.

OAR 461-145-0280 about the treatment of in-kind income in determining eligibility for several DHS programs is being amended to make permanent temporary rule changes effective January 1, 2014 that remove the rule’s coverage of the EXT, MAA, MAF, OHP, and SAC programs. The policies about financial eligibility for medical assistance have been moved from OAR 461 (DHS) into the OAR 410-200 (under OHA), and as part of the implementation efforts for the federal Affordable Care Act (ACA). For applications for medical assistance starting on October 1, 2013, financial eligibility policies are set out in OAR 410-200.

OAR 461-175-0230 about notices sent to clients in nonstandard living situations is being amended to set the policy for the type of notice needed when ending Medicaid benefits for a person who has been committed to an institution. This amendment establishes that a basic decision notice is sent to terminate, suspend, or reduce Medicaid benefits in this situation.

OAR 461-195-0501, 461-195, 0521, 461-195-0541, 461-195-0561 about overpayment definitions, calculations, liability, and compromise of claims are being amended to align with the October 1, 2013 rule changes to the OCCS Medical programs for the Oregon Health Authority. OAR 461-195 0501 is also being amended to state the Department’s overpayment minimum threshold practices below which the Department does not pursue overpayments. This rule amendment supersedes prior statements on this topic in the Family Services Manual and states that there are no minimums in the SNAP program, if the overpayment was identified in a quality control review; in all programs, if the overpayment was caused by a client’s

receipt of continuing benefits in a contested case; and in all programs, if the overpayment caused by possible fraud by a client or provider.

In addition, the above rules may also be changed to reflect new Department terminology and to correct formatting and punctuation.
Rules Coordinator: Kris Skaro—(503) 945-6067

461-001-0000

Definitions for Chapter 461

Defined terms are often italicized throughout this chapter of rules. If a defined term is accompanied by a cross-reference to a rule defining the term, subsequent usages of that term in the same rule refer to the same definition cross-referenced earlier in the rule. In this chapter of rules, unless the context indicates otherwise:

(1) A reference to Division, Adult and Family Services Division (or AFS), Senior and Disabled Services Division (or SDDS), or any other agency formerly part of the Department of Human Services shall be taken to mean the Department of Human Services (DHS), except:

(a) The rule in which reference occurs only regulates programs covered by Chapter 461 of the Oregon Administrative Rules.

(b) OCCS medical program eligibility rules are set out in the 410-200 division of Oregon Administrative Rules.

(2) “Address Confidentiality Program” (ACP) means a program of the Oregon Department of Justice, which provides a substitute mailing address and mail forwarding service for ACP participants who are victims of domestic violence, sexual assault, or stalking.

(3) “Adjusted income” means the amount determined by subtracting income deductions from countable income (see OAR 461-140-0010). Specific rules on the deductions are found in division 461-160.

(4) “Adoption assistance” means financial assistance provided to families adopting children with special needs. Adoption assistance may be state or federally funded. Federal adoption assistance is authorized by the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. No. 96-272, 94 Stat. 500 (1980)). State adoption assistance is authorized by ORS 418.330 to 418.335.

(5) “Assets” mean income and resources.

(6) “Basic decision notice” means a decision notice mailed no later than the date of action given in the notice.

(7) “Branch office” means any Department or AAA (Area Agency on Aging) office serving a program covered by this chapter of rules.

(8) “Budgeting” means the process of calculating the benefit level.

(9) “Budget month” means the calendar month from which nonfinancial and financial information is used to determine eligibility and benefit level for the payment month.

(10) “Cafeteria plan” means a written benefit plan offered by an employer in which:

(a) All participants are employees; and

(b) Participants can choose, cafeteria-style, from a menu of two or more cash or qualified benefits. In this context, qualified benefits are benefits other than cash that the Internal Revenue Services does not consider part of an employee’s gross income. Qualified benefits include, but are not limited to:

(A) Accident and health plans (including medical plans, vision plans, dental plans, accident and disability insurance);

(B) Group term life insurance plans (up to \$50,000);

(C) Dependent care assistance plans; and

(D) Certain stock bonus plans under section 401(k)(2) of the Internal Revenue Code (but not 401(k)(1) plans).

(11) “Capital asset” means property that contributes toward earning self-employment income, including self-employment income from a microenterprise, either directly or indirectly. A capital asset generally has a useful life of over one year and a value, alone or in combination, of \$100 or more.

(12) “Caretaker” means an individual who is responsible for the care, control, and supervision of a child. The status of caretaker ends once the individual no longer exercises care, control, and supervision of the child for 30 days.

(13) “Caretaker relative” means:

(a) In the Pre-TANF, REF, SFPSS, and TANF programs, a dependent child’s father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece who lives in a residence maintained by one or more of the relatives as the child’s or the relative’s own home.

(b) In all programs not covered under subsection (a) of this section, a caretaker who meets the requirements of one of the following paragraphs:

(A) Is one of the following relatives of the dependent child:

ADMINISTRATIVE RULES

(i) Any blood relative, including those of half-blood, and including first cousins, nephews, or nieces, and individuals of preceding generations as denoted by prefixes of grand, great, or great-great.

(ii) Stepfather, stepmother, stepbrother, and stepsister.

(iii) An individual who legally adopts the child and any individual related to the individual adopting the child, either naturally or through adoption.

(B) Is or was a spouse of an individual listed in paragraph (A) of this subsection.

(C) Met the definition of caretaker relative under paragraph (A) or (B) of this subsection before the child was adopted (notwithstanding the child's subsequent adoption).

(14) "Certification period" means the period for which a client is certified eligible for a program.

(15) "Child" includes natural, step, and adoptive children. The term child does not include an unborn.

(a) In the ERDC program, a child need not have a biological or legal relationship to the caretaker but must be in the care and custody of the caretaker, must meet the citizenship or alien status requirements of OAR 461-120-0110, and must be:

(A) Under the age of 18; or

(B) Under the age of 19 and in secondary school or vocational training at least half time.

(b) In the GA, GAM, and OSIP programs, a child is an individual under the age of 18.

(c) In the OSIPM and QMB programs, child means an unmarried individual living with a parent who is:

(A) Under the age of 18; or

(B) Under the age of 22 and attending full time secondary, post secondary or vocational-technical training designed to prepare the individual for employment.

(16) "Community based care" is any of the following:

(a) Adult foster care — Room and board and 24 hour care and services for the elderly or for disabled people 18 years of age or older. The care is contracted to be provided in a home for five or fewer clients.

(b) Assisted living facility — A program approach, within a physical structure, which provides or coordinates a range of services, available on a 24-hour basis, for support of resident independence in a residential setting.

(c) In-home Services — People living in their home receiving services determined necessary by the Department.

(d) Residential care facility — A facility that provides residential care in one or more buildings on contiguous property for six or more individuals who have physical disabilities or are socially dependent.

(e) Specialized living facility — Identifiable services designed to meet the needs of individuals in specific target groups which exist as the result of a problem, condition or dysfunction resulting from a physical disability or a behavioral disorder and require more than basic services of other established programs.

(f) Independent choices — In-Home Services program wherein the participant is given cash benefits to purchase self-directed personal assistance services or goods and services provided pursuant to a written service plan (see OAR 411-030-0020).

(17) "Continuing benefit decision notice" means a decision notice that informs the client of the right to continued benefits and is mailed in time to be received by the date benefits are, or would be, received.

(18) "Countable" means that an available asset (either income or a resource) is not excluded and may be considered by some programs to determine eligibility.

(19) "Cover Oregon" means Oregon Health Insurance Exchange Corporation.

(20) "Custodial parents" mean parents who have physical custody of a child. Custodial parents may be receiving benefits as dependent children or as caretaker relatives for their own children.

(21) "Decision notice" means a written notice of a decision by the Department regarding an individual's eligibility for benefits in a program.

(22) "Department" means the Department of Human Services (DHS).

(23) "Dependent child", in the REF, REFM, and TANF programs, means the following:

(a) An individual who is not a caretaker relative of a child in the household, is unmarried or married but separated, and is under the age of 18, or 18 years of age and a full time student in secondary school or the equivalent level of vocational or technical training; or

(b) A minor parent whose parents have chosen to apply for benefits for the minor parent. This does not apply to a minor parent who is married and living with his or her spouse.

(24) "Disability" means:

(a) In the SNAP program, see OAR 461-001-0015.

(b) In the REF, SFPSS, TA-DVS, and TANF programs, for purposes other than determining eligibility:

(A) An individual with a physical or mental impairment that substantially limits the individual's ability to meet the requirements of the program; or

(B) An individual with a physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or who is regarded as having such an impairment as defined by the Americans with Disabilities Act (42 USC 12102; 28 CFR 35.104).

(25) "Domestic violence" means the occurrence of one or more of the acts described in subsections (a) to (d) of this section between family members, intimate partners, or household members:

(a) Attempting to cause or intentionally, knowingly or recklessly causing physical injury or emotional, mental or verbal abuse.

(b) Intentionally, knowingly or recklessly placing another in fear of imminent serious physical injury.

(c) Committing sexual abuse in any degree as defined in ORS 163.415, 163.425 and 163.427.

(d) Using coercive or controlling behavior.

(e) As used in this section, "family members" and "household members" mean any of the following:

(A) Spouse;

(B) Former spouse;

(C) Individuals related by blood, marriage, or adoption;

(D) Individuals who are cohabitating or have cohabited with each other;

(E) Individuals who have been involved in a sexually intimate or dating relationship; or

(F) Unmarried parents of a child.

(26) "Domestic violence shelters" are public or private nonprofit residential facilities providing services to victims of domestic violence. If the facility serves other people, a portion must be used solely for victims of domestic violence.

(27) "Electronic application" is an application electronically signed and submitted through the internet.

(28) "Eligibility" means the decision as to whether an individual qualifies, under financial and nonfinancial requirements, to receive program benefits.

(29) "Equity value" means fair market value minus encumbrances.

(30) "Fair market value" means the amount an item is worth on the open market.

(31) "Family stability" in the JOBS, Pre-TANF, Post-TANF, SFPSS, TA-DVS, and TANF programs means the characteristics of a family that support healthy child development, including parental mental health, drug and alcohol free environment, stable relationships, and a supportive, flexible, and nurturing home environment.

(32) "Family stability activity" in the JOBS, Pre-TANF, Post-TANF, SFPSS, TA-DVS, and TANF programs means an action or set of actions taken by the client, as specified in a case plan, intended to promote the ability of one or both parents to achieve or maintain family stability.

(33) "Financial institution" means a bank, credit union, savings and loan association, investment trust, or other organization held out to the public as a place receiving funds for deposit, savings, checking, or investment.

(34) "Income producing property" means any real or personal property that generates income for the financial group. Examples of income producing property are:

(a) Livestock, poultry, and other animals.

(b) Farmland, rental homes (including a room or other space in the home or on the property of a member of the financial group), vacation homes, condominiums.

(35) "Initial month" of eligibility means any of the following:

(a) In all programs, the first month a benefit group (see OAR 461-110-0750) is eligible for a program benefit in Oregon after a period during which the group is not eligible.

(b) In all programs except the SNAP program, the first month a benefit group is eligible for a program benefit after there has been a break in the program benefit of at least one full calendar month. If benefits are suspended for one month, that is not considered a break.

(c) In the SNAP program:

(A) The first month for which the benefit group is certified following any period during which they were not certified to participate, except for migrant and seasonal farm workers (see OAR 461-001-0015).

ADMINISTRATIVE RULES

(B) For migrant and seasonal farmworkers, the first month for which the benefit group is certified following any period of one month or more during which they were not certified to participate.

(d) For a new applicant to the GA, GAM, OSIP, or OSIPM program living in a nonstandard living arrangement, for the purposes of calculating the correct divisor in OAR 461-140-0296, the month in which the client would have been eligible had it not been for the disqualifying transfer of assets.

(36) "In-kind income" means income in a form other than money (such as food, clothing, cars, furniture, and payments made to a third party).

(37) "Legally married" means a marriage uniting two individuals according to:

(a) The statutes of the state where the marriage occurred;

(b) Except in the SNAP program, the common law of the state in which the two individuals previously resided while meeting the requirements for common law marriage in that state; or

(c) The laws of a country in which the two individuals previously resided while meeting the requirements for legal or cultural marriage in that country.

(38) "Life estate" means the right to property limited to the lifetime of the individual holding it or the lifetime of some other individual. In general, a life estate enables the owner of the life estate to possess, use, and obtain profits from property during the lifetime of a designated individual while actual ownership of the property is held by another individual. A life estate is created when an individual owns property and then transfers ownership to another individual while retaining, for the rest of his or her life, certain rights to that property. In addition, a life estate is established when a member of the financial group (see OAR 461-110-0530) purchases a life estate interest in the home of another individual.

(39) "Lodger" means a member of the household group (see OAR 461-110-0210) who:

(a) Is not a member of the filing group; and

(b) Pays the filing group for room and board.

(40) "Long term care" means the system through which the Department provides a broad range of social and health services to eligible adults who are aged, blind, or have disabilities for extended periods of time. This includes nursing homes and state hospitals (Eastern Oregon and Oregon State Hospitals).

(41) "Lump-sum income" means income received too infrequently or irregularly to be reasonably anticipated, or received as a one-time payment. Lump-sum income includes:

(a) Retroactive benefits covering more than one month, whether received in a single payment or several payments.

(b) Income from inheritance, gifts, winnings, and personal injury claims.

(42) "Marriage" means the union of two individuals who are legally married.

(43) "Microenterprise" means a sole proprietorship, partnership, or family business with fewer than five employees and capital needs no greater than \$35,000.

(44) "Minor parent", in the ERDC, REF, REFM, and TANF programs, means a parent under the age of 18.

(45) "Nonstandard living arrangement" is defined as follows:

(a) In the GA, GAM, OSIP, OSIPM, and QMB programs, a client is considered to be in a nonstandard living arrangement when the client is applying for or receiving services in any of the following locations:

(A) A nursing facility in which the client receives long-term care services paid with Medicaid funding, except this subsection does not apply to a Medicare client in a skilled-stay nursing facility.

(B) An intermediate care facility for the mentally retarded (ICF/MR).

(C) A psychiatric institution, if the individual is not yet 21 years of age or has reached the age of 65.

(D) A community based care (see section (16) of this rule) setting, except a State Plan Personal Care (SPPC) setting is not considered a non-standard living arrangement.

(b) In all programs except GA, GAM, OSIP, OSIPM, and QMB, non-standard living arrangement means each of the following locations:

(A) Foster care.

(B) Residential Care facility.

(C) Drug or alcohol residential treatment facility.

(D) Homeless or domestic violence shelter.

(E) Lodging house if paying for room and board.

(F) Correctional facility.

(G) Medical institution.

(46) "OCCS" is the Office of Client and Community Services, part of the Medical Assistance Programs under the Oregon Health Authority responsible for OCCS medical program eligibility policy, community outreach, OCCS Medical Program eligibility determinations, and the OHA Customer Service Call Center.

(47) "OCCS Medical Programs" refers to programs for which eligibility policy can be found in division 410-200 of Oregon Administrative Rule, and includes CEC, CEM, MAA, MAF, EXT, OHP, Substitute Care, BCCTP, and MAGI Medicaid/CHIP programs, including:

(a) MAGI Child;

(b) MAGI Parent or Other Caretaker Relative;

(c) MAGI Pregnant Woman; and

(d) MAGI CHIP.

(48) "Ongoing month" means one of the following:

(a) For all programs except the SNAP program, any month following the initial month of eligibility, if there is no break in the program benefit of one or more calendar months.

(b) For the SNAP program, any month in the certification period following the initial month of eligibility.

(49) "Parent" for all programs except the SNAP program, means the biological or legal mother or father of an individual or unborn child. For the SNAP program, a parent means the biological or legal mother or father of an individual.

(a) If the mother lives with a male and either she or the male claims that he is the father of the child or unborn, and no one else claims to be the father, he is treated as the father even if paternity has not been legally established.

(b) A stepparent relationship exists if:

(A) The individual is legally married to the child's biological or adoptive parent; and

(B) The marriage has not been terminated by legal separation, divorce, or death.

(c) A legal adoption erases all prior legal and blood relationships and establishes the adoptive parent as the legal parent. However, the biological parent is also considered a parent if both of the following are true:

(A) The child lives with the biological parent; and

(B) The legal parent has given up care, control, and supervision of the child.

(50) "Payment month" means, for all programs except EA, the calendar month for which benefits are issued.

(51) "Payment period" means, for EA, the 30-day period starting with the date the first payment is issued and ending on the 30th day after the date the payment is issued.

(52) "Periodic income" means income received on a regular basis less often than monthly.

(53) "Primary person" for all programs except the SNAP program, means the filing group member who is responsible for providing information necessary to determine eligibility and calculate benefits. The primary person for individual programs is as follows:

(a) For the TANF program, the parent or caretaker relative.

(b) For the ERDC program, the caretaker.

(c) For SNAP, see OAR 461-001-0015.

(d) For the GA, GAM, OSIP, OSIPM, and QMB programs: the client or client's spouse.

(e) For the REF and REFM programs: the applicant, caretaker, caretaker relative, or parent.

(54) "Qualified Partnership Policy" means a long term care insurance policy meeting the requirements of OAR 836-052-0531 that was either:

(a) Issued while the client was a resident in Oregon on January 1, 2008 or later; or

(b) Issued in another state while the client was a resident of that state on or after the effective date of that state's federally approved State Plan Amendment to issue qualified partnership policies.

(55) "Real property" means land, buildings, and whatever is erected on or affixed to the land and taxed as real property.

(56) "Reimbursement" means money or in-kind compensation provided specifically for an identified expense.

(57) "Safe homes" mean private homes that provide a few nights lodging to victims of domestic violence. The homes must be recognized as such by the local domestic violence agency, such as crisis hot lines and shelters.

(58) "Shelter costs" mean, in all programs except the SNAP program, housing costs (rent or mortgage payments, property taxes) and utility costs, not including cable TV or non-basic telephone charges. In the SNAP program, see OAR 461-160-0420.

ADMINISTRATIVE RULES

(59) “Shelter in kind” means an agency or person outside the financial group (see OAR 461-110-0530) provides the shelter of the financial group, or makes a payment to a third party for some or all of the shelter costs of the financial group. Shelter-in-kind does not include temporary shelter provided by a domestic violence shelter, homeless shelter, or residential alcohol and drug treatment facilities or situations where no shelter is being provided, such as sleeping in a doorway, park, or bus station.

(60) “Sibling” means the brother or sister of an individual. “Blood related” means they share at least one biological or adoptive parent. “Step” means they are not related by blood, but are related by the marriage of their parents.

(61) “Spousal support” means income paid (voluntarily, per court order, or per administrative order) by a separated or divorced spouse to a member of the financial group (see OAR 461-110-0530).

(62) “Spouse” means an individual who is legally married to another individual.

(63) “Stable income” means income that is the same amount each time it is received.

(64) “Standard living arrangement” means a location that does not qualify as a nonstandard living arrangement.

(65) “Teen parent” means, for TANF and JOBS, a parent under the age of 20 who has not completed a high school diploma or GED.

(66) “Timely continuing benefit decision notice” means a decision notice that informs the client of the right to continued benefits and is mailed no later than the time requirements in OAR 461-175-0050.

(67) “Trust funds” mean money, securities, or similar property held by a person or institution for the benefit of another person.

(68) “USDA meal reimbursements” mean cash reimbursements made by the Oregon Department of Education for family day-care providers who serve snacks and meals to children in their care.

(69) “Variable income” means earned or unearned income that is not always received in the same amount each month.

Stat. Auth: ORS 411.060, 411.070, 411.404, 411.816, 412.006, 412.014 & 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.001, 412.006, 412.014 & 412.049

Hist.: AFS 28-1978, f. & ef. 7-13-78; AFS 54-1984, f. 12-28-84, ef. 1-1-85; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 15-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; Administrative correction 4-21-10; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 17-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 22-2013(Temp), f. & cert. ef. 8-23-13 thru 2-19-14; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 29-2013(Temp), f. & cert. ef. 10-1-13 thru 2-19-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 39-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; SSP 9-2014, f. & cert. ef. 4-1-14

461-025-0310

Hearing Requests

(1) A claimant (see OAR 461-025-0305) has the right to a contested case hearing in the following situations upon the timely completion of a request for hearing:

(a) Except as provided in subsection (o) of this section, the Department has not approved or denied a request or application for public assistance or medical assistance within 45 days of the application.

(b) The Department has not acted timely on an application as follows:

(A) An application for SNAP program benefits — within 30 days of the filing date.

(B) An application for a JOBS support service payment — within the time frames established in OAR 461-115-0190(3).

(c) The Department acts to deny, reduce, close, or suspend SNAP program benefits, a grant of public assistance, a grant of aid, a support service payment authorized in the JOBS program by OAR 461-190-0211, medical assistance, or child care benefits authorized under Division 160 or 165 of this chapter of rules in the ERDC or TANF child care programs. When used in this subsection, grant of public assistance and grant of aid mean the grant of cash assistance calculated according to the client’s need.

(d) The Department has sent a decision notice (see OAR 461-001-0000) that the claimant is liable for an overpayment (see OAR 461-195-0501).

(e) The Department modifies a grant of public assistance or a grant of aid; or the claimant claims that the Department previously underissued public assistance, medical assistance, or SNAP program benefits and the Department denies, or denies in part, that claim.

(f) The household disputes its current level of SNAP program benefits.

(g) The filing group (see OAR 461-110-0370) is aggrieved by any action of the Department that affects the participation of the filing group in the SNAP program.

(h) The claimant asks for a hearing to determine if the waiver of an Intentional Program Violation hearing was signed under duress.

(i) The Department establishes or changes the client’s premium for the Oregon Health Plan.

(j) In the Pre-TANF program, the Department denies payment for a basic living expense (see OAR 461-135-0475) or other support service payment in the JOBS program (see subsection (c) of this section).

(k) In the TA-DVS program, when OAR 461-135-1235 provides a right to a hearing.

(l) A service re-assessment of a client conducted in accordance with OAR division 411-015 has resulted in a reduction or termination of nursing facility services or home and community-based care (see OAR 461-001-0030).

(m) The claimant’s benefits are changed to vendor, protective, or two-party payments.

(n) Department has issued a notice seeking repayment under ORS 411.892 to an employer participating in the JOBS program.

(o) In the OSIP and OSIPM programs, when the Department has not approved or denied an application within the time frames established in OAR 461-115-0190.

(p) The right to a hearing is otherwise provided by statute or rule.

(2) A client is not entitled to a hearing on the question of the contents of a case plan (defined in OAR 461-190-0151) unless the right to hearing is specifically authorized by the Department’s rules. For a dispute about an activity in the JOBS program, the client is entitled to use the Department’s re-engagement process (see 461-190-0231). In the TA-DVS program, a dispute about the contents of a TA-DVS case plan (see 461-135-1205) is resolved through re-engagement if there is no right to a hearing under 461-135-1235.

(3) A request for hearing is complete:

(a) In public assistance and SNAP programs, when the Department’s Administrative Hearing Request form (form DHS 443) is:

(A) Completed;

(B) Signed by the claimant, the claimant’s attorney, or the claimant’s authorized representative (see OAR 461-115-0090); and

(C) Received by the Department. OAR 137-003-0528(1)(a) (which allows hearing requests to be treated as timely based on the date of the post-mark) does not apply to hearing requests contesting a decision notice (see 461-001-0000). The Department has adopted the exception to the Attorney General’s model rules set out in this paragraph due to operational conflicts.

(b) In the SNAP program, when the Department receives an oral or written statement from the claimant, the claimant’s attorney, or the claimant’s authorized representative that the claimant wishes to appeal a decision affecting the claimant’s SNAP program benefits to a higher authority.

(c) In the case of a provider of child care, when a written request for hearing from the provider is received by the Department.

(d) For medical assistance, when a hearing request is made in a manner permitted under OAR 410-200-0145 or this section.

(4) In the event a request for hearing is not timely, the Department may issue an order of dismissal if there is no factual dispute about whether sections (7) and (10) of this rule provide a right to a hearing. The Department may refer an untimely request to the Office of Administrative Hearings for a hearing on the question of timeliness.

(5) In the event the claimant has no right to a contested case hearing on an issue, the Department may enter an order accordingly. The Department may refer a hearing request to the Office of Administrative Hearings for a hearing on the question of whether the claimant has the right to a contested case hearing.

(6) For medical assistance, to be timely, a hearing request must be received by the Department, the OHP Customer Service, or Cover Oregon in the time frame set out in OAR 410-200-0015 and 410-200-0145. In other programs, to be timely, a completed hearing request must be received by the Department not later than:

(a) Except as provided in subsection (b) of this section, the 45th day following the date of the decision notice (see OAR 461-001-0000) in public assistance programs.

(b) The 90th day following the effective date of the reduction or termination of benefits in a public assistance program if the reduction or termination of aid is a result of a JOBS disqualification (see OAR 461-130-

ADMINISTRATIVE RULES

0330) or a penalty for failure to seek treatment for substance abuse or mental health (see OAR 461-135-0085).

(c) The 90th day following the date of the decision notice in the SNAP program, except:

(A) A filing group may submit a hearing request at any time within a certification period (see OAR 461-001-0000) to dispute its current level of benefits.

(B) A filing group may submit a hearing request within 90 days of the denial of a request for restoration of benefits if not more than twelve months has expired since the loss of benefits.

(d) The 30th day following the date of notice from the Oregon Department of Revenue in cases covered by ORS 293.250.

(e) In a case described in subsection (1)(h) of this rule, the request must be made within 90 days of the date the waiver was signed.

(7) When the Department receives a completed hearing request that is not filed within the timeframe required by section (6) of this rule but is filed no later than 120 days after a decision notice became a final order:

(a) The Department refers the hearing request to the Office of Administrative Hearings for a contested case hearing on the merits of the Department's action described in the notice:

(A) If the Department finds that the claimant and claimant's representative did not receive the decision notice and did not have actual knowledge of the notice; or

(B) If the Department finds that the claimant did not meet the timeframe required by section (6) of this rule due to excusable mistake, surprise, excusable neglect (which may include neglect due to significant cognitive or health issues), good cause (see OAR 461-025-0305), reasonable reliance on the statement of a Department employee relating to procedural requirements, or due to fraud, misrepresentation, or other misconduct of the Department.

(b) The Department refers the request for a hearing to the Office of Administrative Hearings for a contested case proceeding to determine whether the claimant is entitled to a hearing on the merits if there is a dispute between the claimant and the Department about either of the following paragraphs.

(A) The claimant or claimant's representative received the decision notice or had actual knowledge of the decision notice. At the hearing, the Department must show that the claimant or claimant's representative had actual knowledge of the notice or that the Department mailed or electronically mailed the notice to the correct address of the claimant or claimant's representative, as provided to the Department.

(B) The claimant qualifies for a contested case hearing on the merits under paragraph (a)(B) of this section.

(c) The Department may only dismiss such a request for hearing as untimely without a referral to the Office of Administrative Hearings if the following requirements are met:

(A) The undisputed facts show that the claimant does not qualify for a hearing under this section; and

(B) The decision notice was served personally or by registered or certified mail.

(8) In computing the time periods provided by this rule, see OAR 461-025-0300(1).

(9) In the REF and REFM programs, a client is not eligible for a contested case hearing when assistance is terminated because the eligibility time period imposed by OAR 461-135-0900 has been reached. If the issue is the date of entry into the United States the Department provides for prompt resolution of the issue by inspection of the individual's documentation issued by the US Citizenship and Immigration Services (USCIS) or by information obtained from USCIS, rather than by contested case hearing.

(10) If the Department receives a hearing request more than 120 days after an overpayment notice became a final order by default:

(a) The Department verifies whether its records indicate that the liable adult requesting the hearing was sent the overpayment notice.

(b) If no overpayment notice was sent to that liable adult, the overpayment hearing request is timely. The Department will send the claimant a decision notice or a contested case notice.

(c) If the Department determines that an overpayment notice was sent to the liable adult, there is no hearing right based on the issue of whether or not the overpayment notice was received.

(d) Any hearing request is treated as timely when required under the Servicemembers Civil Relief Act.

(e) The Department may dismiss a request for hearing as untimely if the claimant does not qualify for a hearing under this section.

(11) If the Department receives a hearing request more than 120 days after a decision notice (other than an overpayment notice) became a final order by default:

(a) Any hearing request is treated as timely when required under the Servicemembers Civil Relief Act.

(b) The Department may dismiss a request for hearing as untimely if the claimant does not qualify for a hearing under subsection (a) of this section.

(12) Notwithstanding sections (7), (10), and (11) of this rule, for medical assistance, the time frame is the same as the one in OAR 410-200-0146 instead of 120 days.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 411.060, 411.095, 411.404, 411.408, 411.816, 411.892, 412.014, 412.049
Stats. Implemented: ORS 411.060, 411.095, 411.103, 411.117, 411.404, 411.408, 411.816, 411.892, 412.009, 412.014, 412.049, 412.069

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 4-1995, f. & ef. 2-1-95; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 3-2000, f. 1-31-2000, cert. ef. 2-1-00; 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 22-2001, f. & cert. ef. 10-1-01; AFS 23-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 21-2004, f. & cert. ef. 10-1-04; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 4-2012(Temp), f. & cert. ef. 1-31-12 thru 7-29-12; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 32-2013(Temp), f. & cert. ef. 10-2-13 thru 3-31-14; SSP 9-2014, f. & cert. ef. 4-1-14

461-025-0316

Intentional Program Violation (IPV) Hearings; SNAP program

Notwithstanding the other rules in this division of rules and the rules at OAR 137-003-0501 and following, this rule governs intentional program violation hearings for the SNAP program. This rule reflects the requirements of the U.S. Department of Agriculture for the SNAP program.

(1) An individual accused of an Intentional Program Violation may waive the right to an IPV hearing by signing a waiver on a form prescribed by the Department. There is no further administrative appeal after the individual signs the waiver unless the individual asserts that the signature on the waiver was obtained by fraud or under duress and, within 90 days from the date the waiver was signed, requests a hearing (see OAR 461-025-0310) to prove this. The individual has the burden of proving fraud or duress. If an Administrative Law Judge determines that the signature on the waiver was obtained by fraud or under duress, the waiver may be nullified and the Department may thereafter initiate an Intentional Program Violation hearing.

(2) If an IPV is not established by waiver or in court, the Department may initiate the IPV hearing. The individual is entitled to an Advanced Notice of Intentional Program Violation Hearing at least 30 days in advance of the scheduled hearing. The notice includes the specific charge(s) alleged by the Department.

(3) Within 90 days of the date the individual is notified in writing of the disqualification hearing, the Office of Administrative Hearings will conduct the hearing and serve a final order on the individual.

(4) The individual is entitled to a postponement of the scheduled hearing, if the request for postponement is made at least 10 days before the date of the scheduled hearing. The hearing will not be postponed for more than a total of 30 days, and the Office of Administrative Hearings may limit the postponements to one.

(5) When the individual fails to appear for the scheduled IPV hearing, the hearing may be conducted without the individual if:

(a) The individual refused the notice of hearing;

(b) The individual refused to claim the notice of hearing;

(c) The individual received the notice of hearing; or

(d) The notice of hearing was sent to the address last reported by the individual to the SNAP program and was returned as undeliverable.

(6) An individual who received notice of the scheduled IPV hearing has 10 days from the date of the scheduled hearing to present reasons indicating a "good cause" for failure to appear. An individual who did not receive notice of the scheduled IPV hearing must present reasons indicating "good cause" for failure to appear as part of a petition for reconsideration or rehearing of the final order within 30 days of the date of the final order.

(a) For purposes of this rule, "good cause" means the individual was unable to attend the hearing and unable to request a postponement for reasons beyond his or her control.

(b) "Good cause" will be determined on the record by the Office of Administrative Hearings. If the individual shows "good cause", the Office

ADMINISTRATIVE RULES

of Administrative Hearings will schedule another IPV hearing for the individual.

(7) The Administrative Law Judge must advise the individual that he or she may refuse to answer questions during the hearing.

(8) The standard for proving that an individual has committed an Intentional Program Violation is clear and convincing evidence.

(9) There is no administrative appeal of a final order, except as provided in section (6) of this rule.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.095

Hist.: AFS 4-1995, f. & ef. 2-1-95; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 9-2014, f. & cert. ef. 4-1-14

461-135-0505

Categorical Eligibility for SNAP

(1) An individual is categorically eligible for SNAP benefits if the individual:

(a) Receives or is authorized to receive GA or SSI benefits;

(b) Receives or is authorized to receive cash, in-kind benefits, or services funded either under Title IV-A of the Social Security Act or by the state as part of the TANF maintenance of effort;

(c) Is deemed to be receiving SSI under Section 1619(a) or 1619(b) of the Social Security Act (42 U.S.C. 1382h(a) or (b)); or

(d) Is a member of a financial group (see OAR 461-110-0530) with countable (see 461-001-0000) income less than 185 percent of the federal poverty level as described in 461-155-0180(6), does not have liquid assets in excess of \$25,000, and has received a pamphlet about Information and Referral Services. Liquid assets are assets that are easily accessible and do not need to be sold to access their value.

(2) For an entire filing group to be categorically eligible for SNAP benefits, it must contain only clients who are categorically eligible for SNAP benefits. For the purpose of determining who is categorically eligible for SNAP benefits, in the ERDC and TA-DVS programs all members of the filing group are considered receiving the benefits of the program even if not all members receive the benefit.

(3) A filing group that is eligible for transition services or the TA-DVS program is considered receiving benefits for the entire period of eligibility even if benefits are not received during each month of that period.

(4) An individual categorically eligible for the SNAP program is presumed to meet the eligibility requirements for resources and countable and adjusted income limits. The individual is also presumed to meet the requirements for a social security number, sponsored alien information, and residency, if verified in a public assistance or medical assistance program.

(5) When a filing group contains both members who are categorically eligible for SNAP benefits and those who are not, a resource owned in whole or in part by a categorically eligible member is excluded.

(6) An individual may not be categorically eligible for SNAP benefits in either of the following circumstances:

(a) The individual is disqualified from receiving SNAP benefits because of an intentional program violation.

(b) The individual is a primary person (see OAR 461-001-0015) disqualified from receiving SNAP benefits for failure to comply with an OFSET activity or component contained in an OFSET case plan (see OAR 461-001-0020).

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 29-2000(Temp), f. & cert. ef. 12-1-00 thru 3-31-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 2-2003(Temp), f. & cert. ef. 2-7-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 39-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; SSP 9-2014, f. & cert. ef. 4-1-14

461-135-0750

Eligibility for Individuals in Long-Term Care or Home and Community-Based Care; OSIPM

An individual who meets the requirements of all of the following sections is eligible for OSIPM:

(1) Meets the eligibility requirements for the OSIPM program except that income is above the OSIPM adjusted income standard for a one person need group (see OAR 461-155-0250(3)).

(2) Has countable income at or below 300 percent of the full SSI standard for a single individual; has established a qualifying trust as specified in OAR 461-145-0540(9)(c); or is eligible for the OSIPM-EPD program.

(3) Meets one of the following eligibility standards:

(a) The criteria in OAR 411-015-0100 (except subsection (1)(b)) regarding eligibility for nursing facility care or home and community-based care (see 461-001-0030).

(b) The level-of-need criteria for an ICF/MR.

(c) The service eligibility standards for medically fragile children in OAR 411-350-0010.

(d) The service eligibility standards for the CIIS (Children's Intensive In-Home Services) behavioral program in OAR 411-300-0100 to 411-300-0220.

(e) The service eligibility standards for the Medically Involved Children's Waiver in chapter 411, division 355 of the Oregon Administrative Rules.

(4) Resides in or will reside in one of the following locations for a continuous period of care (see OAR 461-001-0030) and is applying for or receiving long-term care services authorized by the Department (eligibility for OSIPM is not effective prior to the effective date for long-term care under OAR 461-180-0040):

(a) A Medicaid-certified nursing facility.

(b) An intermediate care facility for the mentally retarded (ICF/MR).

(c) A home and community-based care setting.

(5) An individual in a home and community-based care setting must receive Title 1915(c) waived services.

Stat. Auth.: ORS 411.060, 411.070, 411.404

Stats. Implemented: ORS 411.060, 411.070, 411.404

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 10-2008(Temp), f. & cert. ef. 4-7-08 thru 9-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 9-2014, f. & cert. ef. 4-1-14

461-135-0950

Eligibility for Inmates and Residents of State Hospitals

(1) This rule sets out additional restrictions on the eligibility of inmates and residents of state hospitals for programs covered by Chapter 461 of the Oregon Administrative Rules.

(2) Definition of an "inmate".

(a) An inmate is an individual living in a public institution who is:

(A) Confined involuntarily in a local, state or federal prison, jail, detention facility, or other penal facility, including an individual being held involuntarily in a detention center awaiting trial or an individual serving a sentence for a criminal offense;

(B) Residing involuntarily in a facility under a contract between the facility and a public institution where, under the terms of the contract, the facility is a public institution;

(C) Residing involuntarily in a facility that is under governmental control; or

(D) Receiving care as an outpatient while residing involuntarily in a public institution.

(b) An individual is not considered an inmate when:

(A) The individual is released on parole, probation, or post-prison supervision;

(B) The individual is on home- or work-release, unless the individual is required to report to a public institution for an overnight stay;

(C) The individual is staying voluntarily in a detention center, jail, or county penal facility after his or her case has been adjudicated and while other living arrangements are being made for the individual; or

(D) The individual is in a public institution pending other arrangements as defined in 42 CFR 435.1010.

(3) A "public institution" is any of the following:

(a) A state hospital (see ORS 162.135).

(b) A local correctional facility (see ORS 169.005): a jail or prison for the reception and confinement of prisoners that is provided, maintained and operated by a county or city and holds individuals for more than 36 hours.

(c) A Department of Corrections institution (see ORS 421.005): a facility used for the incarceration of individuals sentenced to the custody of the Department of Corrections, including a satellite, camp, or branch of a facility.

(d) A youth correction facility (see ORS 162.135):

(A) A facility used for the confinement of youth offenders and other individuals placed in the legal or physical custody of the youth authority, including a secure regional youth facility, a regional accountability camp, a residential academy and satellite, and camps and branches of those facilities; or

(B) A facility established under ORS 419A.010 to 419A.020 and 419A.050 to 419A.063 for the detention of children, wards, youth, or youth offenders pursuant to a judicial commitment or order.

ADMINISTRATIVE RULES

(4) Definition of serious mental illness. An individual has a serious mental illness if the individual has been diagnosed by a psychiatrist, a licensed clinical psychologist or a certified non-medical examiner as having dementia, schizophrenia, bipolar disorder, major depression or other affective disorder or psychotic mental disorder other than a substance abuse disorder and other than a disorder that is both:

(a) Caused primarily by substance abuse; and

(b) Likely to no longer meet the applicable diagnosis if the substance abuse discontinues or declines.

(5) An individual who resides in a public institution, meets the definition of a serious mental illness (see section (4) of this rule), and applies for medical assistance between 90 and 120 days prior to the expected date of the person's release from the public institution may be found eligible for medical assistance. If the individual is determined to be eligible, the effective date of the individual's medical assistance is the date the individual is released from the institution.

(6) A client who becomes a resident of a state hospital has medical benefits suspended for up to twelve full calendar months if the client is at least 21 years of age and under 65 years of age. When a client with suspended medical benefits is no longer a resident of the state hospital, medical benefits are reinstated effective the first day the client is no longer a resident, if the client continues to meet eligibility for the medical program.

(7) An individual residing in a state psychiatric institution may be eligible for OSIPM benefits if the individual:

(a) Receives services on a certified ward;

(b) Meets level of care as certified by Aumentra; and

(c) Meets one of the following:

(A) Is 65 years of age or older;

(B) Is under 21 years of age; or

(C) Is 21 years of age or older, if the basis of need is disability or blindness; eligibility was determined before the individual reached 21 years of age; and the individual entered the state hospital before reaching 21 years of age.

(8) For all programs covered under chapter 461 of the Oregon Administrative Rules:

(a) If a pregnant woman receiving medical assistance through the GAM or OSIPM program becomes an inmate of a public institution, her medical benefits are suspended. When the Department is informed the woman is no longer an inmate, her medical benefits are reinstated — effective on the first day she is no longer an inmate — if she is still in her protected period of eligibility under OAR 461-135-0010.

(b) If an individual receiving medical assistance through the GAM, OSIPM, or QMB program becomes an inmate of a correctional facility with an expected stay of no more than 12 months, medical benefits are suspended for up to 12 full calendar months during the incarceration period.

(A) In the GAM program, when the Department is notified by a client with suspended benefits that the client has been released from incarceration, and the notification takes place within 10 days of the release or there is good cause for the late reporting, medical benefits are reinstated effective the first day the client is no longer an inmate.

(B) In the OSIPM or QMB program, when the Department is notified that an individual with suspended benefits has been released, and the notification takes place within 10 days of the release, medical benefits are reinstated effective the first day the client is no longer an inmate if the client continues to meet eligibility for the medical program.

(9) In the GA and SNAP programs, in addition to the other provisions of this rule, an inmate released from a public institution on home arrest, and required to wear an electronic device to monitor his or her activity, is ineligible for benefits if the correctional agency provides room and board to the individual.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.014, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.439, 411.443, 411.445, 411.816, 412.014, 412.049, 414.426, 2011 OL
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 5-2000, f. 2-29-00, cert. ef. 3-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 21-2001(Temp), f. & cert. ef. 10-1-01 thru 12-31-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 17-2005(Temp), f. 12-30-05, cert. ef. 1-1-06 thru 6-30-06; 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 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 9-2014, f. & cert. ef. 4-1-14

461-145-0280 In-Kind Income

(1) This rule does not apply to shelter-in-kind income (see OAR 461-145-0470).

(2) In all programs except the REF, REFM, and TANF programs, in-kind income (see OAR 461-001-0000) that is earned is treated according to the administrative rules on earned income (such as OAR 461-145-0130).

(3) In all programs except the REF, REFM, and TANF programs, in-kind income that is unearned (except third-party payments) is treated as follows:

(a) Income from court-ordered community service work or bartering is excluded. Bartering is the exchange of goods of equal value.

(b) Items such as cars and furniture are treated according to the administrative rule for the specific type of asset.

(4) In the REF, REFM, and TANF programs, in-kind income (except unearned third-party payments) is excluded.

(5) In the SNAP program, except for child support (see OAR 461-145-0080) and an expenditure by a business entity that benefits a principal (see OAR 461-145-0088), in-kind income is excluded.

(6) Unearned third-party payments are treated as follows:

(a) Payments made to a third party that should legally be paid directly to a member of the financial group (see OAR 461-110-0530) are counted as unearned income.

(b) Payments made to a third party that the payee is not legally obligated to pay directly to a member of the financial group and that the financial group does not have the option of taking as cash, and payments made by the noncustodial parent to a third party that are court-ordered are treated as follows:

(A) In the SNAP program, these third-party payments are excluded unless they are transitional housing payments for the homeless.

(B) In the REF, REFM, and TANF programs, except for payments designated as child support (see OAR 461-145-0080), these third-party payments are excluded.

(C) In all programs except the REF, REFM, SNAP, and TANF programs, these third-party payments are excluded.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 414.042, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.816, 414.042, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 39-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; SSP 9-2014, f. & cert. ef. 4-1-14

461-175-0230

Notice Situation; Nonstandard Living Situations

(1) In the SNAP program:

(a) A timely continuing benefit decision notice (see OAR 461-001-0000) is sent to terminate, suspend, or reduce benefits if the notice occurs as a result of any of the following situations:

(A) A client has been admitted or committed to an institution.

(B) A client has been placed in foster care, skilled nursing care, intermediate care, or long term hospitalization.

(C) A client is placed in official custody or a correctional facility.

(D) A client enters a drug or alcohol residential treatment facility.

(E) A client leaves a drug or alcohol residential treatment facility without reapplying for SNAP benefits.

(b) No decision notice (see OAR 461-001-0000) is required if the Department determines that a resident of a group living (see OAR 461-001-0015) facility or a drug or alcohol treatment center is ineligible as a result of one of the following actions taken against the center or facility:

(A) Disqualification by Food and Nutrition Services (FNS) as an authorized representative.

(B) Loss of certification with the Department.

(c) A resident of a facility that is disqualified or loses its certification as described in subsection (b) of this section may still qualify for SNAP benefits through a separate application.

(2) Except as provided in section (3) of this rule, for all programs except the SNAP program, a basic decision notice (see OAR 461-001-0000) is sent to terminate, suspend, or reduce benefits in each of the following situations:

(a) The client has been admitted or committed to an institution, or the client loses Medicaid eligibility while in the institution.

(b) The client has been placed in skilled nursing care, intermediate care, or long-term hospitalization.

(c) The client is placed in official custody or a correctional facility.

(3) In the OSIPM program, a client receiving home and community-based care (see OAR 461-001-0030) or long term care services is sent:

(a) A timely continuing benefit decision notice in each of the following situations:

ADMINISTRATIVE RULES

(A) A reduction or closure of services occurs as the result of a process of reevaluating both the functional impairment levels of a client and the requirements of a client for assistance in performing activities of daily living.

(B) Services are closing because the client has not paid the client liability.

(C) The client receives benefits in the OSIP-IC or OSIPM-IC program, and benefits will end under OAR 411-030-0100.

(D) There is a change in special needs as described in OAR 461-180-0040.

(b) A continuing benefit decision notice (see OAR 461-001-0000) when there is an increase in the client liability.

(c) A basic decision notice when there is a decrease in the client liability.

Stat. Auth.: ORS 411.060, 411.101, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.095, 411.099, 411.101, 411.111, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 9-2014, f. & cert. ef. 4-1-14

461-195-0501

Definitions and Categories of Overpayments

This rule applies to benefits and services delivered under chapters 410, 411, and 461 of the Oregon Administrative Rules.

(1) "Overpayment" means:

(a) A benefit or service received by or on behalf of a client, or a payment made by the Department on behalf of a client, that exceeds the amount for which the client is eligible.

(b) A payment made by the Department and designated for a specific purpose which is spent by a person on an expense not approved by the Department.

(c) A payment for child care made by the Department to, or on behalf of, a client that:

(A) Is paid to an ineligible provider;

(B) Exceeds the amount for which a provider is eligible;

(C) Is paid when the client was not engaged in an activity that made the client eligible for child care, such as an activity of the JOBS program (see OAR 461-001-0025 and 461-190-0151 to 461-190-0401);

(D) Is paid when the client was not eligible for child care benefits; or

(E) Has given an electronic benefit transfer (EBT) card, card number, or personal identification number (PIN) to a provider for the purpose of checking a child in or out from the provider's child care.

(d) A misappropriated payment when a person cashes and retains the proceeds of a check from the Department on which that person is not the payee and the check has not been lawfully endorsed or assigned to the person.

(e) A benefit or service provided for a need when that person is compensated by another source for the same need and the person fails to reimburse the Department when required to do so by law.

(f) A cash benefit received by an individual in the GA or SFPSS programs for each month for which the client receives a retroactive SSI lump sum payment.

(g) In the TA-DVS program, only when an IPV in the TA-DVS program is established.

(2) The Department may establish an overpayment for the initial month (see OAR 461-001-0000) of eligibility under circumstances including but not limited to:

(a) The filing group, ineligible student, or authorized representative (see OAR 461-115-0090) withheld information;

(b) The filing group, ineligible student, or authorized representative provided inaccurate information;

(c) The Department fails to use income reported as received or anticipated in determining the benefits of the filing group; or

(d) The error was due to an error in computation or processing by the Department.

(3) In the OCCS Medical programs, the Department may establish an overpayment for the budget month (see OAR 410-200-0015) when OCCS medical program household group (see 410-200-0015) or authorized representative (see 410-200-0015) withheld or provided inaccurate information.

(4) Overpayments are categorized as follows:

(a) An administrative error overpayment is an overpayment caused by any of the following circumstances:

(A) The Department fails to reduce, suspend, or end benefits after timely reporting by the filing group, OCCS medical program household group, ineligible student, or authorized representative (see OAR 461-001-

0000 and 410-200-0015) of a change covered under 461-170-0011 or 410-200-0235 and that reported change requires the Department to reduce, suspend, or end benefits;

(B) The Department fails to use the correct benefit standard;

(C) The Department fails to compute or process a payment correctly based on accurate information timely provided by the filing group, OCCS medical program household group, ineligible student, or authorized representative (see OAR 461-001-0000 and 410-200-0015);

(D) In the GA and SFPSS programs, the Department fails to require a client to complete an interim assistance agreement; or

(E) The Department commits a procedural error that was no fault of the filing group, OCCS medical program household group, ineligible student, or authorized representative (see OAR 461-001-0000 and 410-200-0015).

(b) A client error overpayment is any of the following:

(A) An overpayment caused by the failure of a filing group, OCCS medical program household group, ineligible student, or authorized representative (see OAR 461-001-0000 and 410-200-0015) to declare or report information or a change in circumstances as required under 461-170-0011 or 410-200-0235, including information available to the Department, that affects the client's eligibility to receive benefits or the amount of benefits.

(B) A client's unreduced liability or receipt of unreduced benefits pending a contested case hearing decision or other final order favorable to the Department.

(C) A client's failure to return a benefit known by the client to exceed the correct amount.

(D) A client's use of a JOBS or SFPSS program support payment (see OAR 461-190-0211) for other than the intended purpose.

(E) A payment for child care when the client was not engaged in an activity that made the client eligible for child care, such as an activity of the JOBS program (see OAR 461-001-0025 and 461-190-0151 to 461-190-0401).

(F) A payment for child care when the client was not eligible for child care benefits.

(G) The failure of a client to pay his or her entire share of the cost of services or the participant fee (see OAR 461-160-0610 and 461-160-0800) in the month in which it is due.

(H) An overpayment caused by a client giving an electronic benefit transfer (EBT) card, card number, or personal identification number (PIN) to a provider for the purpose of checking a child in or out from the provider's child care.

(c) A fraud overpayment is an overpayment determined to be an intentional program violation (see OAR 461-195-0601 and 461-195-0611) or substantiated through a criminal prosecution.

(d) In the SNAP program, a provider error overpayment is an overpayment made to a drug or alcohol treatment center or residential care facility that acted as a client's authorized representative.

(e) In the child care program, a provider error overpayment is a payment made by the Department on behalf of a client to a child care provider when:

(A) Paid to an ineligible provider;

(B) The payment exceeds the amount for which a provider is eligible.

(5) When an overpayment is caused by both an administrative and client error in the same month, the Department determines the primary cause of the overpayment and assigns as either an administrative or client error overpayment.

(6) In the TANF program, when an overpayment puts the client at greater risk of domestic violence (see OAR 461-001-0000), the overpayment is waived (see OAR 461-135-1200).

(7) Except as provided in section (8) of this rule, the Department establishes an overpayment when the following thresholds are exceeded:

(a) Administrative error overpayments concerning:

(A) Cash and child care programs, when the amount is greater than \$200;

(B) SNAP open case, when the amount is greater than \$100; and

(C) SNAP closed case, when the amount is greater than \$200.

(b) Client error overpayments in:

(A) Cash and child care programs, when the amount is greater than \$200;

(B) SNAP open case, when the amount is greater than \$100;

(C) SNAP closed case, when the amount is greater than \$200;

(D) Medical programs, when the amount is greater than \$750.

(c) Provider error overpayments in:

(A) Cash and child care programs, when the amount is greater than \$200;

ADMINISTRATIVE RULES

- (B) SNAP open case, when the amount is greater than \$100;
- (C) SNAP closed case, when the amount is greater than \$200.
- (8) There are no overpayment thresholds in all of the following situations:

(a) In SNAP program, if the overpayment was identified in a quality control review.

(b) In all programs, if the overpayment was caused by a client's receipt of continuing benefits in a contested case.

(c) In all programs, if the overpayment was caused by possible fraud by a client or provider.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.081, 411.404, 411.816, 412.001, 412.014, 412.049, 2013 HB 2089 Sec. 10

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.081, 411.117, 411.404, 411.620, 411.640, 411.690, 411.816, 411.892, 412.001, 412.014, 412.049, 414.025, 416.350

Hist.: AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 7-2001(Temp), f. & cert. ef. 4-4-01 thru 6-30-01; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 15-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 7-2013(Temp), f. & cert. ef. 3-25-13 thru 9-21-13; SSP 23-2013, f. & cert. ef. 9-20-13; SSP 36-2013(Temp), f. & cert. ef. 11-1-13 thru 4-30-14; SSP 9-2014, f. & cert. ef. 4-1-14

461-195-0521

Calculation of Overpayments

This rule specifies how the Department calculates an overpayment (see OAR 461-195-0501).

(1) The Department calculates an overpayment by determining the amount the client received or the payment made by the Department on behalf of the client that exceeds the amount for which the client was eligible.

(2) When a filing group, OCCS Medical programs household group (see OAR 410-200-0015), ineligible student, or authorized representative (see 461-115-0090 and 410-200-0015) fails to report income, the Department calculates and determines the overpayment by assigning unreported income to the applicable budget month without averaging the unreported income, except:

(a) A client's earned income reported quarterly from the Employment Department is considered received by the client in equal amounts during the months identified in the report.

(b) In the ERDC, MAA, MAF, REF, SNAP, and TANF programs, a client's actual self-employment income is annualized retrospectively to calculate the overpayment.

(c) In the OCCS Medical programs, if actual income is not available for the months in which an overpayment occurred, a client's actual self-employment income (see OAR 410-200-0015) received during the year when an overpayment occurred is annualized to calculate an overpayment.

(3) When using prospective budgeting (see OAR division 461-150) and the actual income differs from the amount determined under 461-150-0020(2), there may be a client error overpayment (see 461-195-0501) only when the filing group, ineligible student, or authorized representative withheld information, failed to report a change, or provided inaccurate information. In such a case, the Department uses the actual income to determine the amount of an overpayment.

(4) When using anticipated income for the OCCS Medical programs and the actual income differs from the amount determined under OAR 410-200-0310, there may be a client error overpayment only when the OCCS Medical programs household group (see 410-200-0015) or authorized representative (see 410-200-0015) withheld information, failed to report a change, or provided inaccurate information. In such a case, the Department uses the actual income to determine the amount of an overpayment.

(5) When a filing group, ineligible student, or authorized representative fails to report all earned income within the reporting time frame, the earned income deduction (see OAR 461-160-0160, 461-160-0190, 461-160-0430, 461-160-0550, and 461-160-0552) is applied as follows:

(a) In the OSIP, OSIPM, QMB, and REFM programs, the Department allows the earned income deduction.

(b) In the MAA, MAF, REF, and TANF programs, the Department allows the earned income deduction when good cause (see section (6) of this rule) exists.

(c) In the SNAP program, no deduction is applied to earned income not timely reported.

(6) For the purposes of OAR 461-195-0501 to 461-195-0561, "good cause" means circumstances beyond the client's reasonable control that caused the client to be unable to report income timely and accurately.

(7) When support is retained:

(a) In the TANF program, the amount of support (other than cash medical support) the Department of Justice retains as a current reimburse-

ment each month is added to other income to determine eligibility. When a client is not eligible for TANF program benefits, the overpayment is offset by the support the Department of Justice retains as a current reimbursement.

(b) In the medical programs, the amount of the cash medical support the Department retains each month is excluded income and not used to determine eligibility for medical program benefits. When a client has incurred a medical program overpayment, the overpayment is offset by the amount of the cash medical support the Department retains during each month of the overpayment.

(8) In the REF and TANF programs, when a client directly receives support used to determine eligibility or calculate benefits, the overpayment is:

(a) If still eligible for REF or TANF program benefits, the amount of support the client received directly; or

(b) If no longer eligible for REF or TANF program benefits, the amount of program benefits the client received.

(9) When an overpayment occurs due to the failure of an individual to reimburse the Department, when required by law to do so, for benefits or services (including cash medical support) provided for a need for which that individual is compensated by another source, the overpayment is limited to the lesser of the following:

(a) The amount of the payment from the Department;

(b) Cash medical support; or

(c) The amount by which the total of all payments exceeds the amount payable for such a need under the Department's rules.

(10) Benefits paid during a required notice period (see OAR 461-175-0050, 410-200-0120) are included in the calculation of the overpayment when:

(a) The filing group, OCCS Medical programs household group (see OAR 410-200-0015), ineligible student, or authorized representative (see 461-115-0090 and 410-200-0015) failed to report a change within the reporting time frame under 461-170-0011 or 410-200-0235; and

(b) Sufficient time existed for the Department to adjust the benefits to prevent the overpayment if the filing group, OCCS Medical program household group (see OAR 410-200-0015), ineligible student, or authorized representative (see 461-115-0090 and 410-200-0015) had reported the change at any time within the reporting time frame.

(11) In the SNAP program:

(a) If the benefit group (see OAR 461-110-0750) was categorically eligible, there is no overpayment based on resources.

(b) For a filing group (see OAR 461-110-0370) found eligible for SNAP program benefits under OAR 461-135-0505(1)(a) to (c), and the actual income made the group ineligible for the related program, the group remains categorically eligible for SNAP program benefits as long as the eligibility requirement under 461-135-0505(1)(d) is met. A benefit group of one or two individuals would be entitled to at least the minimum SNAP program benefit allotment under 461-165-0060.

(c) For a filing group found eligible for SNAP program benefits only under OAR 461-135-0505(1)(d), and the actual income equals or exceeds 185 percent of the Federal Poverty Level, the filing group is no longer categorically eligible. The overpayment is the amount of SNAP program benefits incorrectly received.

(12) In the OSIP and OSIPM programs, when a client does not pay his or her share of the cost of services (see OAR 461-160-0610) or the OSIP-EPD or OSIPM-EPD program participant fee (see OAR 461-160-0800) in the month in which it is due, an overpayment is calculated as follows:

(a) All payments made by the Department on behalf of the client during the month in question are totaled, including but not limited to any payment for:

(A) Capitation;

(B) Long term care services;

(C) Medical expenses for the month in question;

(D) Medicare buy-in (when not concurrently eligible for an MSP);

(E) Medicare Part D;

(F) Mileage reimbursement;

(G) Special needs under OAR 461-155-0500 to 416-155-0710; and

(H) Home and community-based care (see OAR 461-001-0030), including home delivered meals and non-medical transportation.

(b) Any partial or late liability payment made by a client receiving home and community-based care in-home services or participant fee paid by an OSIP-EPD or OSIPM-EPD program client is subtracted from the total calculated under subsection (a) of this section. The remainder, if any, is the amount of the overpayment.

ADMINISTRATIVE RULES

(13) When a client's liability is unreduced pending the outcome of a contested case hearing about that liability the overpayment is the difference between the liability amount determined in the final order and the amount, if any, the client has repaid.

(14) In the OCCS Medical programs, OSIPM, QMB, and REFM programs if the client was not eligible for one program, but during the period in question was eligible for another program:

(a) With the same benefit level, there is no overpayment.

(b) With a lesser benefit level, the overpayment is the amount of medical program benefit payments made on behalf of the client exceeding the amount for which the client was eligible.

(15) When an overpayment is caused by administrative error (see OAR 461-195-0501), any overpayment of GA, OSIP, REF, SFPSS, or TANF program benefits is not counted as income when determining eligibility for the GAM, OCCS Medical programs, OSIPM, and REFM programs.

(16) Credit against an overpayment is allowed as follows:

(a) In the GA, REF, and TANF programs, a credit is allowed for a client's payment for medical services made during the period covered by the overpayment, in an amount not to exceed the Department fee schedule for the service, but credit is not allowed for an elective procedure unless the Department authorized the procedure prior to its completion.

(b) In the SNAP program, if the overpayment was caused by unreported earned income, verified child care costs are allowed as a credit to the extent the costs would have been deductible under OAR 461-160-0040 and 461-160-0430.

(c) In the SFPSS and TANF programs, if the overpayment is caused by reported earned income, a credit is allowed for the Post-TANF grant if the client meets eligibility under OAR 461-135-1250 and the client has received less than 12 months of Post-TANF program benefits.

(d) In all programs, for an underpayment of benefits.

(17) In the SNAP program, in compliance with the American Recovery and Reinvestment Act of 2009, effective April 1, 2009 through September 30, 2009, the amount between the normal Thrifty Food Plan (TFP) benefit amount under this section and the increased TFP benefit amount under OAR 461-155-0190 is not counted in the overpayment amount unless the filing group was ineligible for SNAP program benefits. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.660, 411.706, 411.816, 412.014, 412.049, 412.124, 414.231, 2013 HB 2089 Sec. 10

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.620, 411.630, 411.635, 411.640, 411.660, 411.690, 411.706, 411.816, 412.014, 412.049, 412.124, 414.231, 416.350
Hist.: 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 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 20-2003, f. & cert. ef. 8-15-03; 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 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 28-2009, f. & cert. ef. 10-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 36-2013(Temp), f. & cert. ef. 11-1-13 thru 4-30-14; SSP 9-2014, f. & cert. ef. 4-1-14

461-195-0541

Liability for Overpayments

(1) In all programs except the OCCS Medical, OSIP, OSIPM, QMB, REFM, and SNAP programs or a child care program, the following persons are liable for repayment of an overpayment (see OAR 461-195-0501):

(a) Each individual in the filing group or required to be in the filing group and the payee when the overpayment was incurred, except an individual who did not reside with and did not know he or she was included in the filing group.

(b) A caretaker relative (see OAR 461-001-0000) and his or her spouse (see 461-001-0000) who were not part of, but resided with, the filing group when the overpayment was incurred.

(c) A parent (see OAR 461-001-0000) or caretaker relative of a child (see 461-001-0000) in the benefit group (see 461-110-0750) and the spouse of the parent or caretaker relative if the parent, caretaker relative, or spouse was a member of or resided with the filing group when the overpayment was incurred.

(d) An individual determined liable for an overpayment remains liable when the individual becomes a member of a new filing group.

(e) An authorized representative (see OAR 461-115-0090) when the authorized representative gave incorrect or incomplete information or withheld information resulting in the overpayment.

(2) In the OCCS Medical and REFM programs, the following persons are liable for repayment of an overpayment:

(a) Each individual in the filing group, the OCCS Medical programs household group (see OAR 410-200-0015), or required to be in the filing group and the payee when the overpayment was incurred, except an individual who:

(A) Was a child or dependent child (see OAR 461-001-0000) at the time of the overpayment; or

(B) Did not reside with and did not know he or she was included in the filing group.

(b) A caretaker relative and his or her spouse who were not part of, but resided with, the filing group or OCCS Medical programs household group (see OAR 410-200-0015) when the overpayment was incurred.

(c) A parent or caretaker relative of a child in the filing group or OCCS Medical programs household group (see OAR 410-200-0015) and the spouse of the parent or caretaker relative if the parent, caretaker relative, or spouse was a member of or resided with the filing group or OCCS Medical programs household group when the overpayment was incurred.

(d) An authorized representative (see OAR 461-001-0000 and 410-200-0015) when the authorized representative gave incorrect or incomplete information or withheld information that resulted in the overpayment.

(3) In a child care program:

(a) An overpayment caused by administrative error is collectible as follows:

(A) The provider is liable for a provider overpayment made on behalf of a client eligible for child care payments.

(B) Each adult in the filing group or required to be in the filing group is liable for an overpayment if the client was not eligible for the payment.

(b) Each adult in the filing group or required to be in the filing group is liable for a client overpayment, and a provider is liable for an overpayment caused by the provider. The client and provider are jointly and severally liable for an overpayment caused by both. In the case of an alleged provider overpayment, a provider's failure to provide contemporaneous records of care provided creates a rebuttable presumption that the care was not provided.

(c) An adult who cosigned an application with a minor provider applicant is liable for an overpayment incurred by the minor provider.

(4) In the GA, GAM, OSIP, OSIPM, and QMB programs, the following persons are liable for repayment of an overpayment:

(a) Each individual in the filing group or required to be in the filing group and the payee when the overpayment was incurred, except an individual who:

(A) Was a child or dependent child at the time of the overpayment; or

(B) Did not reside with and did not know he or she was included in the filing group.

(b) A caretaker relative and his or her spouse who were not part of, but resided with, the filing group when the overpayment was incurred.

(c) A parent or caretaker relative of a child in the filing group and the spouse of the parent or caretaker relative if the parent, caretaker relative, or spouse was a member of or resided with the filing group when the overpayment was incurred.

(d) An authorized representative when the authorized representative knowingly gave incorrect or incomplete information or intentionally withheld information that resulted in the overpayment.

(5) In the SNAP program, the following persons are liable for repayment of an overpayment or a claim that results from trafficking (see OAR 461-195-0601(2)) of SNAP benefits:

(a) The primary person (see OAR 461-001-0015) of any age, an ineligible student in the household, and all adults (see OAR 461-001-0015) who were members of or required to be in the filing group (see 461-110-0370) when excess benefits were issued.

(b) A sponsor of a non-citizen household member if the sponsor is at fault, for payments prior to November 21, 2000.

(c) A drug or alcohol treatment center or residential care facility that acted as the authorized representative of the client.

(6) Except as provided otherwise in section (7) of this rule, in all programs, both a non-citizen and the sponsor of the non-citizen are liable for an overpayment incurred if the overpayment results from the failure of the sponsor to provide correct information (see OAR 461-145-0820 to 461-145-0840). If the sponsor had good cause (see 461-195-0521(5)) for withholding the information, the sponsor is not liable for the overpayment.

(7) In the SNAP program, the sponsor of a non-citizen is not liable under section (6) of this rule for payments on or after November 21, 2000.

(8) In the OCCS medical programs, the November 2013 amendments to OAR 461-195-0501, 461-195-0521, 461-195-0541, and 461-195-0561 apply as of October 1, 2013.

Stat. Auth.: ORS 409.050, 411.060, 411.404, 411.816, 412.014, 412.049, 2013 HB 2089 Sec. 10

ADMINISTRATIVE RULES

Stats. Implemented: ORS 409.010, 411.060, 411.087, 411.404, 411.630, 411.635, 411.640, 411.690, 411.816, 412.014, 412.049, 416.350
Hist.: AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 7-2013(Temp), f. & cert. ef. 3-25-13 thru 9-21-13; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 14-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 23-2013, f. & cert. ef. 9-20-13; SSP 36-2013(Temp), f. & cert. ef. 11-1-13 thru 4-30-14; SSP 9-2014, f. & cert. ef. 4-1-14

461-195-0561

Compromise of an Overpayment Claim

This rule specifies when and how the Department may compromise an overpayment (see OAR 461-195-0501) claim.

(1) The Department may consider a request to compromise an overpayment claim only if the estimated administration and collection costs necessary to collect the account in full likely exceed the current balance of the overpayment.

(2) The following limitations apply to the compromise of an overpayment claim:

(a) The authority of the Department to compromise may be limited by federal or state law.

(b) The Department may compromise a claim only once it is a liquidated claim (see OAR 461-195-0551).

(c) The Department may compromise a claim only if the requester has made a good faith effort to repay the overpayment.

(d) The Department may not compromise:

(A) A fraud overpayment claim;

(B) Any overpayment claim, unless 36 months have passed since the requester initially was notified of the overpayment;

(C) An overpayment claim if the debtor has the ability to repay the overpayment in full within 36 months of the request date.

(D) An overpayment claim for less than 75 percent of the total amount of the claim.

(E) An overpayment claim if the debtor is a member, currently or in the previous 12 months, of a filing group or OCCS medical program household group (see OAR 410-200-0015) that received benefits under the program in which the overpayment occurred.

(F) A child care provider overpayment claim if the provider, currently or in the previous 12 months, received a direct provider payment for child care under division 165 of this chapter of rules.

(3) The Department may allow a compromised claim to be paid in installments over a period not to exceed 90 days.

(4) During the 12 months following the date of the compromise agreement, the Department reserves the right to collect the original unmitigated claim through benefit reduction under OAR 461-195-0551.

Stat. Auth.: ORS 409.050, 411.060, 411.404, 411.816, 412.014, 412.049, 2013 HB 2089 Sec. 10

Stats. Implemented: ORS 409.010, 411.060, 411.404, 411.635, 411.816, 412.014, 412.049, 416.350

Hist.: AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 36-2013(Temp), f. & cert. ef. 11-1-13 thru 4-30-14; SSP 9-2014, f. & cert. ef. 4-1-14

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

Adm. Order No.: SSP 10-2014(Temp)

Filed with Sec. of State: 4-1-2014

Certified to be Effective: 4-1-14 thru 8-28-14

Notice Publication Date:

Rules Amended: 461-165-0180

Rules Suspended: 461-165-0180(T)

Subject: OAR 461-165-0180 about eligibility of child care providers is being amended to increase child care provider standards by indicating that halfway houses are not eligible locations for subsidized child care. This rule is also being amended to modify the scope and specify the implementation of the new training requirements (adopted by temporary rule effective March 1, 2014) for care providers who are License Exempt or Registered Family Child Care Providers 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: Kris Skaro—(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--

(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.

ADMINISTRATIVE RULES

(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 half-way house, 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 the "Basic Child Care Health and Safety" two-hour, web-based training or the three-hour Oregon Kids Healthy and Safe (OKHS) classroom training prior to being approved by the Department.

(a) Prior to June 16, 2014, a provider who sends the Department a Child Care Provider Listing and Provider Information Sheet (DHS 7494) with a revision date of March 2013, or those who attempt to take the web-based training but are unable due to technical difficulties at the training site, will not be failed for not meeting this training requirement.

(b) License Exempt or Registered Family Child Care Providers who are exempt from this training are those who state at least one of the following:

(A) English is a second language.

(B) No internet access is available.

(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; SSP 10-2014(Temp), f. & cert. ef. 4-1-14 thru 8-28-14

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

Adm. Order No.: SSP 11-2014(Temp)

Filed with Sec. of State: 4-10-2014

Certified to be Effective: 4-10-14 thru 10-7-14

Notice Publication Date:

Rules Amended: 461-135-0405

Subject: OAR 461-135-0405 about children eligible for the ERDC program who can receive child care under a contract between Head Start agency and the Department is being amended to include children receiving TANF program benefits when determining eligibility for placement in a contracted slot with a Head Start agency for child care. This change starts April 1, 2014.

Rules Coordinator: Kris Skaro—(503) 945-6067

461-135-0405

Children in the Head Start Program; ERDC and TANF

(1) Initial eligibility for the ERDC program (see OAR 461-135-0400) or the TANF program must be met prior to receiving child care under a contract between a Head Start agency and the Department.

ADMINISTRATIVE RULES

(2) The following subsections apply when a child (see OAR 461-001-0000) in the ERDC or TANF programs receives child care under a contract between a Head Start agency and the Department.

(a) The Head Start agency is considered the provider of child care.

(b) If the Head Start agency uses another provider for the child care, that provider must meet the requirements in OAR 461-165-0160 and following.

(c) The payment made by the Department on behalf of the child is made only to the Head Start agency. The child is ineligible for child care payments for care not provided under the contract between the Head Start agency and the Department.

(d) Once the Department makes a child care payment for the child under the contract, the child may not lose child care benefits until the next August 31, unless any of the following paragraphs apply:

(A) The child's caretaker (see OAR 461-001-0000) has been found ineligible for ERDC program benefits under 461-135-0415 for failure to make a copayment.

(B) The caretaker was found eligible because of inaccurate information provided to the Department or because information was withheld from the Department when eligibility was determined.

(C) The caretaker fails to meet the requirements of the locally-prepared agreement among the client and the Head Start program.

(D) In the ERDC program, the caretaker is found ineligible for ERDC program benefits under OAR 461-160-0040(6) unless the caretaker is:

(i) Continuing to actively seek employment (other than self-employment) during the hours the contracted Head Start program is operating; and

(ii) Available to work (other than self-employment) during the operating hours of the contracted Head Start program.

(E) The child is no longer attending a Head Start contracted program.

(F) The caretaker of the child voluntarily quits their job or causes their own dismissal and does not meet the "good cause" criteria set out in OAR 461-135-0070(3).

(G) The caretaker of the child enrolls in school, unless the caretaker is:

(i) Continuing to actively seek employment during the hours the contracted Head Start program is operating; and

(ii) Available to work during the operating hours of the contracted Head Start program.

(H) In the TANF program:

(i) The case closes due to disqualification (see OAR 461-130-0330); or

(ii) In the TANF program, the caretaker is not actively participating in an open case plan (see OAR 461-001-0025).

(e) For any month in which the child is eligible to be served under a contract and the client complies with a plan developed jointly by the client, the Head Start agency, and the Department (plan), the Department waives the client's copayment for the child, in whole or in part, if the waiver is provided for in the contract.

(f) For any month in which the client's child is eligible to be served under a contract and the client complies with a plan, the Department waives the copayment with respect to the child's siblings, in whole or in part, if the waiver is provided for in the contract.

(3) The Department will not make a child care payment for a child in a Head Start program if the child's caretaker has been found ineligible for ERDC program under OAR 461-135-0415 for failure to make a copayment.

(4) The changes to this rule adding the TANF program are effective April 1, 2014.

Stat. Auth.: ORS 409.050, 411.060 & 412.049

Stats. Implemented: ORS 409.010, 411.060 & 412.049

Hist.: AFS 33-2000(Temp), f. 12-22-00, cert. ef. 1-1-01 thru 3-31-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 9-2009(Temp), f. & cert. ef. 5-1-09 thru 10-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 11-2014(Temp), f. & cert. ef. 4-10-14 thru 10-7-14

Department of Justice Chapter 137

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

Adm. Order No.: DOJ 5-2014

Filed with Sec. of State: 4-1-2014

Certified to be Effective: 4-1-14

Notice Publication Date:

Rules Amended: 137-084-0500

Subject: As a certifying body for 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—(503) 947-4700

137-084-0500

Sexual Assault Examiner (SAE) and Nurse Examiner (SANE) Certification Commission

(1) The Attorney General establishes a Sexual Assault Examiner and Nurse Examiner (SANE) Certification Commission. The Commission is established to help ensure that registered nurses, physicians and physician assistants who provide sexual assault medical forensic examinations in Oregon and receive compensation through the Sexual Assault Victims' Emergency Medical Response Fund established by Oregon Laws 2003 c. 789 have the necessary training and qualifications to do so in accordance with the best standards of care, after consultation with the Attorney General's Sexual Assault Task Force.

(2) Commission members shall be appointed by the Attorney General and shall serve a period of two years from time of appointment. Terms may be renewed upon approval by the Attorney General.

(3) The Commission shall consist of seven (7) members, one each from the following groups:

(a) One (1) Oregon Certified Sexual Assault Examiner or Nurse Examiner;

(b) One (1) Oregon Certified Sexual Assault Nurse Examiner representing the Oregon Nurses Association (ONA);

(c) One (1) Representative from the Oregon State Board of Nursing (OSBN);

(d) One (1) Emergency Room Physician representing the Oregon Chapter of Emergency Physicians (OCEP);

(e) One (1) Physician (at large);

(f) One (1) Advocate;

(g) One (1) At-large position; and

(h) One (1) Member of Law Enforcement or Prosecution.

(4) A majority of a quorum of the Commission may take action and make recommendations to the Attorney General. A quorum shall be established by a simple majority of Commission members.

(5) The Attorney General delegates to the Commission the following powers and duties

(a) Make recommendations to the Attorney General for rules deemed necessary to implement the Sexual Assault Nurse Examiners Program, including standards for certification and renewal of certification by the Commission;

(b) Evaluate and act upon applications for certification; and

(c) Identify, update, and publicize best practices related to sexual assault examinations.

(d) Perform random SAFE/SANE chart reviews of certified SANEs in Oregon to assure standards of practice as defined by the Oregon Sexual Assault Task Force, are being upheld and set forth recommendations to SANEs who demonstrate substandard practices.

(e) In accordance to nursing practice in Oregon if there is found to be any attempt to falsify documentation or demonstration of practicing outside of the scope of practice, a majority quorum of the Commission may take action to suspend or remove SANE certification.

(f) If a SANE/SAE has a suspended or revoked state RN, NP, or PA license to practice, the Commission has the ability to suspend or revoke the SANE/SAE certification.

Stat. Auth.: 2003 OL Ch. 789 (SB 752)

Stats. Implemented: 2003 OL Ch. 789 (SB 752)

Hist.: DOJ 3-2007, f. & cert. ef. 3-16-07; DOJ 13-2007, f. & cert. ef. 12-11-07; DOJ 5-2014, f. & cert. ef. 4-1-14

ADMINISTRATIVE RULES

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

Adm. Order No.: DOJ 6-2014

Filed with Sec. of State: 4-1-2014

Certified to be Effective: 4-1-14

Notice Publication Date: 3-1-2014

Rules Amended: 137-003-0505, 137-003-0640

Rules Repealed: 137-003-0505(T), 137-003-0640(T)

Subject: 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—(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; DOJ 6-2014, f. & cert. ef. 4-1-14

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.

(8) Beginning February 1, 2016, agencies, rather than the Chief Administrative Law Judge, will be responsible for providing the immediate review set out in 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; DOJ 6-2014, f. & cert. ef. 4-1-14

Rule Caption: Updating cite references and correcting error in miscellaneous rules

Adm. Order No.: DOJ 7-2014

Filed with Sec. of State: 4-1-2014

Certified to be Effective: 4-1-14

Notice Publication Date: 2-1-2014

Rules Amended: 137-055-1100, 137-055-3300, 137-055-3360, 137-055-3435, 137-055-3660, 137-055-5510, 137-055-6120, 137-055-7180

Subject: The following rules are amended to update cite references and correct typos and grammatical errors: OAR 137-055-1100, OAR 137-055-3360, OAR 137-055-3660, OAR 137-055-5510 and OAR 137-055-6120

OAR 137-055-3300 is amended to clarify that an incarcerated obligor is not precluded from requesting either periodic review or change of circumstance modification at any time.

OAR 137-055-3435 is amended to clarify that a parent may contest whether there has been a change in physical custody and the time during which the change occurred, as provided in the other parent's change of custody affidavit.

OAR 137-055-7180 is amended to clarify that a Determination of Controlling Order must be filed in court within 30 days of its issuance.

Rules Coordinator: Carol Riches—(503) 947-4700

137-055-1100

Continuation of Services

Support (DCS) will notify the support obligee and any child attending school under 107.108 and OAR 137-055-5110, in writing, of the services to be provided and the consequences of receiving those services, including a listing of available services, fees, the state's policy on cost recovery and its distribution policies. DCS will notify the obligee, and the child attending school that subject to the obligor's right to request services:

ADMINISTRATIVE RULES

(a) An obligee or applicant for services may at any time request that support enforcement services no longer be provided. If the obligee or applicant so requests and case closure procedures pursuant to OAR 137-055-1120 have been completed, all support enforcement services on behalf of the obligee or applicant will be discontinued. However, except as provided in 137-055-1090, if an order has already been established, DCS will continue efforts to collect arrears assigned to the state. DCS will apply any collections received against the assigned arrears until this amount has been collected.

(b) An obligee may also request under OAR 137-055-1090 that support enforcement services no longer be provided for either the obligee or the state.

(c) A child attending school who is an applicant for services may, under subsection (1)(a), request that support enforcement services no longer be provided on his or her behalf. A child attending school who is not an applicant for services may discontinue all support enforcement services on his or her behalf by redirecting his or her support to the obligee under OAR 137-055-5110(5)(b).

(2) In cases where current child support is not assigned to the state but medical support is assigned to the state, the obligee may elect to not pursue establishment and enforcement of a child support obligation other than medical child support. In those cases, if the obligee so elects, the administrator will provide only those services necessary to establish and enforce an order for medical child support, including establishment of paternity where necessary.

(3) If a case has been closed pursuant to this rule, an obligee or applicant may at any time request the child support case be reopened by completing a new application for services. If an application for services is received, arrears may be reestablished pursuant to OAR 137-055-3240 or 137-055-5120, except for permanently assigned arrears which have been satisfied or which accrued to the state prior to the reapplication for services.

Stat. Auth.: ORS 25.080 & 180.345
Stats. Implemented: ORS 25.080
Hist.: AFS 34-1986(Temp), f. & ef. 4-14-86; AFS 65-1986, f. & ef. 9-19-86; AFS 28-1988, f. & cert. ef. 4-5-88; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89, Renumbered from 461-035-0054; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0055; AFS 28-2001, f. 12-28-01, cert. ef. 1-1-02; AFS 15-2002, f. 10-30-02, ef. 11-1-02; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-1100; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-1100; DOJ 4-2005, f. & cert. ef. 4-1-05; DOJ 9-2005, f. & cert. ef. 10-3-05; DOJ 1-2006, f. & cert. ef. 1-3-06; DOJ 6-2006, f. & cert. ef. 10-2-06; DOJ 1-2007, f. & cert. ef. 1-2-07; DOJ 12-2009, f. & cert. ef. 10-1-09; DOJ 13-2011, f. 12-30-11, cert. ef. 1-3-12; DOJ 7-2014, f. & cert. ef. 4-1-14

137-055-3300

Incarcerated Obligors

(1) For purposes of establishing or modifying a support order, the following definitions apply:

(a) "Correctional facility" means any place used for the confinement of persons charged with or convicted of a crime or otherwise confined under a court order, and includes but is not limited to a youth correction facility.

(A) "Correctional facility" applies to a state hospital only as to persons detained therein charged with or convicted of a crime, or detained therein after acquittal of a crime by reason of mental defect;

(B) "Correctional facility" includes alternative forms of confinement, such as house arrest or confinement, where an obligor is not permitted to seek or hold regular employment.

(b) "Incarcerated obligor" means a person who:

(A) Is or may become subject to an order establishing or modifying child support; and

(B) Is, or is expected to be, confined in a correctional facility for at least six consecutive months from the date of initiation of action to establish a support order, or from the date of a request to modify an existing order pursuant to this rule.

(2) For purposes of computing a monthly support obligation for an incarcerated obligor, all provisions of the Oregon child support guidelines, as set forth in OAR 137-050-0700 through 137-050-0765, will apply except as otherwise specified in this rule.

(3) The incarcerated obligor's income and assets are presumed available to the obligor, unless such income or assets are specifically restricted, assigned, or otherwise inaccessible pursuant to state or federal laws or rules regarding the income and assets of incarcerated obligors.

(4) If the incarcerated obligor has gross income less than \$200 per month, the administrator shall presume that the obligor has zero ability to pay support.

(5) If the provisions of section (4) of this rule apply, the administrator will not initiate an action to establish a support obligation if the obligor is an incarcerated obligor, as defined in subsection (1)(b) of this rule, until 61 days after the obligor's release from incarceration.

(6) The administrator will not initiate an action to modify a support obligation because of incarceration unless the obligor is an incarcerated obligor, as defined in subsection (1)(b) of this rule, and a party to the current order has requested a modification.

(7) An order entered pursuant to ORS 416.425 and this rule, that modifies a support order because of the incarceration of the obligor, is effective only during the period of the obligor's incarceration and for 60 days after the obligor's release from incarceration. The previous support order is reinstated by operation of law on the 61st day after the obligor's release from incarceration.

(a) An order that modifies a support order because of the obligor's incarceration must contain a notice that the previous order will be reinstated on the 61st day after the obligor's release from incarceration;

(b) Nothing in this rule precludes an obligor from requesting a modification based on a periodic review, pursuant to OAR 137-055-3420, or a change of circumstances, pursuant to OAR 137-055-3430.

(8) The provisions of this rule do not apply to an obligor who is incarcerated because of nonpayment of support.

Stat. Auth.: ORS 180.345 & 416.455
Stats. Implemented: ORS 416.425
Hist.: AFS 21-2000, f. & cert. ef. 8-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0078; AFS 4-2001, f. 3-28-01, cert. ef. 4-1-01; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3300; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03; DOJ 7-2004, f. 3-30-04, cert. ef. 4-1-04; DOJ 12-2004, f. & cert. ef. 10-1-04; DOJ 1-2010, f. & cert. ef. 1-4-10; DOJ 6-2012(Temp), f. & cert. ef. 5-24-12 thru 11-20-12; DOJ 15-2012, f. 9-27-12, cert. ef. 10-1-12; DOJ 7-2014, f. & cert. ef. 4-1-14

137-055-3360

Entering of Administrative Orders in the Register of the Circuit Court

An administrative order under ORS 416.400 to 416.470 must be entered in accordance with the requirements of this rule:

(1) If the administrative order establishes support or paternity and the child is not residing in a state financed or supported residence, shelter or other facility or institution (see ORS 416.417), the order must be entered in the circuit court in the county in which the child, or either parent of the child, resides.

(2) If the administrative order establishes support or paternity and the child is residing in a state financed or supported residence, shelter or other facility or institution (see ORS 416.417) or resides out of state, the order must be entered in the circuit court in the county in which the obligor resides.

(3) Except as provided in section (4), if the administrative order is one that modifies an underlying support order, the order must be entered in the circuit court in the same county as the underlying support order.

(4) If there is a judicial proceeding pending at the time of finalizing an administrative order establishing support or paternity, the administrative order must be entered in the circuit court in the same county as the pending judicial proceeding.

(5) Nothing in this rule precludes filing liens in other Oregon counties pursuant to ORS 18.152 or transferring judgments pursuant to ORS 25.100 or 107.449.

Stat. Auth.: ORS 180.345 & 416.455
Stats. Implemented: ORS 416.440
Hist.: AFS 21-2000, f. & cert. ef. 8-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-1091; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3360; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3360; DOJ 2-2004, f. 1-2-04 cert. ef. 1-5-04; DOJ 12-2004, f. & cert. ef. 10-1-04; DOJ 7-2011, f. & cert. ef. 10-3-11; DOJ 7-2014, f. & cert. ef. 4-1-14

137-055-3435

Physical Custody Changes: Adjusting Orders

(1) This rule applies when physical custody of a child changes as described in ORS 416.416. For purposes of this rule, "non-custodial" party means the party without physical custody of the minor child.

(2) The provisions of this rule apply only when all of the children in the support order change physical custody from one parent to another, and the change is not for the purpose of exercising parenting time or visitation.

(3) Specifically excluded from adjustments for physical custody are an adult child as defined in OAR 137-055-5110 and a child attending school, as defined in 137-055-5110, because neither are considered to be in the physical custody of anyone.

(4) When a support order has language sufficient to change the support award when a change in physical custody occurs, a party may submit a sworn affidavit or court order to the administrator which includes the date

ADMINISTRATIVE RULES

the party obtained physical custody. The administrator will notify the parties that support will be changed 14 days from the date of mailing to the parties' last known addresses. The notice must include:

- (a) A copy of the affidavit or court order;
- (b) The amount of support the non-custodial party will be ordered to pay, as previously determined in the support order;
- (c) A statement that a hearing may be requested under ORS 416.427; and
- (d) A statement that the only issues to be considered in a hearing are whether there has been a change in physical custody and the date on which it took place.

(5) If an objection is received, the administrator will forward it, along with the requesting party's affidavit, to the Office of Administrative Hearings for a final determination about physical custody.

(6) If no objection is received, the administrator will file a money award to provide notice of the ending of the obligation of the former non-custodial parent, and of beginning the obligation of the new non-custodial parent.

(7) Nothing in this rule prohibits a party from requesting a review and adjustment of a support order under OAR 137-055-3420, or a change of circumstances modification under 137-055-3430.

Stat. Auth.: ORS 180.345

Stats. Implemented: ORS 416 (2009 OL Ch 353)

Hist.: DOJ 1-2010, f. & cert. ef. 1-4-10; DOJ 7-2014, f. & cert. ef. 4-1-14

137-055-3660

Multiple Child Support Judgments

(1) When the administrator finds that two or more child support judgments exist involving the same obligor and child for the same time period and each judgment was issued in this state, the administrator may:

(a) Issue a proposed governing child support order, as provided in ORS 416.448;

(b) Petition the court in the county where a child who is subject to the judgment resides for a governing child support judgment; or

(c) Move to set aside any one of the support judgments if the judgment was entered in error.

(2) For purposes of a governing child support proceeding, there is a presumption that the terms of the last-issued child support judgment are the controlling terms and supersede contrary terms of each earlier-issued child support judgment, except that:

(a) When the last-issued child support judgment is silent about non-medical child support, the non-medical child support terms of an earlier-issued child support judgment continue; and

(b) When the last-issued child support judgment is silent about medical support, the medical support terms of an earlier-issued child support judgment continue.

(3) The presumption may be rebutted if the last issued child support judgment:

(a) Was issued without prior notice to the issuing court, administrative law judge or administrator that another support proceeding involving the child was pending or another support judgment involving the child already existed;

(b) Was issued after an earlier child support judgment and did not enforce, modify or set aside the earlier child support judgment;

(c) Should be set aside under ORS 25.089(3)(a) and ORCP 71 because it was issued without service on the administrator as required in ORS 107.087, 107.135, 107.431, 108.110, 109.103 and 109.125, when support rights are assigned to the state and the states interests were not adequately protected; or

(d) Should otherwise be set aside under ORS 25.089(3)(a) and ORCP 71.

(4) The administrator may issue a proposed governing child support order as provided in subsection (1)(a), only if the presumption in section (2) is applied.

(5) When determining which support judgment was the "last-issued" for purposes of determining a governing child support judgment, the issue date for any support judgment will be:

(a) The date the support judgment was entered into the circuit court register; or

(b) If the support judgment is an administrative modification of a court judgment the date the order approving the modification was entered into the circuit court register.

(6) When the court issues a governing child support judgment or when an administrative governing child support order is approved by the court, the non-controlling terms of each earlier child support judgment regarding non-medical child support or medical support are terminated.

However, the issuance of the governing child support judgment does not affect any support payment arrearage or any liability related to medical support that has accrued under a child support judgment before the governing child support judgment is issued.

(7) The administrator's proposed governing child support order or petition for governing child support judgment will include:

(a) A reconciliation of any child support arrears or credits for overpayments under all of the child support judgments; or

(b) An order or motion to reconcile any child support arrears or credits for overpayments under all of the child support judgments in a separate proceeding under ORS 25.167 or 416.429.

(8) When reconciling any child support arrears or credits for overpayments under all of the child support judgments included in the governing child support proceeding for time periods prior to entry of a governing child support judgment:

(a) The obligor is expected to pay the total amount of current support due under the highest judgment; and

(b) Payment made toward any one of the judgments must be credited against the obligation owed under the others.

(9) This rule does not apply if the later-issued child support judgment was entered in circuit court before January 1, 2004, the administrator was providing services under ORS 25.080, and the administrator treated a later-in-time court judgment as superseding an earlier entered administrative order.

(10) For purposes of this rule, a Support Judgment means an administrative order for child support that has been entered into the circuit court register under ORS 416.440 or a judgment of the court for child support.

Stat. Auth.: ORS 180.345, 416.448

Stats. Implemented: ORS 25.089, 25.091, 25.167, 416.429 and 416.448

Hist.: DOJ 2-2004, f. 1-2-04 cert. ef. 1-5-04; DOJ 1-2006, f. & cert. ef. 1-3-06; DOJ 1-2010, f. & cert. ef. 1-4-10; DOJ 7-2014, f. & cert. ef. 4-1-14

137-055-5510

Request for Credit Against Child Support Arrears for Physical Custody of Child

The terms used in this rule have the meanings set out in OAR 137-055-6010.

(1) In accordance with ORS 416.425, the administrator may allow a credit against child support arrearages for periods of time during which the obligor has physical custody of the child(ren) when:

(a) Physical custody was pursuant to a court ordered parenting time schedule and the court order specifically states that the obligor is allowed a credit for parenting time that is not already factored into the monthly child support amount;

(b) Physical custody was with the knowledge and consent of the obligee; or

(c) The obligor has custody of the child(ren) pursuant to court order.

(2) A request for credit against child support arrears under this rule must be made in writing:

(a) If the credit is requested for a time period immediately prior to the effective date of the modification; or

(b) Independently of a request for modification, for any time period within two years prior to the date of the request.

(3)(a) Credit for physical custody may only be given if the child(ren) is/are with the obligor for 30 consecutive days or the entire month for which credit is sought. When the obligor is seeking a credit for fewer than all of the children under a child support order, a credit may only be given if the order is not a class order as defined in OAR 137-055-1020.

(b) Credit for physical custody may not be given against any arrears which have accrued to a child attending school account under ORS 107.108 and OAR 137-055-5110.

(4) Notwithstanding subsections (3)(a) and (b), the credit may only be allowed to the extent it will not result in a credit balance, as defined in OAR 137-055-3490(1).

(5) The administrator will send to the parties by regular mail, or by service, as part of the modification action, notice and proposed order of the intended action, including the amount to be credited. Such notice will inform the parties that:

(a) Within 30 days from the date of this notice, a party may request an administrative hearing;

(b) The request for hearing must be in writing;

(c) The only basis upon which a party may object is that:

(A) The obligor did not have physical custody of all the child(ren) under the support order for the time periods requested;

ADMINISTRATIVE RULES

(B) The obligor had physical custody of the child(ren), but the custody was not with the knowledge and consent of the obligee and the obligor does not have legal custody of the child(ren);

(C) The obligor had physical custody of the child(ren) pursuant to a court order for parenting time and the order does not allow the obligor a credit for periods of parenting time.

(6) Credit for physical custody will not be allowed for any child who is a child attending school or an adult child as defined in ORS 107.108 and OAR 137-055-5110.

(7) If a credit is allowed pursuant to this rule, the credit will be applied as follows:

(a) If none of the arrears are assigned to the state, the credit will be applied to the family's unassigned arrears;

(b) If there are arrears assigned to the state and the child was receiving assistance during any time period for which the obligor had physical custody of the child(ren), the credit will be applied in the following sequence:

(A) State's permanently assigned arrears, not to exceed the amount of unreimbursed assistance;

(B) State's temporarily assigned arrears, not to exceed the amount of unreimbursed assistance;

(C) Family's unassigned arrears;

(D) Family's conditionally assigned arrears.

(c) If there are arrears assigned to the state and the child was not receiving assistance during any time period for which the obligor had physical custody of the child(ren), the credit will be applied in the following sequence:

(A) Family's unassigned arrears;

(B) Family's conditionally assigned arrears;

(C) State's permanently assigned arrears, not to exceed the amount of unreimbursed assistance;

(D) State's temporarily assigned arrears, not to exceed the amount of unreimbursed assistance.

(8) Any appeal of the decision made by an administrative law judge must be to the circuit court for a hearing de novo pursuant to ORS 416.427.

Stat. Auth.: ORS 180.345 & 416.455

Stats. Implemented: ORS 416.425

Hist.: DOJ 2-2004, f. 1-2-04 cert. ef. 1-5-04; DOJ 10-2004, f. & cert. ef. 7-1-04; DOJ 8-2005(Temp), f. & cert. ef. 9-1-05 thru 2-17-06; DOJ 1-2006, f. & cert. ef. 1-3-06; DOJ 1-2007, f. & cert. ef. 1-2-07; DOJ 7-2014, f. & cert. ef. 4-1-14

137-055-6120

Satisfaction of Arrears for Less Than Full Payment

The Division of Child Support (DCS) may satisfy all or any portion of child support arrears that are assigned to the State of Oregon or to any other jurisdiction, subject to the following:

(1) DCS may satisfy all or any portion of assigned arrears only if one or more of the following circumstances apply:

(a) The arrears are a substantial hardship to the paying parent or that parent's household; or

(b) A compromise of amounts owing will result in greater collection on the case, considering the maximum amount that DCS could reasonably expect to collect from the obligor if no compromise was made and the probable costs of collecting that maximum amount; or

(c) The obligor has entered into an agreement with DCS to take steps to:

(A) Enhance the obligor's ability to pay child support; or

(B) Enhance the obligor's relationship with the child or children for whom the obligor owes the arrears.

(d) An error or legal defect has occurred that indicates a reduction may be appropriate.

(2) If all or any portion of the assigned arrears are the states temporarily-assigned arrears as defined in OAR 137-055-6010, DCS may satisfy the amount only if the obligee consents and signs the appropriate "satisfaction of support judgment" form.

(3) If all or any portion of the assigned arrears are assigned to another jurisdiction, DCS may satisfy that assigned amount only with the approval of that jurisdiction.

(4) DCS will not sign any satisfaction for less than full payment of arrears until:

(a) The obligor has paid the full amount agreed to as appropriate consideration, and the obligor's payment instrument has cleared the appropriate financial institutions; or

(b) DCS has determined that the obligor has satisfactorily met, or is complying with, any agreement made with DCS pursuant to this rule.

(5) DCS will record a summary of each agreement to satisfy arrears for less than full payment on the appropriate electronic file on the case.

(6) Any satisfaction executed under this rule will be made pursuant to, and in full compliance with, ORS 18.228.

(7) The provisions of this rule notwithstanding, the obligee may satisfy all or any portion of unassigned arrears due the obligee, pursuant to OAR 137-055-5220.

(8) Nothing in this rule precludes the administrator from negotiating a satisfaction of arrears due or potentially due the obligee for less than full payment by the obligor, but such satisfaction will take effect only when the obligee consents and signs a "satisfaction of support judgment" pursuant to OAR 137-055-5220.

Stat. Auth.: ORS 180.345

Stats. Implemented: ORS 18.400, 25.020 & 25.080

Hist.: AFS 77-1982, f. 8-5-82, ef. 9-1-82; AFS 93-1982, f. & ef. 10-18-82; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-035-0025; AFS 11-2000, f. 4-28-00, cert. ef. 5-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0150; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-6120; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-6120; DOJ 9-2005, f. & cert. ef. 10-3-05; DOJ 1-2007, f. & cert. ef. 1-2-07; DOJ 3-2011(Temp), f. & cert. ef. 3-31-11 thru 9-26-11; DOJ 4-2011, f. & cert. ef. 7-1-11; DOJ 7-2014, f. & cert. ef. 4-1-14

137-055-7180

Determining Controlling Order

(1) The administrator will determine a single controlling order when:

(a) Services are being provided under ORS 25.080 and two or more child support orders have been issued regarding the same obligor, child and obligee; or

(b) A party or other jurisdiction requests a determination.

(2) For purposes of this rule, any order modified or issued after October 20, 1994 (the effective date of the Full Faith and Credit for Child Support Orders Act, 28 USC 1738B), will be interpreted as a modification of all orders issued prior to October 20, 1994, unless:

(a) The tribunal entering the order did not have jurisdiction to do so;

or

(b) A party alleges the tribunal lacked personal or subject matter jurisdiction.

(3) When a request for a controlling order determination is received from another jurisdiction:

(a) The request is not complete until documents necessary to perform the determination are received; and

(b) The request is considered "filed with the appropriate tribunal" as required by 45 CFR 303.7(d)(5) when the administrator receives the complete request.

(4) The administrator will determine the controlling order and issue an order setting out the determination. The order is an order in an other than contested case proceeding under ORS chapter 183. The order will be served upon the parties by certified mail, return receipt requested, at the last known address of the parties. The order must include:

(a) The basis for personal jurisdiction over the parties;

(b) The names of the parties and the child for whom support was ordered;

(c) A statement of each child support order which was considered, the jurisdiction which issued the order and the date of the order;

(d) A statement identifying the order the administrator determines is the controlling order and why;

(e) A statement that the controlling order determination is effective the date the order is issued by the administrator;

(f) A reference to ORS 110.333;

(g) A notice that a party may submit further information and petition the administrator for reconsideration of the order within 60 days of the date of the order;

(h) A notice that OAR 137-004-0080 applies to any petition for reconsideration; and

(i) A notice that a party may appeal the order as provided by ORS 183.484.

(5) If the administrator determines that no tribunal has continuing, exclusive jurisdiction under ORS chapter 110, the administrator will notify the parties and establish a new child support order.

(6) For the purposes of determining the Oregon county in which the administrator may enter the order determining the controlling order, the following provisions apply:

(a) If one or more Oregon court files exist for the same obligor and child, the order will be entered in each existing court file;

(b) If an Oregon court file does not exist, the administrator will enter the documents required by ORS 416.440 in the circuit court in the county where the party who lives in Oregon resides.

(7) Within 30 days after the determination of controlling order is issued, the administrator will certify copies of the order determining the

ADMINISTRATIVE RULES

controlling order and file one with each tribunal that issued or registered an earlier order of child support.

(8) Upon written receipt of an order determining the controlling order that a tribunal of this or another jurisdiction properly issued, the administrator will:

(a) Adjust the Oregon case record to cease prospective accrual on any non-controlling order and initiate accrual on any controlling order which was issued or registered by an Oregon tribunal on the date specified in the order determining controlling order or, when not specified, in accordance with OAR 137-055-5040; and

(b) When one of the non-controlling orders was issued by an Oregon tribunal, ensure that the order determining the controlling order is entered in the Oregon circuit court for the county which issued or entered the prior order.

Stat. Auth.: ORS 25.729 & 180.345

Stats. Implemented: ORS 110.327 & 110.333

Hist.: AFS 26-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-2385; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-7180; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-7180; DOJ 10-2004, f. & cert. ef. 7-1-04; DOJ 3-2011(Temp), f. & cert. ef. 3-31-11 thru 9-26-11; DOJ 4-2011, f. & cert. ef. 7-1-11; DOJ 7-2014, f. & cert. ef. 4-1-14

Department of Public Safety Standards and Training Chapter 259

Rule Caption: Update definitions to meet NFPA 1035 Standards and verification language for task books.

Adm. Order No.: DPSST 9-2014

Filed with Sec. of State: 4-3-2014

Certified to be Effective: 4-3-14

Notice Publication Date: 3-1-2014

Rules Amended: 259-009-0005, 259-009-0062

Subject: This 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—(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.

(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 and Life Safety Educator I” means a person who has demonstrated the ability to coordinate and deliver existing education programs and information.

(14) “Fire and Life Safety Educator II” means a person who has demonstrated the ability to prepare educational programs and information to meet identified needs.

(15) “Fire and Life Safety Educator III” means a person who has demonstrated the ability to create, administer, and evaluate educational programs and information.

(16) “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.

(17) “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.

(18) “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.

(19) “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.

(20) “Fire Ground Leader” means a Fire Service Professional who is qualified to lead emergency scene operations.”

(21) “Fire Inspector” means an individual whose primary function is the inspection of facilities in accordance with the specific jurisdictional fire codes and standards.

(22) “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.

(23) “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.

(24) “Fire Training Officer” means a fire service member assigned the responsibility for administering, providing, and managing or supervising a fire service agency training program.

(25) “First Responder” means an “NFPA Operations Level Responder.”

(26) “Juvenile Firesetter Intervention Specialist I” means a person who has demonstrated the ability to conduct an intake/interview with a firesetter and his or her family using prepared forms and guidelines and who, based on program policies and procedures, determines the need for referral for counseling and/or implements educational intervention strategies to mitigate effects of fire setting behavior.

(27) “Juvenile Firesetter Intervention Specialist II” means a person who has demonstrated the ability to manage juvenile firesetting intervention program activities and the activities of Juvenile Firesetter Intervention Specialist I.

(28) “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.

(29) “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.

(30) “NFPA Airport Firefighter” means a member of a Fire Service Agency who has met job performance requirements of NFPA Standard 1003.

(31) “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.

(32) “NFPA Apparatus Equipped with a Tiller” means a Fire Service Professional who has met the requirements of Fire Fighter I as specified in

ADMINISTRATIVE RULES

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.

(33) "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.

(34) "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.

(35) "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.

(36) "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.

(37) "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.

(38) "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).

(39) "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).

(40) "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.

(41) "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.

(42) "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.

(43) "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.

(44) "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.

(45) "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.

(46) "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.

(47) "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).

(48) "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).

(49) "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).

(50) "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).

(51) "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.

(52) "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.

(53) "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.

(54) "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.

(55) "NFPA Marine Land-Based Fire Fighter" means a member of a fire service agency who meets the job performance requirements of NFPA 1005.

(56) "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.

(57) "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.

(58) "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.

(59) "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.

(60) "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.

(61) "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.

(62) "NFPA Surf Rescue" means a Fire Service Professional who had 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.

(63) "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.

(64) "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.

(65) "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.

(66) "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.

(67) "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.

(68) "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.

(69) "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.

(70) "Public Information Officer" means a person who has demonstrated the ability to conduct media interviews and prepare news releases and media advisories.

ADMINISTRATIVE RULES

(71) "Service Delivery" means to be able to adequately demonstrate, through job performance, the knowledge, skills, and abilities of a certification level.

(72) "Staff" means employees occupying full-time, part-time, or temporary positions with the Department.

(73) "Task Performance" means to demonstrate the ability to perform tasks of a certification level, in a controlled environment, while being evaluated.

(74) "The Act" refers to the Public Safety Standards and Training Act (ORS 181.610 to 181.705).

(75) "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.

(76) "Track" means a field of study required for certification.

(77) "Waiver" means to refrain from pressing or enforcing a rule.

(78) "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.

(79) "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).

(80) "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.

(81) "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.

(82) "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.

(83) "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.

(84) "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. 6-11-10, cert. ef. 6-14-10; DPSST 11-2010, f. & cert. ef. 11-12-10; DPSST 3-2011, f. 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; DPSST 9-2014, f. & cert. ef. 4-3-14

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.

(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.

ADMINISTRATIVE RULES

(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 2010, entitled "Professional Qualifications for Public Fire and Life Safety Educator" are adopted subject to the following definitions and modifications:

(A) A task book will be completed prior to certification as a NFPA Public Fire and Life Safety Educator I, II or III. The Task Book must be approved by the Agency Head or Training Officer before an applicant can qualify for certification.

(B) A task book will be completed prior to certification as a NFPA Public Information Officer. The task book must be approved by the Agency Head or Training Officer before an applicant can qualify for certification.

(C) A task book will be completed prior to certification as a NFPA Juvenile Firesetter Intervention Specialist I and II. The task book must be approved by the Agency Head or Training Officer before an applicant can qualify for certification.

(h) The provisions of the NFPA Standard No. 1041, Edition of 2012, entitled "Standard for Fire Service Instructor Professional Qualifications," 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;

ADMINISTRATIVE RULES

(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.

(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;

ADMINISTRATIVE RULES

(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.: DPSST 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; DPSST 9-2014, f. & cert. ef. 4-3-14

Rule Caption: Insert omitted paragraph relating to additional training requirements in situations of limited periods of employment

Adm. Order No.: DPSST 10-2014

Filed with Sec. of State: 4-10-2014

Certified to be Effective: 4-10-14

Notice Publication Date: 6-1-2013

Rules Amended: 259-008-0025

Subject: Current administrative rule requires law enforcement officers who have not been employed in a full-time law enforcement position for an extended period of time complete additional training before becoming recertified. These requirements are in place to ensure that all certified, active law enforcement officers are current in the knowledge and abilities of their profession.

In rare instances, an officer's employment history may not require additional training to retain certification, but the periods of employment are so limited and sporadic, not requiring additional training could potentially create a liability for the employing agency and the Department.

In February of 2013, a proposed rule change was presented to the Telecommunications Policy Committee, the Corrections Policy Committee, and the Police Policy Committee to add language to 259-008-0025 that clarified the rule to address these unusual situations. All policy committees unanimously recommended approving the amended language to the Board. On April 25, 2013, the Board affirmed the policy committees' recommendations.

On April 29, 2013, the rule was filed proposed and no comments were received. On June 25, 2013, the rule language was filed permanently with the Secretary of State's office.

In October of 2013, another rule change was made to OAR 259-008-0025 regarding House Bill 2235 eligibility dates. During the permanent filing process on January 2, 2014, the language added in June, 2013, was inadvertently omitted. This rule filing corrects this error.

Rules Coordinator: Sharon Huck—(503) 378-2432

259-008-0025

Minimum Standards for Training

(1) Basic Course:

(a) Except as provided in OAR 259-008-0035, all law enforcement officers, telecommunicators, and emergency medical dispatchers must sat-

isfactorily complete the prescribed Basic Course, including the field training portion. The Basic Course and field training portion must be completed within twelve months from the date of employment by corrections officers and within 18 months by police officers, parole and probation officers, telecommunicators, and emergency medical dispatchers.

(b) The field training program shall be conducted under the supervision of the employing department. When the field training manual is properly completed, the sign-off pages of the field training manual must be forwarded to the Department. Upon the approval of the Department, the employee shall receive credit toward basic certification.

(c) Effective July 1, 2007, all police officers must satisfactorily complete the Department's physical fitness standard. The Department's physical standard is:

(A) Successful completion of the OR-PAT at 5:30 (five minutes and thirty seconds) when tested upon entry at the Basic Police Course; or

(B) Successful completion of the OR-PAT at 5:30 (five minutes and thirty seconds) when tested prior to graduation from the Basic Police Course.

(d) Law enforcement officers who have previously completed the Basic Course, but have not been employed as a law enforcement officer as defined in ORS 181.610 and OAR 259-008-0005 during the last five (5) years or more, must satisfactorily complete the full required Basic Course to qualify for certification. This requirement may be waived by the Department upon a finding that the applicant has current knowledge and skills to perform as an officer.

(e) Telecommunicators and emergency medical dispatchers who have previously completed the Basic Course, but have not been employed as a telecommunicator or EMD, as described in ORS 181.610 and OAR 259-008-0005 for two and one-half (2-1/2) years or more, must satisfactorily complete the full required Basic Course to qualify for certification. This requirement may be waived by the Department upon finding that a Telecommunicator has current knowledge and skills to perform as a Telecommunicator. There is no waiver available for an emergency medical dispatcher.

(f) Previously employed telecommunicators may challenge the Basic Telecommunications Course based on the following criteria:

(A) The department head of the applicant's employing agency shall submit the "challenge request" within the time limits set forth in the Oregon Revised Statutes and Oregon Administrative Rules.

(B) The applicant must provide proof of successful completion of prior equivalent training.

(C) The applicant must provide documentation of the course content with hour and subject breakdown.

(D) The applicant must obtain a minimum passing score on all written examinations for the course.

(E) The applicant must demonstrate performance at the minimum acceptable level for the course.

(F) Failure of written examination or demonstrated performance shall require attendance of the course challenged.

(G) The applicant will only be given one opportunity to challenge a course.

(g) Previously employed police officers, corrections officers and parole and probation officers who are required to attend the Basic Course may not challenge the Basic Course.

(h) All law enforcement officers who have previously completed the Basic Course, but have not been employed as a law enforcement officer as described in ORS 181.610 and OAR 259-008-0005 over two and one-half (2-1/2) years but less than five (5) years must complete a Career Officer Development Course if returning to the same discipline. This requirement may be waived after a staff determination that the applicant has demonstrated the knowledge and skills required for satisfactory completion of a Career Officer Development Course.

(i) Corrections and police officers who have not completed the Basic Course must begin training within 90 days of their initial date of employment.

(A) A police officer must begin training at an academy operated by the Department.

(B) A corrections officer who is employed by Oregon Department of Corrections (DOC) must begin DOC Basic Corrections Course (DOC BCC) training provided by DOC as described in section (6) of this rule.

(C) A corrections officer who is not employed by DOC must begin training at an academy operated by the Department.

(D) A 30-day extension of this time period shall be granted by the Board or its designee upon receipt of a written statement of the reasons for the delay from the officer's employer. Any delays caused by the inability of

ADMINISTRATIVE RULES

the Department to provide basic training for any reason, shall not be counted as part of the periods set forth above (refer to ORS 181.665 and 181.652).

(j) Law enforcement officers who have previously completed a basic training course out of state while employed by a law enforcement unit, or public or private safety agency, may, upon proper documentation of such training and with approval of the Department, satisfy the requirements of this section by successfully completing a prescribed Career Officer Development Course or other appropriate course of instruction.

(k) The basic course for police officers must include:

(A) Training on the law, theory, policies and practices related to vehicle pursuit driving;

(B) Vehicle pursuit training exercises, subject to the availability of funding; and

(C) A minimum of 24 hours of training in the recognition of mental illnesses utilizing a crisis intervention training model. A minimum of one hour of this training must be on the appropriate use of the medical health database maintained by the Department of State Police within the Law Enforcement Data System.

(2) Career Officer Development Course:

(a) All law enforcement officers who have not been employed as such for between two and one half (2-1/2) years and five (5) years, must satisfactorily complete a Career Officer Development Course approved by the Department.

(b) A law enforcement officer assigned to a Career Officer Development Course must also complete the Board's field training program under the supervision of the employing department and submit to the Department a properly completed Field Training Manual. The Department may waive the Field Training Manual requirement upon demonstration by the employing agency that it is not necessary (refer to OAR 259-008-0025(1)(b)).

(A) A law enforcement officer who fails to achieve a minimum passing test score after completing a Career Officer Development Course will be given one opportunity to remediate through self-study and re-test within 60 days of the initial date of failure.

(B) A law enforcement officer who fails to achieve a minimum passing test score after re-testing will have been determined to have failed academically and will be required to attend the next available Basic Course.

(C) A law enforcement officer who is scheduled to complete a distance learning COD Course must achieve a minimum passing test score within the timeframe set by the Department. Failure to successfully complete a distance COD Course within the timeframe set by the Department will require an officer to attend the next available COD Course.

(c) The Department may also require successful completion of additional specified courses or remedial training.

(3) Supervision Course. All law enforcement officers, telecommunicators, and emergency medical dispatchers promoted, appointed, or transferred to a first-level supervisory position must satisfactorily complete Supervision training that complies with the requirements outlined in DPSST Form F-21. The required training must be completed within 12 months after initial promotion, appointment, or transfer to such position. This section applies whether the individual is promoted or transferred to a supervisory position within a department, or is appointed from an outside department, without having completed the required Supervision training within the preceding five (5) years.

(4) Middle Management Course. All law enforcement officers, telecommunicators, and emergency medical dispatchers promoted, appointed, or transferred to a middle management position must satisfactorily complete Middle Management training that complies with the requirements outlined in DPSST Form F-22. The required training must be completed within 12 months after initial promotion, appointment, or transfer to such position. This section applies whether the individual is promoted or transferred to a middle management position within a department, or is appointed to the position from an outside department without having completed the required Middle Management training within the preceding five (5) years.

(5) Specialized Courses.

(a) Specialized courses are optional and may be presented at the Academy or regionally. The curriculum is generally selected because of relevancy to current trends and needs in police, corrections, parole and probation, telecommunications, and emergency medical dispatch fields, at the local or statewide level.

(b) Specialized courses may be developed and presented by individual departments of the criminal justice system, local training districts, a college, the Department, or other interested persons. Department staff may be

available to provide assistance when resources are not available in the local region.

(c) Police officers, including certified reserve officers, must be trained on how to investigate and report cases of missing children and adults.

(A) The above mandated training is subject to the availability of funds.

(B) Federal training programs must be offered to police officers, including certified reserve officers, when they are made available at no cost to the state.

(6) The DOC Basic Corrections Course.

Course Requirements:

(a) Except as provided in OAR 259-008-0035, all corrections officers hired by the Oregon Department of Corrections (DOC) must satisfactorily complete the DOC Basic Corrections Course (DOC BCC), including the field training portion. All corrections officers must complete the DOC BCC and field training portion within twelve months from the date of employment.

(b) Prior to attending a DOC BCC, a corrections officer hired by DOC must:

(A) Meet the minimum standards for employment as a law enforcement officer contained in OAR 259-008-0010;

(B) Meet the background investigation requirements for a law enforcement officer contained in OAR 259-008-0015; and

(C) Meet the minimum standards for training contained in this section.

(c) The DOC BCC must conform to the content and standard approved by the Board. The DOC BCC must include, but is not limited to:

(A) Minimum training standards for the basic certification of corrections officers employed by DOC. The minimum training developed by DOC must be adopted by the Board and must meet or exceed the minimum training standards for the basic certification of corrections officers employed by a law enforcement unit other than DOC.

(B) Minimum Course Hours. The minimum course hours are 240. DOC BCC Course hours refer to hours of training related to DPSST Instructional Goals and may include classroom, scenarios, skills sheets or other related training methodology.

(i) The DOC BCC must include hours addressing all Instructional Goals within each of the following sections:

(I) Section A — 20 hours in Legal Considerations;

(II) Section B — 37 hours in Security Procedures;

(III) Section C — 43 hours in Inmate Supervision;

(IV) Section D — 16 hours in Inmate Health Care;

(V) Section E — 16 hours in Professional Skills;

(VI) Section F — 27 hours in Personal Fitness;

(VII) Section G — 41 hours in Defensive Tactics; and

(VIII) Section H — 26 hours in Skills — Firearms.

(ii) Administrative time is not included within the hours identified in subsection (i). Administrative time may be up to 6% of the overall course hours, or a maximum of 14 hours.

(iii) A minimum of 80% of the classes in the DOC BCC must include:

(I) Participatory learning activities which include, but are not limited to, scenario training, hands-on training and problem-based learning; and

(II) Sufficient hours to address the Instructional Goals in subsection (i).

(C) Attendance Standards. Attendance rosters must be kept and copies of these rosters must be submitted to the Department at the conclusion of a student's training, or when requested by the Department. To successfully complete the DOC BCC, a student may not miss more than 10% of the DOC BCC.

(D) Notwithstanding (C) above, successful completion of the DOC BCC requires 100% attendance during classes in which the following Instructional Goals are covered:

(i) B1.2 Instruction and practice applying safe and efficient tactics for inmate monitoring, inmate counts and facility perimeter checks;

(ii) B2.2 Instruction and practice conducting appropriate, safe and systematic searches of inmates and correctional facilities;

(iii) B5.2 Instruction and practice restraining individuals in an appropriate, safe and systematic manner;

(iv) B8 Reality based scenarios that enhance a new corrections professional's understanding and application of security procedures in a correctional facility;

(v) C3.2 Instruction and practice using interpersonal skills to effectively communicate with inmates and other persons in a correctional setting;

ADMINISTRATIVE RULES

(vi) C10 Reality-based scenarios that enhance a new corrections professional's understanding and application of inmate supervision strategies within a correctional facility;

(vii) D3.2 Instruction and practice applying appropriate intervention strategies for dealing with inmates with major mental illnesses;

(viii) G1 Decision-making skills related to the use of reasonable force to effectively overcome and control resistive and/or hostile behavior;

(ix) G2 Instruction and practice using reasonable force tactics to effectively overcome and control resistive and/or hostile behavior;

(x) G3 Reality-based scenarios that enhance a new corrections professional's understanding and application of reasonable force decision-making and tactics within a correctional facility;

(xi) H1 Basic gun-handling skills; and

(xii) H2 Basic understanding of the use, limitations and techniques of a service handgun, and proficiency in safety, proper gun-handling, marksmanship and firearms tactics.

(E) Conduct. An individual attending a DOC BCC is expected to uphold the minimum moral fitness standards for Oregon public safety officers during their training. DOC will document the date, type, and disposition of any student misconduct relating to the minimum standards for correctional officers. These include, but are not limited to, the following Zero Tolerance Offenses:

(i) Any unlawful act;

(ii) Dishonesty, lying or attempting to conceal violations;

(iii) Cheating;

(iv) Harassment; or

(v) Alcohol possession or use at the training venue.

(F) Course Curriculum.

(i) The DOC BCC will be based on the critical and essential job tasks identified in the most current Job Task Analysis for corrections officers provided to DOC by the Department.

(ii) The DOC BCC will incorporate the most current Instructional Goals provided to DOC by the Department.

(iii) The DOC BCC will incorporate curriculum updates provided to DOC by the Department, when those updates address the critical and essential job tasks or Instructional Goals referenced above.

Testing Requirements

(G) Academic Testing. Academic testing will consist of written test questions that are valid, create reasonable academic rigor, and require students to demonstrate knowledge and application of the essential tasks identified within the DOC BCC curriculum. DOC must administer examinations and maintain a file of examinations conducted.

(i) Academic Testing Passing Score. Except as provided below, to successfully complete the DOC BCC, students must achieve a minimum score of 75% on each academic test. If a student does not attain a 75% score, and DOC retains the student as an employee in a certifiable position, DOC must remediate the student. After remediation, a student will be allowed one opportunity to re-test and achieve a minimum score of 75%.

(ii) Students must attain a score of 100% on all academic test questions on Use of Force topics. If a student fails to attain a 100% score on Use of Force topics, and DOC retains the student as an employee in a certifiable position, DOC must remediate the student. Remediation must include the student completing the DPSST Use of Force Remediation form to demonstrate understanding of each topic missed.

(H) Skills Testing. Skills testing will consist of evaluations documented by use of Skills Sheets during which students must demonstrate competence and achieve a "pass" score in each skill tested.

(I) Test Security and Integrity.

(i) DOC must develop and strictly enforce measures to ensure the security of test questions and integrity of all testing processes.

(ii) DOC must randomize the order of test questions and must develop a sufficient bank of test questions to ensure that students who fail to achieve a passing score and are remediated are given a randomized test that includes some questions that are different than those in the test the student originally failed.

(J) Instructor Requirements: Instructor Qualifications.

(i) All instructors for the DOC BCC must meet or exceed the Instructor Certification standards for instructors at DPSST Basic courses and must be currently certified by the Department in the categories instructor.

(ii) DOC must verify that an instructor providing instruction within a category has the requisite subject matter knowledge, skills and abilities.

(K) The equivalency of the DOC BCC is subject to approval by the Board and verified by ongoing audits.

(L) DOC BCC documentation must include, but is not limited to:

(i) Training schedules, to include all training related to DOC BCC hours, such as classroom, skills sheets, online training and scenarios;

(ii) Classes with associated Instructional Goals and related hours;

(iii) Participatory learning activities within each class;

(iv) Testing Measures for each class; and

(v) Attendance rosters.

(M) DOC BCC Class Training Schedule documentation for each DOC BCC must include, but is not limited to:

(i) Notification of all anticipated DOC BCC training dates to include DOC BCC remediation training;

(ii) Times of DOC BCC training;

(iii) Locations of DOC BCC training; and

(iv) Instructors scheduled to provide training.

(N) Ongoing DOC BCC student documentation during each DOC BCC must include, but is not limited to:

(i) A list of students scheduled to attend training;

(ii) Student names, DPSST numbers, dates of employment and employing institutions;

(iii) Identification of any class or skill failure requiring remediation to including, but not limited to, the date and location of failure, date and location of remediation, the instructor who had oversight over remediation, and the result of remediation.

Certification Requirements

(O) Officer Certification. The applicant must meet the minimum standards for certification as a corrections officer contained in OAR 259-008-0060. DOC must submit the following documents at the time Basic certification is requested:

(i) F-7 (Application for Certification);

(ii) F-6 (Course Roster) for DOC BCC including the number of hours and the final cumulative score;

(iii) F-6 (Course Roster) for DOC Advanced Corrections Course with attached itemized list of classes attended;

(iv) Proof of current First Aid/CPR;

(v) F-11 (Criminal Justice Code of Ethics); and

(vi) FTO Manual Completion Report.

(P) Course Certification. Each DOC BCC class must be certified before officers who complete that BCC may be certified. The following Class Notebook requirements are needed prior to course certification:

(i) F-6 DPSST Class Roster, listing all students who began the course, passed or failed the course, and those who did not complete the course.

(ii) Curriculum for all components of the BCC, to include classroom, skills, online, and scenario training. The curriculum components must include lesson outlines, PowerPoint, handouts and other related documents to support each class.

(iii) Schedule of classes within the course, to include roster for each class, weekly schedule outlining the dates of training, the location of training, the phases of training, the number of hours for each class, the name of the class, the instructors who provided instruction.

(iv) Documentation of all training failures and remediation, to include class, date and location of training failure, the type of failure, the date, location and instructor who had oversight over the remediation of the failure and the result of the remediation.

(v) Testing measures, to include test questions and answers, individual student tests, student scores by student name, DPSST number and date of examination, and the overall class percentage.

(vi) Individual student records, to include evaluation forms, PQC qualification card, training records, and absence reports.

(vii) All skill sheets for every student completing some or all of the required skill sheets.

(7) Waiver. A person requesting a waiver of any course requirements is required to submit to the Department any supporting documents or pertinent expert testimony and evaluation requested. Any expense associated with providing such documentation, testimony or evaluation shall be borne by the person requesting the waiver or the requesting agency.

(8) Notwithstanding this rule, the Department may prescribe additional training for Basic certification, up to and including completion of the full Basic course, in situations in which previous periods of employment have been limited.

[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 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1982, f. & ef. 7-2-82; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0030, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 5-1997, f. 3-20-97, cert. ef. 3-25-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 11-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 13-2001(Temp), f. & cert. ef. 10-26-01 thru 4-10-02; BPSST 2-2002, f. & cert. ef. 2-6-02; BPSST 8-2002, f. &

ADMINISTRATIVE RULES

cert. ef. 4-3-02; BPSST 15-2002, f. & cert. ef. 7-5-02; DPSST 14-2003, f. & cert. ef. 12-22-03; DPSST 5-2004, f. & cert. ef. 4-23-04; DPSST 3-2007, f. & cert. ef. 1-12-06; DPSST 3-2007, f. & cert. ef. 1-12-07; DPSST 9-2008, f. & cert. ef. 7-15-08; DPSST 14-2008, f. & cert. ef. 10-15-08; DPSST 3-2009, f. & cert. ef. 4-8-09; DPSST 8-2009(Temp), f. & cert. ef. 9-15-09 thru 3-1-10; DPSST 15-2009, f. & cert. ef. 12-15-09; DPSST 3-2010, f. 4-12-10, cert. ef. 5-1-10; DPSST 2-2011, f. 3-23-11, cert. ef. 5-1-11; DPSST 13-2012(Temp), f. & cert. ef. 5-8-12 thru 10-1-12; DPSST 17-2012, f. & cert. ef. 8-24-12; DPSST 6-2013, f. & cert. ef. 3-8-13; DPSST 15-2013, f. & cert. ef. 6-25-13; DPSST 1-2014, f. & cert. ef. 1-2-14; DPSST 2-2014, f. & cert. ef. 1-2-14; DPSST 10-2014, f. & cert. ef. 4-10-14

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

Rule Caption: Implements 2013 Legislation Relating to Odometer Readings

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

Filed with Sec. of State: 3-25-2014

Certified to be Effective: 4-1-14 thru 9-28-14

Notice Publication Date:

Rules Adopted: 735-028-0005

Rules Amended: 735-028-0000, 735-028-0040

Subject: Federal and state laws require a person transferring interest in a vehicle that is newer than 10 years to disclose the vehicle's mileage to the transferee at the time of the transfer. Vehicles 10 years old or older are exempt from this requirement.

Chapter 659, Oregon Laws 2013 amends ORS 803.200, ORS 803.102 and 803.120 to require DMV to:

1. Prescribe the manner in which a person may voluntarily provide an odometer reading to DMV for a vehicle 10 years old or older;
2. Capture odometer readings provided to DMV for vehicles 10 years old or older; and
3. Retain the most recent version of odometer records in electronic form.

As amended, OAR 735-028-0005 prescribes the manner in which a person may provide an odometer reading to DMV for a vehicle 10 years old or older. The amendment of 735-028-0000 and 735-028-0040 update terms and definitions to clarify the difference between an odometer disclosure required by federal and state law and a voluntary odometer reading.

Rules Coordinator: Lauri Kunze—(503) 986-3171

735-028-0000

Definitions Relating to Odometer Disclosures and Voluntary Odometer Readings

As used in OAR 735-028-0000 through 735-028-0100 the following terms apply:

- (1) "Actual Mileage" means the distance a vehicle has traveled while in operation.
- (2) "Buyer" refers to the transferee as defined in ORS 803.102 and 49 CFR, Part 580 for the purpose of odometer disclosure.
- (3) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.
- (4) "Seller" has the same meaning as "transferor" as that term is defined in ORS 803.102 and 49 CFR, Part 580 for the purpose of odometer disclosure.

(5) "Odometer" means a device on a motor vehicle for recording the accumulated total mileage a vehicle has been driven. It does not include a device designed to be reset to zero by the operator for purposes of recording trip mileage.

(6) "Odometer Reading" means the mileage indicated on the odometer, excluding any tenths of a mile or kilometer.

(7) "Odometer Disclosure" is a written statement required by state or federal law upon a transfer of an interest in motor vehicle, which contains:

(a) A vehicle description, the odometer reading and a certification as to whether, to the best of the person's knowledge, the reading reflects the actual mileage, mileage in excess of the designed mechanical limit or does not reflect actual mileage; and

(b) Depending on the type of transaction, any other information required by rule to be on the disclosure.

(8) "Conforming Title" means a certificate of title or salvage title issued by any state, which contains spaces for odometer information required by 49 CFR, Part 580. Any Oregon title or salvage title issued on or after January 1, 1992, is a conforming title.

(9) "Nonconforming Title" means a certificate of title issued by any state that does not contain spaces for odometer information required under 49 CFR, Part 580. Any Oregon title issued prior to January 1, 1992, is a nonconforming title.

(10) "Secure Form" refers to an odometer disclosure and reassignment form or a power of attorney form that includes odometer information, issued by DMV or another jurisdiction that meets or exceeds federal requirements on form and content. The forms incorporate security features to deter and detect counterfeiting or unauthorized reproduction, and make alterations visible to the naked eye.

(11) "Voluntary odometer reading" is an odometer reading provided to DMV in connection with a title transaction on a voluntary basis for a vehicle that is 10 years old or older as provided for under Section 1, Chapter 659, Oregon Laws 2013.

Stat. Auth.: ORS 802.010, 802.200, 803.015, 803.045, 803.050, 803.065, 803.092, 803.094, 803.097, 803.102, 803.120, 803.122, 803.124, 803.126, 803.140, 803.207, 803.370, 803.475, 805.120, 815.405, 821.060, 821.080 & Ch. 873, OL 1991

Stats. Implemented: ORS 803.120 - 803.126 & 49 CFR Part 580

Hist.: MV 23-1985, f. 12-31-85, ef. 1-1-86; MV 29-1987, f. & ef. 10-1-87; Administrative Renumbering 3-1988, Renumbered from 735-110-0400; MV 8-1992, f. 6-30-92, cert. ef. 7-1-92; DMV 1-2014(Temp), f. 3-25-14, cert. ef. 4-1-14 thru 9-28-14

735-028-0005

Voluntary Odometer Reading for a Vehicle that is 10 Years Old or Older

The purpose of this rule is to prescribe the manner in which a person may provide a voluntary odometer reading to DMV for a vehicle that is 10 years old or older as required by section 1, chapter 659, Oregon Laws 2013.

(1) A voluntary odometer reading as defined under OAR 735-028-0000(11):

(a) Must be provided on a document submitted to DMV in connection with a title transaction. For example, an application for title, a vehicle title, salvage title or a document approved by DMV for providing an odometer disclosure;

(b) Must include the date of the reading or the date the reading was received by DMV;

(c) Must include the following to be recorded on the vehicle record and title or salvage title:

(A) A reading greater than zero; or

(B) A reading of zero or greater, if provided with an odometer message as described in subsection (d) of this Section.

(d) May include an odometer message that states to the best of the knowledge of the person providing the reading that:

(A) The mileage stated is in excess of the odometer's mechanical limits;

(B) The reading does not reflect the actual mileage; or

(C) The odometer is not readable.

(e) Does not constitute an endorsement by DMV as to the accuracy, completeness, reliability or usefulness of the odometer reading, odometer message or the date of the reading.

(2) DMV will not attempt to verify the mileage reported for a voluntary odometer reading.

(3) A person who provides a voluntary odometer reading to DMV is not subject to the certification requirements for an odometer disclosure required under ORS 803.102, 49 CFR, Part 580 or DMV rules.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.200, 803.102, 803.120, Ch. 659, OL 2013

Stats. Implemented: ORS 803.102, 803.120, Ch. 659, OL 2013

Hist.: DMV 1-2014(Temp), f. 3-25-14, cert. ef. 4-1-14 thru 9-28-14

735-028-0040

Odometer Readings in Connection with an Odometer Disclosure

This rule establishes when and what DMV will record on an Oregon title or salvage title upon receipt of an odometer disclosure required by federal or state law.

(1) DMV shall record on the title or salvage title the odometer reading disclosed upon transfer and the date of the disclosure, if the transfer is subject to odometer disclosure requirements by statute or rule.

(2) The odometer reading recorded on the title or salvage title shall be the most recent odometer reading received by DMV on an odometer disclosure accompanying the transaction, except:

(a) DMV may use a disclosure other than the most recent in situations including, but not limited to:

(A) The most recent disclosure not containing all of the information required on a disclosure;

(B) DMV having reason to believe that the most recent disclosure does not accurately reflect the odometer reading to the vehicle; or

(C) A title is surrendered to DMV for correction of an incorrect reading under section (4) of this rule.

ADMINISTRATIVE RULES

(b) If the vehicle is of the age and type subject to odometer disclosure requirements, but the transfer is not subject to odometer disclosure (e.g., removing a security interest holder), the reading recorded shall be:

(A) The mileage disclosed by the owner, if the owner makes a disclosure at the time of transfer (even though not required to); or

(B) The mileage shown on the previous title or salvage title, if the owner does not make a disclosure or the transfer involves a replacement title.

(c) The reading recorded shall be the mileage disclosed by the buyer, if DMV accepts the application without a disclosure from the seller, as provided in OAR 735-028-0090.

(3) The odometer disclosure date recorded on the title or salvage title shall be the date the disclosure is made. If DMV is unable to determine the date the disclosure is made, the date shall be the date the application was processed in DMV's local offices, or, if received by mail, the date the application was received.

(4) DMV may accept a title or salvage title for correction of the recorded odometer reading:

(a) Within 90 days of the issuance of the title or salvage title when a buyer or seller has made an incorrect odometer disclosure upon transfer of title and submits a corrected disclosure statement prior to any subsequent transfer of interest; or

(b) More than 90 days after the title is issued if there has been no subsequent transfer of title requiring odometer disclosure since the erroneous disclosure was recorded, if:

(A) DMV recorded the mileage or date incorrectly; or

(B) The request for correction is supported by evidence satisfactory to DMV that the original disclosure was in error. Such evidence may include, but shall not be limited to, service records with odometer readings and dates, or odometer disclosures made by the owner at renewal or at other times required by rule.

(5) DMV shall not correct the odometer reading or date recorded on the title when questions concerning odometer disclosure arise and the title or salvage title is not subject to correction under section (4) of this rule, but may add the notation that the odometer reading is "not actual."

(6) If the odometer disclosure received by DMV indicates the odometer reading does not reflect the actual mileage, exceeds the mechanical limits of the odometer, or the odometer on a salvage titled vehicle is not readable, DMV shall record one of the following messages on the title or salvage title, in addition to the odometer reading and date:

(a) "Exceeds mechanical limits," if the odometer disclosure indicates the odometer reading is in excess of the designed mechanical limits of the odometer;

(b) "Not actual," if the odometer disclosure indicates the odometer reading does not reflect the actual mileage. "Not actual" shall be used if "not actual" and any other message both apply. "Not actual" also may be placed on the title by DMV if the odometer reading disclosed at transfer is lower than any previous odometer reading, whether or not "not actual" is indicated on any odometer disclosure received by DMV;

(c) "Not readable," if the vehicle has been destroyed, the odometer removed, or it otherwise is impossible to read the odometer of the vehicle because of damage to the vehicle or the odometer.

(7) Regardless of the contents of any odometer disclosure it may receive, DMV may add any odometer message to the title or salvage title it believes appropriate, if DMV is satisfied that:

(a) The odometer reading does not reflect the actual mileage; or

(b) The odometer reading reflects mileage in excess of the designed mechanical limits of the odometer.

(8) If DMV receives an Oregon title or salvage title, or a title or salvage title from another state which contains a message like or similar to one of the messages in section (7) of this rule in support of an application for Oregon title, DMV shall:

(a) Record, on any title or salvage title DMV may issue for the vehicle, an odometer message like or similar to the one shown on the title presented to DMV; or

(b) Record a different message on any title or salvage title DMV may issue for the vehicle, if DMV is satisfied a different message would more accurately reflect the degree to which the odometer reading represents the actual mileage. For example, if DMV receives a disclosure that indicates the odometer reading is not the actual mileage, DMV shall use the message "not actual" without regard to any message on the previous title.

(9) If the message "not readable" appears on any title or salvage title issued by DMV, the message "not actual" shall be used if the odometer is repaired or replaced and the odometer cannot be reset to the exact actual mileage.

Stat. Auth.: ORS 802.010, 802.200, 803.015, 803.045, 803.050, 803.065, 803.092, 803.094, 803.097, 803.102, 803.120, 803.122, 803.124, 803.126, 803.140, 803.207, 803.370, 803.475, 805.120, 815.405, 821.060, 821.080 & Ch. 873, OL 1991
Stats. Implemented: ORS 803.015 & 49 CFR Part 580
Hist.: MV 8-1992, f. 6-30-92, cert. ef. 7-1-92; MV 18-1992, f. 12-21-92, cert. ef. 1-1-93; DMV 1-2014(Temp), f. 3-25-14, cert. ef. 4-1-14 thru 9-28-14

Rule Caption: Updates and clarifies rules regarding the acceptance and verification of information submitted by electronic means

Adm. Order No.: DMV 2-2014

Filed with Sec. of State: 3-25-2014

Certified to be Effective: 3-25-14

Notice Publication Date: 2-1-2014

Rules Amended: 735-018-0010, 735-018-0020, 735-018-0050, 735-018-0070, 735-018-0080

Subject: The Oregon Attorney General encourages state agencies to periodically review all agency rules. The review should ensure the rules have the intended effect, continue to be necessary, if the agency correctly estimated the fiscal impact and if subsequent law changes require a change in the rule.

DMV recently completed a review of OAR chapter 735, Division 18 (Acceptance and Verification of Information Submitted by Electronic Means) and concluded the rules comply with the factors described above. However, DMV updated the rules to add definitions and to make other non-substantive changes to make terms consistent and improve readability.

Rules Coordinator: Lauri Kunze—(503) 986-3171

735-018-0010

Definitions

For purposes of OAR chapter 735, division 18:

(1) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.

(2) "DMV's Website" means DMV's Internet address at <http://www.oregon.gov/ODOT/DMV>.

(3) "Electronic record" means a document or information created, generated, sent, communicated, received or stored by electronic means.

(4) "Electronic signature" means an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person or organization with the intent to sign the record.

(5) "Electronic transaction" means the exchange of an electronic record and, in those transactions where an ink on paper signature would also be required under Oregon law, an electronic signature, between a person or organization and DMV for the purposes of:

(a) Facilitating access to public records or public information;

(b) Purchasing or selling goods or services;

(c) Transferring funds;

(d) Facilitating the submission of an electronic record or electronic signature required or accepted by DMV; or

(e) Creating records upon which DMV or another person or organization will reasonably rely upon, including but not limited to formal communications, notices, certifications, authorizations and any other record that is issued under a signature.

(f) This section does not apply to informational publications and informal communications.

(6) "Hardcopy" means a document printed on paper.

(7) "Hyperlink" means a connection to or within electronic documents or from one webpage to another webpage, or file using a computer programming language or user interface.

(8) "Organization" means corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation or any other legal or commercial entity. "Organization" does not include an individual.

(9) "Person" means an individual.

(10) "Personal Information" means the following information that identifies the individual: driver license, driver permit or identification card number; name; address (excluding five-digit ZIP code); and telephone number.

(11) "PIN" means a personal identification number assigned by DMV to a person or organization to establish a secure means of authenticating the identity of a person or organization when conducting certain specified electronic transactions with DMV.

ADMINISTRATIVE RULES

(12) "Record" means a document or information that is customarily printed on paper, which contains information relating to and evidencing the transaction of business between a person or an organization and DMV.

(13) "Unique identifier" means a number, name, symbol or other identifier used singly or in combination by DMV to uniquely identify a person, organization or vehicle to DMV. For example, a driver license number, customer identification number, date of birth, place of birth, mother's maiden name, vehicle license plate number, vehicle identification number, etc.

(14) "Webpage" means an electronic document created with a computer programming language or user interface that can be accessed through an online interface or the Internet and displayed on a device such as a computer monitor or mobile device.

(15) "Website" means a group of interrelated webpages, associated files or computer application systems hosted on a web server accessed through the Internet or an online interface.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.012, 803.460, Ch. 647 OL 2013
Stats. Implemented: ORS 802.012, 802.560, 803.200, 803.220, 803.360, 803.370, 803.450, 803.460, 807.420, 807.560, Ch. 647 OL 2013
Hist.: DMV 4-2003, f. & cert. ef. 5-14-03; DMV 20-2013, f. & cert. ef. 12-20-13; DMV 2-2014, f. & cert. ef. 3-25-14

735-018-0020

General Provisions

An electronic transaction is a transaction conducted between DMV and a person or organization, including but not limited to the submission of electronic records to DMV that meets all of the following requirements:

(1) Is limited to the electronic transactions described under OAR 735, division 18 rules;

(2) Is voluntary, and is made at the sole discretion of the person or organization submitting the electronic record;

(3) Is conducted through DMV's website or an official State of Oregon website that hosts or administers a DMV application or service;

(4) Is subject to the provisions of DMV record privacy law (ORS 802.175-802.191) and Oregon's Public Records Law (ORS 192.410-192.505);

(5) Has the same level of legal protection and effect that is given to a hardcopy transaction and may not be denied legal effect, validity or enforceability solely because it is conducted in electronic form;

(6) Is conducted in accordance with:

(a) The provisions of OAR 735, division 18 rules;

(b) All applicable laws and administrative rules; and

(c) Any instructions contained on DMV's website.

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 802.012 & 803.460

Stats. Implemented: ORS 802.012, 802.560, 803.200, 803.220, 803.360, 803.370, 803.450, 803.460, 807.420 & 807.560

Hist.: DMV 4-2003, f. & cert. ef. 5-14-03; DMV 21-2003, f. & cert. ef. 12-15-03; DMV 2-2014, f. & cert. ef. 3-25-14

735-018-0050

Date and Time a Transaction is Considered Submitted and Received

(1) An electronic transaction is considered received by DMV on the date and at the time a user submits an electronic record into DMV's website, or an official State of Oregon website that maintains a hyperlink to DMV's website, and receives an electronic confirmation or receipt from DMV's website.

(2) To be considered received or timely submitted, an electronic record must be received by DMV no later than 12:00 midnight on the deadline for submitting the electronic record.

Stat. Auth.: ORS 184.616, 184.619, 802.012 & 803.460

Stats. Implemented: ORS 802.012, 802.560, 803.200, 803.220, 803.360, 803.370, 803.450, 803.460, 807.420 & 807.560

Hist.: DMV 4-2003, f. & cert. ef. 5-14-03; DMV 2-2014, f. & cert. ef. 3-25-14

735-018-0070

Payment of Fees; Use of Credit Cards; Debit Cards

(1) If an electronic transaction requires the payment of fees to DMV, payment of those fees within the electronic transaction shall be limited to only those credit card(s) or debit card(s) that are approved by DMV and designated on DMV's website.

(2) To pay required fees to DMV within an electronic transaction, a person or organization must submit the following information to DMV:

(a) Credit cardholder or debit cardholder name and billing address, including city, state and ZIP code;

(b) Credit card or debit card number;

(c) Expiration date of the credit card or debit card; and

(d) If required, the telephone number of the credit card or debit card holder or the security code assigned to the credit card or debit card.

Stat. Auth.: ORS 184.616, 184.619, 802.012 & 803.460

Stats. Implemented: ORS 802.012, 802.560, 803.200, 803.220, 803.360, 803.370, 803.450, 803.460, 807.420 & 807.560

Hist.: DMV 4-2003, f. & cert. ef. 5-14-03; DMV 21-2003, f. & cert. ef. 12-15-03; DMV 2-2014, f. & cert. ef. 3-25-14

735-018-0080

Electronic Confirmation or Receipt, or Error Message

An electronic transaction conducted at DMV's website will result in the generation of an electronic confirmation or receipt, or an error message including, but not limited to, one or more of the following:

(1) An error message informing the user a problem exists that must be corrected before the electronic transaction can be completed, if:

(a) An error is made on an electronic record; or

(b) A required data element is left off an electronic record.

(2) An error message informing the user a problem exists and that the electronic transaction cannot be completed, if:

(a) DMV's website is experiencing technical difficulties;

(b) There is an error in transmission of the electronic record;

(c) There is a problem with the electronic record submitted; or

(d) The credit card or debit card used in the transaction is declined.

(3) An electronic confirmation or receipt, if the electronic transaction is successfully completed.

Stat. Auth.: ORS 184.616, 184.619, 802.012 & 803.460

Stats. Implemented: ORS 802.012, 802.560, 803.200, 803.220, 803.360, 803.370, 803.450, 803.460, 807.420 & 807.560

Hist.: DMV 4-2003, f. & cert. ef. 5-14-03; DMV 21-2003, f. & cert. ef. 12-15-03; DMV 2-2014, f. & cert. ef. 3-25-14

Landscape Contractors Board

Chapter 808

Rule Caption: Removes the free copy of the plant CD to an applicant

Adm. Order No.: LCB 4-2014(Temp)

Filed with Sec. of State: 3-31-2014

Certified to be Effective: 4-1-14 thru 9-27-14

Notice Publication Date:

Rules Amended: 808-001-0020

Subject: Removes the free copy of the plant CD to an applicant

Rules Coordinator: Kim Gladwill-Rowley—(503) 967-6291, ext. 223

808-001-0020

Charges for Documents; Refunds

(1) All requests for copies of public records pertaining to the State Landscape Contractors Board and available at the Board's office shall be in writing and may be delivered in person, by mail, by fax or by email. The request must include:

(a) The name and address of the person requesting the public record;

(b) The telephone number or other contact information for the person requesting the public record;

(c) A sufficiently detailed description of the record(s) requested to allow the agency to search for and identify responsive records;

(d) Date of request; and

(e) Signature of the person requesting the public record.

(2) Charges to the general public and to state agencies shall be payable in cash, check, money order, or any credit card accepted by the board office. Billing to such state agencies must be authorized by the Administrator. Checks or money orders shall be made payable to the Landscape Contractors Board.

(3) The Board accepts credit card payment submitted in person or by mail, e-mail or fax. Any credit card payment that is rejected by the bank and requested to be confiscated will be retained and returned to the bank. All payments by credit card that are rejected must be paid in full by a check or money order within ten days from notification of rejection.

(4) Charges for copies, documents, and services shall be as follows:

(a) Twenty-five cents per page for photocopies.

(b) The cost of records transmitted by fax is \$.75 for the first page and \$.60 for each additional page, limited to a 20-page maximum, not including the cover page.

(c) The cost of records transmitted by email is \$5 per email.

(d) Upon request, copies of public records may be provided electronically if the document(s) are stored in the agency's computer system. Disks will be provided at a cost of \$5.00 per disk and may contain as much information as the disk will hold. Due to the threat of computer viruses, the agency will not permit requestors to provide disks for electronic reproduction of computer records.

ADMINISTRATIVE RULES

(e) Actual cost for delivery of records such as postage and courier fees.

(f) Actual attorney fees charged to the agency for the cost of time spent by an attorney in reviewing the public records, redacting materials from the public records or segregating the public records into exempt and nonexempt records.

(g) The agency may require pre-payment of estimated fees before taking further action on a request.

(h) \$20 for each certification that an entity has or has not been licensed with the Landscape Contractors Board.

(i) \$20 for certified copies of documents.

(j) \$100 for listing of individual landscape construction professional contractors and landscape contracting businesses on CD, or provided electronically through e-mail. Requests for searching or formatting the data will be billed as per subsection (k) of this rule. The Administrator may waive this charge for other public agencies.

(k) Labor charges that include researching, locating, compiling, editing or otherwise processing information and records:

(A) No charge for the first 30 minutes of staff time;

(B) Beginning with the 31st minute, the charge per total request is \$30 per hour or \$7.50 per quarter-hour. A prorated fee is not available for less than a quarter-hour;

(l) For both machine copies and documents, an additional amount set at the discretion of the Administrator for staff time required for search, handling, and copying.

(m) \$20 for duplicate recording of Board meetings.

(n) \$20 for duplicate recordings of a three hour agency hearing or arbitration and \$10 for each additional 90 minute or fraction thereof of the hearing or arbitration.

(o) Plant CD: The cost of the item, the cost of shipping and a fee for the cost of processing the order. Contact the State Landscape Contractors Board for the current charges.

(p) Landscape Construction book by David Sauter is the cost of the item, the cost of shipping and a fee for the cost of processing the order. Contact the State Landscape Contractors Board for the current charges.

(q) Owner/Managing Employee Study Guide & Manual

(A) Printed copy is the cost of the item, the cost of shipping and a fee for the cost of processing the order. Contact the State Landscape Contractors Board for the current charges.

(B) \$5 for a CD.

(5) Refunds: All requests for refunds must be in writing.

(a) Except as set forth in subsection (b) of this section, applicant and licensing fees are non-refundable and nontransferable.

(b) When an applicant for a landscape construction professional license withdraws their renewal or fails to complete the renewal process the agency may retain a-processing fee of \$20. When an applicant withdraws their application for a landscape contracting business license or renewal or fails to complete the renewal process, the agency may retain a-processing fee of \$50.

(6) If the agency receives payment of any fees or penalty by check and the check is returned to the agency by the bank, the payer of the fees may be assessed a charge of \$25 in addition to the required payment of the fees or penalty.

(7) The agency shall not refund fees or civil penalties overpaid by an amount of \$20 or less unless requested by the payer in writing within three years after the date payment is received by the agency, as provided by ORS 293.445.

Stat. Auth.: ORS 183, 293.445, 671 & 2007 OL Ch. 541
Stats. Implemented: ORS 183, 192.430, 293.445 & 671
Hist.: LC 1-1984, f. & cert. ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 2-1988(Temp), f. 3-17-88, cert. ef. 4-1-88; LCB 4-1988, f. 11-23-88, cert. ef. 12-1-88; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 2-1999, f. & cert. ef. 5-4-99; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 1-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 4-2004(Temp), f. & cert. ef. 6-11-04 thru 12-6-04; LCB 5-2004, f. & cert. ef. 10-4-04; LCB 4-2007, f. 12-19-07, cert. ef. 1-1-08; LCB 7-2007, f. 12-24-07, cert. ef. 1-1-08; LCB 3-2008, f. & cert. ef. 4-11-08; LCB 4-2008(Temp), f. & cert. ef. 4-23-08 thru 9-22-08; LCB 9-2008, f. 9-29-08, cert. ef. 10-1-08; LCB 3-2011, f. & cert. ef. 5-25-11; LCB 4-2014(Temp), f. 3-31-14, cert. ef. 4-1-14 thru 9-27-14

Rule Caption: Clarifies that providing false information to the board is dishonest or fraudulent conduct.

Adm. Order No.: LCB 5-2014(Temp)

Filed with Sec. of State: 3-31-2014

Certified to be Effective: 4-1-14 thru 9-27-14

Notice Publication Date:

Rules Amended: 808-002-0330

Subject: Clarifies that providing false information to the board is dishonest or fraudulent conduct.

Rules Coordinator: Kim Gladwill-Rowley—(503) 967-6291, ext. 223

808-002-0330

Dishonest or Fraudulent Conduct

“Dishonest or fraudulent conduct,” as used in ORS 671.610(1)(q), includes, but is not limited to, the following:

(1) Failing to pay monies when due for materials or services rendered in connection with the applicant’s or licensee’s operations as a landscape contracting business when the applicant or licensee has received sufficient funds as payment for the particular landscaping project or operation for which the services or materials were rendered or purchased; or

(2) Accepting payment in advance on a contract or agreement and failing to perform the work or provide the services required by the contract or agreement in a diligent manner and failing to return payment for unperformed work, upon reasonable and proper demand, within ten days of demand; or

(3) Displaying to the public false, misleading, or deceptive advertising whereby a reasonable person could be misled or injured; or

(4) Failing to pay minimum wages or overtime wages as required under state or federal law; or

(5) Failing to comply with the state Prevailing Wage Rate Law, ORS 279.348 to 279.380; or

(6) Failing to comply with the federal Davis-Bacon and related acts when the terms of the contract require such compliance; or

(7) Failing to pay wages as determined by the Bureau of Labor and Industries, Wage and Hour Division; or

(8) Presenting for payment to the board a check that subsequently is returned to the agency due to non-sufficient funds or closure of the account; or

(9) Misrepresenting the employment relationship between a landscape contracting business and a landscape construction professional.

(10) Providing false information to the board.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 671.610(1)(q)

Hist.: LCB 6-2005, f. 12-30-05, cert. ef. 1-1-06; LCB 4-2007, f. 12-19-07, cert. ef. 1-1-08; LCB 4-2013, f. 9-30-13 cert. ef. 10-1-13; LCB 5-2014(Temp), f. 3-31-14, cert. ef. 4-1-14 thru 9-27-14

Oregon Board of Naturopathic Medicine Chapter 850

Rule Caption: Adds substances to the formulary rule for Naturopathic physician’s and Pharmacist’s reference

Adm. Order No.: OBNM 1-2014

Filed with Sec. of State: 4-9-2014

Certified to be Effective: 4-9-14

Notice Publication Date: 12-1-2013

Rules Amended: 850-060-0226

Subject: as part of the naturopathic formulary classifications amends to include Mechlorethamine, add a miscellaneous classification to antidiabetic agents and correct subsection (25) to include minerals.

Rules Coordinator: Anne Walsh—(971) 673-0193

850-060-0226

Formulary Compendium Classifications

The Formulary Council has approved the following pharmacologic-therapeutic classifications in addition to drugs previously approved by the Formulary Council and listed in 850-060-0225. This listing does not supersede the education and training requirement established in 850-060-0212 for administration of IV agents. The Formulary Council may consider new agents, substances and pharmacologic-therapeutic classifications for addition to this list.

(1) Antihistamine Drugs;

(a) First Generation Antihistamine Drugs;

(A) Ethanolamine Derivatives;

(B) Ethylenediamine Derivatives;

(C) Phenothiazine Derivatives;

(D) Piperazine Derivatives;

(E) Propylamine Derivatives;

(F) Miscellaneous Derivatives;

(b) Second Generation Antihistamines.

(2) Anti-Infective Agents;

(a) Anthelmintics;

ADMINISTRATIVE RULES

- (b) Antibacterials;
- (A) Aminoglycosides;
- (B) Cephalosporins;
- (i) First Generation Cephalosporins;
- (ii) Second Generation Cephalosporins;
- (iii) Third Generation Cephalosporins;
- (iv) Fourth Generation Cephalosporins.
- (C) Miscellaneous β -Lactams;
- (i) Carbacephem;
- (ii) Carbapenems;
- (iii) Cephamycins;
- (iv) Monobactams.
- (D) Chloramphenicol;
- (E) Macrolides.
- (i) Erythromycins;
- (ii) Ketolides;
- (iii) Other Macrolides.
- (F) Penicillins;
- (i) Natural Penicillins;
- (ii) Aminopenicillins;
- (iii) Penicillinase-resistant Penicillins;
- (iv) Extended-spectrum Penicillins.
- (G) Quinolones;
- (H) Sulfonamides;
- (I) Tetracyclines: Glycylcyclines;
- (J) Antibacterials, Miscellaneous.
- (i) Aminocyclitols;
- (ii) Bacitracins;
- (iii) Cyclic Lipopeptides;
- (iv) Glycopeptides;
- (v) Lincomycins;
- (vi) Oxazolidinones;
- (vii) Polymyxins;
- (viii) Rifamycins;
- (ix) Streptogramins;
- (c) Antifungals;
- (A) Allylamines;
- (B) Azoles;
- (C) Echinocandins;
- (D) Polyenes;
- (E) Pyrimidines;
- (F) Antifungals, Miscellaneous.
- (d) Antimycobacterials;
- (A) Antituberculosis Agents;
- (B) Antimycobacterials, Miscellaneous.
- (e) Antivirals;
- (A) Adamantanes;
- (B) Antiretrovirals;
- (i) HIV Fusion Inhibitors;
- (ii) HIV Protease Inhibitors;
- (iii) Integrase Inhibitors;
- (iv) Nucleoside Reverse Transcriptase Inhibitors;
- (v) Nucleoside and Nucleotide Reverse Transcriptase Inhibitors
- (C) Interferons;
- (D) Monoclonal Antibodies;
- (E) Neuraminidase Inhibitors;
- (F) Nucleosides and Nucleotides;
- (G) Antivirals, Miscellaneous;
- (f) Antiprotozoals;
- (A) Amebicides;
- (B) Antimalarials;
- (C) Antiprotozoals, Miscellaneous.
- (3) Antineoplastic Agents (oral and topical only) limited to the following:
 - (a) 5FU;
 - (b) Anastrozole;
 - (c) Letrozole;
 - (d) Mechlorethamine;
 - (e) Megestrol;
 - (f) Mercaptopurine;
 - (g) Methotrexate;
 - (h) Tamoxifen;
 - (i) Tretinoin.
- (4) Autonomic Drugs;
 - (a) Parasympathomimetic (Cholinergic) Agents;
 - (b) Anticholinergic Agents: Antimuscarinics/ Antispasmodics;
- (c) Sympathomimetic (Adrenergic) Agents;
 - (A) α -Adrenergic Agonists;
 - (B) β - Adrenergic Agonists;
 - (i) Non-selective β - Adrenergic Agonists;
 - (ii) Selective β_1 - Adrenergic Agonists;
 - (iii) Selective β_2 - Adrenergic Agonists;
 - (C) α -And β -Adrenergic Agonists;
 - (d) Sympatholytic (Adrenergic Blocking) Agents;
 - (e) Skeletal Muscle Relaxants;
 - (A) Centrally Acting Skeletal Muscle Relaxants;
 - (B) Direct-acting Skeletal Muscle Relaxants;
 - (C) GABA-derivative Skeletal Muscle Relaxants;
 - (D) Neuromuscular Blocking Agents;
 - (E) Skeletal Muscle Relaxants, Miscellaneous.
 - (f) Autonomic Drugs, Miscellaneous.
- (5) Blood Derivatives.
- (6) Blood Formation, Coagulation, and Thrombosis;
 - (a) Antianemia Drugs: Iron Preparations;
 - (b) Antithrombotic Agents;
 - (A) Anticoagulants;
 - (i) Coumarin Derivatives;
 - (ii) Direct Thrombin Inhibitors;
 - (iii) Heparins;
 - (iv) Anticoagulants, Miscellaneous.
 - (B) Platelet-reducing Agents;
 - (C) Platelet-aggregation Inhibitors;
 - (D) Thrombolytic Agents;
 - (c) Hematopoietic Agents;
 - (d) Hemorrhologic Agents;
 - (e) Antihemorrhagic Agents;
 - (A) Antiheparin Agents;
 - (B) Hemostatics.
- (7) Cardiovascular Drugs;
 - (a) Cardiac Drugs;
 - (A) Antiarrhythmic Agents;
 - (i) Class Ia Antiarrhythmics;
 - (ii) Class Ib Antiarrhythmics;
 - (iii) Class Ic Antiarrhythmics;
 - (iv) Class III Antiarrhythmics;
 - (v) Class IV Antiarrhythmics.
 - (B) Cardiotonic Agents;
 - (C) Cardiac Drugs, Miscellaneous.
 - (b) Antilipemic Agents;
 - (A) Bile Acid Sequestrants;
 - (B) Cholesterol Absorption Inhibitors;
 - (C) Fibrin Acid Derivatives;
 - (D) HMG-CoA Reductase Inhibitors;
 - (E) Antilipemic Agents, Miscellaneous.
 - (c) Hypotensive Agents;
 - (A) Calcium-Channel Blocking Agents;
 - (B) Central α -Agonists;
 - (C) Direct Vasodilators;
 - (D) Peripheral Adrenergic Inhibitors.
 - (d) Vasodilating Agents;
 - (A) Nitrates and Nitrites;
 - (B) Phosphodiesterase Inhibitors;
 - (C) Vasodilating Agents, Miscellaneous.
 - (e) Sclerosing Agents;
 - (f) α -Adrenergic Blocking Agents;
 - (g) β -Adrenergic Blocking Agents;
 - (h) Calcium-Channel Blocking Agents;
 - (A) Dihydropyridines;
 - (B) Calcium-Channel Blocking Agents, Miscellaneous;
 - (i) Renin-Angiotensin-Aldosterone System Inhibitors;
 - (A) Angiotensin-Converting Enzyme Inhibitors;
 - (B) Angiotensin II Receptor Antagonists;
 - (C) Mineralocorticoid (Aldosterone) Receptor Antagonists;
 - (D) Renin Inhibitors.
- (8) Central Nervous System Agents;
 - (a) Analgesics and Antipyretics;
 - (A) Nonsteroidal Anti-inflammatory Agents;
 - (i) Cyclooxygenase-2 (COX-2) Inhibitors;
 - (ii) Salicylates;
 - (iii) Other Nonsteroidal Anti-inflammatory Agents;

ADMINISTRATIVE RULES

- (B) Opiate Agonists;
- (C) Opiate Partial Agonists;
- (D) Analgesics and Antipyretics, Miscellaneous.
- (b) Opiate Antagonists;
- (c) Anticonvulsants, does not include Barbiturates;
- (A) Benzodiazepines;
- (B) Hydantoins;
- (C) Succinimides;
- (D) Anticonvulsants, Miscellaneous.
- (d) Psychotherapeutic Agents;
- (A) Antidepressants;
- (i) Monoamine Oxidase Inhibitors;
- (ii) Selective Serotonin- and Norepinephrine-reuptake Inhibitors;
- (iii) Selective Serotonin- Reuptake Inhibitors;
- (iv) Serotonin Modulators;
- (v) Tricyclics and Other Norepinephrine-reuptake Inhibitors.
- (vi) Antidepressants, Miscellaneous.
- (B) Antipsychotics, to include only the following: Atypical antipsychotics.
- (e) Anorexigenic Agents and Respiratory and Cerebral Stimulants.
- (A) Amphetamines.
- (B) Anorexigenic Agents and Respiratory and Cerebral Stimulants, Miscellaneous.
- (f) Anxiolytics, Sedatives, and Hypnotics, does not include Barbiturates;
- (A) Benzodiazepines;
- (B)(i) Anxiolytics, Sedatives, and Hypnotics; Miscellaneous;
- (ii) Nitrous oxide;
- (g) Antimanic Agents;
- (h) Antimigraine Agents: Selective Serotonin Agonists;
- (i) Antiparkinsonian Agents;
- (A) Adamantanes;
- (B) Anticholinergic Agents;
- (C) Catechol-O-Methyltransferase (COMT) Inhibitors;
- (D) Dopamine Precursors;
- (E) Dopamine Receptor Agonists;
- (i) Ergot-derivative Dopamine Receptor Agonists;
- (ii) Non-ergot-derivative Dopamine Receptor Agonists;
- (F) Monoamine Oxidase B Inhibitors;
- (j) Central Nervous System Agents, Miscellaneous.
- (9) Contraceptives (foams, devices).
- (10) Diagnostic Agents.
- (11) Disinfectants (for Agents used on objects other than skin).
- (12) Electrolytic, Caloric, and Water Balance;
- (a) Acidifying Agents;
- (b) Alkalinizing Agents;
- (c) Ammonia Detoxicants;
- (d) Replacements Preparations;
- (e) Ion-Removing Agents;
- (A) Calcium-removing Agents;
- (B) Potassium-removing Agents;
- (C) Phosphate-removing Agents;
- (D) Other Ion-removing Agents;
- (f) Caloric Agents;
- (g) Diuretics;
- (A) Loop Diuretics;
- (B) Osmotic Diuretics;
- (C) Potassium-sparing Diuretics;
- (D) Thiazide Diuretics;
- (E) Thiazide-like Diuretics;
- (F) Diuretics, Miscellaneous;
- (h) Irrigation Solutions;
- (i) Uricosuric Agents.
- (13) Enzymes.
- (14) Respiratory Tract Agents;
- (a) Antihistamines;
- (b) Antitussives;
- (c) Anti-inflammatory Agents;
- (A) Leukotriene Modifiers;
- (B) Mast-cell Stabilizers;
- (d) Expectorants;
- (e) Pulmonary Surfactants;
- (f) Respiratory Agents, Miscellaneous.
- (15) Eye, Ear, Nose, and Throat (EENT) Preparations;
- (a) Antiallergic Agents;
- (b) Anti-infectives;
- (A) Antibacterials;
- (B) Antifungals;
- (C) Antivirals;
- (D) Anti-infectives, Miscellaneous.
- (c) Anti-inflammatory Agents;
- (A) Corticosteroids;
- (B) Nonsteroidal Anti-inflammatory Agents;
- (C) Anti-inflammatory Agents, Miscellaneous.
- (d) Local Anesthetics;
- (e) Mydriatics;
- (f) Mouthwashes and Gargles;
- (g) Vasoconstrictors;
- (h) Antiglaucoma Agents;
- (A) α -Adrenergic Agonists;
- (B) β -Adrenergic Agonists;
- (C) Carbonic Anhydrase Inhibitors;
- (D) Miotics;
- (E) Prostaglandin Analogs;
- (i) EENT Drugs, Miscellaneous.
- (16) Gastrointestinal Drugs;
- (a) Antacids and Adsorbents;
- (b) Antidiarrhea Agents;
- (c) Antiflatulents;
- (d) Cathartics and Laxatives;
- (e) Cholelitholytic Agents;
- (f) Emetics;
- (g) Antiemetics;
- (A) Antihistamines;
- (B) 5-HT₃ Receptor Antagonists;
- (C) Antiemetics, Miscellaneous.
- (h) Antiulcer Agents and Acid Suppressants;
- (A) Histamine H₂-Antagonists;
- (B) Prostaglandins;
- (C) Protectants;
- (D) Proton-pump Inhibitors;
- (i) Prokinetic Agents;
- (j) Anti-inflammatory Agents;
- (k) GI Drugs, Miscellaneous.
- (17) Gold Compounds.
- (18) Heavy Metal Antagonists.
- NOTE: IV administration requires education and training compliance with 850-060-0212. Mauri
- (19) Hormones and Synthetic Substitutes;
- (a) Adrenals;
- (b) Androgens;
- (c) Contraceptives;
- (d) Estrogens and Antiestrogens;
- (A) Estrogens;
- (B) Estrogen Agonists-Antiagonists.
- (e) Gonadotropins;
- (f) Antidiabetic Agents;
- (A) α -Glucosidase Inhibitors;
- (B) Amylinomimetics;
- (C) Biguanides;
- (D) Dipeptidyl Peptidase (DDP-4) Inhibitors;
- (E) Incretin Mimetics;
- (F) Insulins;
- (G) Meglitinides;
- (H) Sulfonylureas;
- (I) Thiazolidinediones;
- (J) Miscellaneous.
- (g) Antihypoglycemic Agents: Glycogenolytic Agents;
- (h) Parathyroid;
- (i) Pituitary;
- (j) Somatotropin Agonists and Antagonists;
- (A) Somatotropin Agonists;
- (B) Somatotropin Antagonists;
- (k) Progestins;
- (l) Thyroid and Antithyroid Agents;
- (A) Thyroid Agents;
- (B) Antithyroid Agents;
- (20) Local Anesthetics.
- (21) Oxytocics, except for Mifepristone.
- (22) Serums, Toxoids, and Vaccines;
- (a) Serums;

ADMINISTRATIVE RULES

- (b) Toxoids;
- (c) Vaccines.
- (23) Skin and Mucous Membrane Agents;
 - (a) Anti-infectives;
 - (A) Antibacterials;
 - (B) Antivirals;
 - (C) Antifungals;
 - (i) Allylamines;
 - (ii) Azoles;
 - (iii) Benzylamines;
 - (iv) Hydroxypyridones;
 - (v) Polyenes;
 - (vi) Thiocarbamates;
 - (vii) Antifungals, Miscellaneous.
- (D) Scabicides and Pediculicides;
- (E) Local Anti-infectives, Miscellaneous.
- (b) Anti-inflammatory Agents;
- (c) Antipruritics and Local Anesthetics;
- (d) Astringents;
- (e) Cell Stimulants and Proliferants;
- (f) Detergents;
- (g) Emollients, Demulcents, and Protectants;
- (h) Keratolytic Agents;
- (i) Keratoplastic Agents;
- (j) Depigmenting and Pigmenting Agents;
 - (A) Depigmenting Agents;
 - (B) Pigmenting Agents;
 - (k) Sunscreen Agents;
- (l) Skin and Mucous Membrane Agents, Miscellaneous.
- (24) Smooth Muscle Relaxants;
 - (a) Gastrointestinal Smooth Muscle Relaxants;
 - (b) Genitourinary Smooth Muscle Relaxants;
 - (c) Respiratory Smooth Muscle Relaxants.
- (25) Vitamins and Minerals.
- (26) Miscellaneous Therapeutic Agents;
 - (a) Alcohol Deterrents limited to the following:
 - (A) Acamprosate;
 - (B) Disulfiram;
 - (C) Naltrexone.
 - (b) 5-a Reductase Inhibitors;
 - (c) Antidotes;
 - (d) Antigout Agents;
 - (e) Biologic Response Modifiers, limited to Interferons;
 - (f) Bone Resorption Inhibitors;
 - (g) Cariostatic Agents;
 - (h) Complement Inhibitors;
 - (i) Disease-Modifying Antirheumatic Agents;
 - (j) Gonadotropin-releasing Hormone Antagonists;
 - (k) Immunosuppressive Agents;
 - (l) Other Miscellaneous Therapeutic Agents limited to the following:
 - (A) Alfuzosin Hydrochloride;
 - (B) Drotrecogin Alfa (Activated);
 - (C) Lanreotide Acetate;
 - (D) Rilonecept;
 - (E) Sapropterin Dihydrochloride;
 - (F) Tamsulosin Hydrochloride.

Stat. Auth.: ORS 685.125

Stats. Implemented: ORS 685.145

Hist.: BNE 1-2002, f. & cert. ef. 2-19-02; BNE 4-2002, f. & cert. ef. 8-8-02; BNE 3-2003, f. & cert. ef. 6-9-03; BNE 5-2003, f. & cert. ef. 12-5-03; BNE 5-2004, f. & cert. ef. 6-10-04; Renumbered from 850-010-0226, BNE 8-2005, f. & cert. ef. 10-27-05; BNE 9-2005, f. & cert. ef. 12-12-05; BNE 4-2006, f. & cert. ef. 12-11-06; BNE 3-2007, f. & cert. ef. 6-12-07; BNE 1-2008, f. & cert. ef. 2-19-08; BNE 2-2008, f. & cert. ef. 3-21-08; BNE 6-2008, f. & cert. ef. 6-11-08; BNE 7-2008, f. & cert. ef. 12-8-08; BNE 2-2009, f. & cert. ef. 6-17-09; BNE 7-2009, f. 12-14-09, cert. ef. 1-1-10; OBNM 5-2010, f. & cert. ef. 6-30-10; OBNM 7-2010, f. & cert. ef. 12-13-10; OBNM 2-2011, f. & cert. ef. 4-12-11; OBNM 4-2011, f. & cert. ef. 6-15-11; OBNM 3-2012, f. & cert. ef. 6-15-12; OBNM 1-2014, f. & cert. ef. 4-9-14

.....

Oregon Business Development Department Chapter 123

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

Adm. Order No.: OBDD 4-2014

Filed with Sec. of State: 4-1-2014

Certified to be Effective: 4-1-14

Notice Publication Date: 3-1-2014

Rules Adopted: 123-015-0100, 123-015-0200, 123-015-0300, 123-015-0400, 123-015-0500

Subject: The 2013 legislature passed SB 241 which provides for assisting technology-based start-up businesses 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—(503) 986-0036

123-015-0100

Purpose

The following rules are for the purpose of assisting technology-based, start-up businesses in Oregon whose primary purpose is to commercialize university-based or university-assisted research with the University of Oregon, Oregon State University and the Oregon Solutions Network to increase the number of, and ensure the retention of, such businesses within Lane, Linn and Benton counties.

Stat. Auth.: OL 2013, ch. 762

Stats. Implemented: OL 2013, ch. 762

Hist.: OBDD 4-2014, f. & cert. ef. 4-1-14

123-015-0200

Definitions

For the purposes of these rules additional definitions may be found in Procedural Rules, OAR 123-001. The following terms shall have the following definitions, unless the context clearly indicates otherwise:

(1) "Grantee" means University of Oregon, Oregon State University and the Oregon Solutions Network within Lane, Linn and Benton counties.

(2) "Oregon Solutions Network" means the Oregon Solutions Network established pursuant to Executive Order 11-12 dated December 16, 2011.

Stat. Auth.: OL 2013, ch. 762

Stats. Implemented: OL 2013, ch. 762

Hist.: OBDD 4-2014, f. & cert. ef. 4-1-14

123-015-0300

Performance Based Contracts

(1) The department shall enter into performance based contracts and agreements with the University of Oregon, Oregon State University and the Oregon Solutions Network in Lane, Linn and Benton counties.

(2) Performance based contracts and agreements implement and accomplish the following:

(a) Providing financial assistance to programs, entities and providers of technical business development and creation assistance and providing support to technology-based start-up businesses whose primary purpose is to commercialize university-based or university-assisted research;

(b) Identifying and recruiting entrepreneurial talent, qualified investors and other sources of capital;

(c) Acquiring, procuring, furnishing or improving facilities in or near Lane, Linn or Benton counties, as identified by the University of Oregon, Oregon State university and the Oregon Solutions Network, for the operation or support of businesses, receiving assistance under this section, signature research centers and other businesses, programs and entities involved in the commercialization of university-based or university-assisted research;

(d) Establishing, connecting or expanding support programs, directly or indirectly, that provide assistance to technology-based, start-up businesses whose primary purpose is to commercialize university-based or university-assisted research within and outside the region.

Stat. Auth.: OL 2013, ch. 762

Stats. Implemented: OL 2013, ch. 762

Hist.: OBDD 4-2014, f. & cert. ef. 4-1-14

123-015-0400

Administration

The department is responsible for disbursement of funds to entities per legislative designation consistent with OL 2013, ch. 762 and that funds are utilized for the purposes intended by the Legislature. The department will carry out those responsibilities with performance-based contracts that tie timed payments to successful completion of contractual tasks and an agreed-upon timeline.

Stat. Auth.: OL 2013, ch. 762

Stats. Implemented: OL 2013, ch. 762

Hist.: OBDD 4-2014, f. & cert. ef. 4-1-14

ADMINISTRATIVE RULES

123-015-0500

Reporting

Grantees are required to report to the department on a quarterly basis on progress made in meeting all obligations set forth in the performance based contracts and agreements.

Stat. Auth.: OL 2013, ch. 762
Stats. Implemented: OL 2013, ch. 762
Hist.: OBDD 4-2014, f. & cert. ef. 4-1-14

.....

Rule Caption: This new division of rules relates to the Beginning and Expanding Farmer Loan Program.

Adm. Order No.: OBDD 5-2014(Temp)

Filed with Sec. of State: 4-1-2014

Certified to be Effective: 4-1-14 thru 9-27-14

Notice Publication Date:

Rules Adopted: 123-052-0010, 123-052-0020, 123-052-0030, 123-052-0040, 123-052-0050, 123-052-0060, 123-052-0070, 123-052-0080, 123-052-0090, 123-052-0100, 123-052-0110, 123-052-0120, 123-052-0130, 123-052-0140, 123-052-0150

Subject: In the 2013 regular legislative session HB 2700 was passed creating the Beginning and Expanding Farmer Loan Program, otherwise known as "Aggie Bonds". This program lowers the interest cost on loans made by private parties to beginning farmers for the acquisition of agricultural land and improvements as well as depreciable agricultural property. These rules provide for the administration of program, requirements of the farmers, requirements for lenders and the bonds and fees.

Rules Coordinator: Mindie Sublette—(503) 986-0036

123-052-0010

Purpose

(1) The purpose of these rules is to assist Applicants in applying for the benefits available under the Beginning and Expanding Farmer Loan Program (aka "Aggie Bonds Program") authorized by 2013 Oregon Laws, Chapter 742 and to describe the procedures to be used by the Oregon Business Development Department in administering that Program.

(2) The Program lowers the interest cost on loans made by private parties to Beginning Farmers for the acquisition of Agricultural Land and Agricultural Improvements and Depreciable Agricultural Property. This is accomplished by qualifying loans that Beginning Farmers arrange through Eligible Lenders so that the Eligible Lender may exclude interest from gross income under Section 147(c)(2) of the United States Internal Revenue Code and may exempt interest from Oregon personal income taxes.

(3) Section 147(c)(2) of the United States Internal Revenue Code, its regulations and 2013 Oregon Laws, Chapter 742 impose very substantial restrictions on the Program; these rules outline those restrictions to assist Applicants in determining whether they may qualify for the Program. These rules also describe a simplified Aggie Bond option that reduces the Applicant's fees for participating in the Program.

(4) The Program does not provide any state or federal money to repay Beginning and Expanding Farmer loans or to guarantee these loans nor to repay any Aggie Bonds that are issued under the Program. Those loans and the related Aggie Bonds are secured only by the resources that eligible Beginning Farmers provide to lenders.

Stat. Auth.: ORS 285A.420 - 285A.435, ch. 742 OL 2013
Stats. Implemented: ORS 285A.420.420 - 285A.435, ch. 742 OL 2013
Hist.: OBDD 5-2014(Temp), f. & cert. ef. 4-1-14 thru 9-27-14

123-052-0020

Definitions

For the purposes of these rules, the following terms shall have the following meanings, unless the context clearly indicates otherwise:

(1) "Aggie Bonds" means conduit revenue bonds issued by the State of Oregon pursuant to 2013 Oregon Laws, Chapter 742 and these rules.

(2) "Agricultural Improvements" means any improvements, buildings, structures or fixtures suitable for use in farming that are located on Agricultural Land. "Agricultural Improvements" do not include personal residences.

(3) "Agricultural Land" means land located in the State of Oregon that is:

(a) Suitable for use in farming and that is or will be operated as a farm; and

(b) That will be acquired by a Beginning Farmer.

(4) "Applicant" means any person who submits an Application for Aggie Bond financing.

(5) "Application" means an Application for Aggie Bonds that is submitted to the Department on a form provided by the Department.

(6) "Beginning Farmer" means an individual who meets the requirements of OAR 123-052-0040 and is therefore eligible to be a Borrower under the Program.

(7) "Bond Counsel" means the bond counsel firm(s) under contract with Oregon Business Development Department to represent the State of Oregon as issuer of Aggie Bonds.

(8) "Borrower" means a Beginning Farmer who has received Aggie Bond financing under the Program.

(9) "Code" means the Internal Revenue Code of 1986, as amended, and all rules, regulations, and notices and releases issued under it.

(10) "Department" means the Oregon Business Development Department, or its designee.

(11) "Depreciable Agricultural Property" means personal property suitable for use in farming for which an income tax deduction for depreciation is allowable in computing federal income tax under the Code, including but not limited to farm machinery and trucks but not including feeder livestock, seed, feed, fertilizer and other types of inventory or supplies.

(12) "Eligible Lender" means a lender who meets the requirements of OAR 123-052-0060.

(13) "Eligible Revenue" means the revenue or assets that are provided as security for a loan to a Beginning Farmer participating in the Program.

(14) "Federal Maximum" means the maximum amount of a loan that federal law allows to be financed under the Program. For calendar year 2014 the Federal Maximum is \$509,600. This amount may be adjusted for inflation in future calendar years as provided for in Section 147(c)(2)(H) of the Code.

(15) "Financed Property" means property described in OAR 123-052-0050(1)(a) which is financed through the Program.

(16) "Lender Documents" means the loan documents between an Eligible Lender and a Beginning Farmer, including but not limited to any related security documents such as mortgages, deeds of trust and security agreements.

(17) "Permitted Costs" means any costs of property described in OAR 123-052-0005(1)(a).

(18) "Program" means the Beginning and Expanding Farmer Loan Program authorized by 2013 Oregon Laws, Chapter 742 and described in these administrative rules.

(19) "Related Person" means a person other than the Borrower if (A) the relationship between the Borrower and that person would result in a disallowance of losses under section 267 or 707 (b) of the Code, or (B) the Borrower and that person are members of the same controlled group of corporations (as defined in section 1563 (a), except that "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears therein). For example, a Related Person includes a grandparent, parent, sibling (whether whole or half-blood), child, grandchild, or spouse, as well as certain corporations and partnerships.

(20) "State" means the State of Oregon, any department, agency, or political subdivision of the State of Oregon, or any designee thereof.

(21) "Substantial Farmland" means any parcel of land unless the parcel is smaller than 30 percent of the median size of a farm in the county where the agricultural project is located. However, Substantial Farmland does not include farmland which was previously owned by the individual seeking to qualify as a Beginning Farmer if the farmland was disposed of while the individual was insolvent and Code section 108 applied to indebtedness with respect to that farmland.

(22) "Tax-exempt" means excludable from gross income under the United States Internal Revenue Code of 1986, as amended, and exempt from Oregon personal income taxation.

(23) "State Treasurer" means the Treasurer of the State of Oregon or the Treasurer's designee.

Stat. Auth.: ORS 285A.420 - 285A.435, ch. 742 OL 2013
Stats. Implemented: ORS 285A.420.420 - 285A.435, ch. 742 OL 2013
Hist.: OBDD 5-2014(Temp), f. & cert. ef. 4-1-14 thru 9-27-14

123-052-0030

Application

(1) An Applicant must apply for qualification to the Program on a form provided by the Department.

(2) Each Application shall:

(a) Contain a representation that the Applicant is an individual who has reviewed the Program rules and determined that the Applicant qualifies as a Beginning Farmer as described in OAR 123-052-0040.

ADMINISTRATIVE RULES

(b) Contain a description of the costs to be financed through the Program, together with a representation that those costs are Permitted Costs as described in OAR 123-052-0050.

(c) Contain a statement of whether the Applicant desires the simplified Aggie Bond option described in OAR 123-052-0090.

(d) Be accompanied by a commitment, letter of interest or similar document, signed by the proposed lender that:

(A) Outlines the terms of the proposed loan;

(B) Expresses the lender's interest in making that loan through the Program;

(C) States that the lender is either:

(i) An insured institution as described in OAR 123-052-0060(1); or

(ii) A lender who qualifies under OAR 123-052-0060

(e) Be accompanied by a signed preliminary tax questionnaire, on a form provided by the Department;

(f) Be accompanied by an application fee of \$250. This fee is not refundable; and

(g) Contain any other information or documents specified in the Application form provided by the Department.

(3) The Department shall review each completed Application and notify the Applicant within five business days indicating whether the Applicant, the proposed project and the proposed lender appear eligible for the Program.

(4) If the Department determines that the Applicant, the proposed project and the proposed lender appear eligible for the Program, the Department shall sign a reimbursement declaration that complies with the requirements of Section 1.150-2 of the Code. Execution of the reimbursement declaration by the Department permits the Borrower to use the Program to finance certain expenditures made no earlier than sixty days before such reimbursement declaration is signed, but does not assure the Applicant that any Aggie Bond will be issued. The Department shall notify the Applicant promptly upon execution of the reimbursement declaration.

Stat. Auth.: ORS 285A.420 - 285A.435, ch. 742 OL 2013

Stats. Implemented: ORS 285A.420,420 - 285A.435, ch. 742 OL 2013

Hist.: OBDD 5-2014(Temp), f. & cert. ef. 4-1-14 thru 9-27-14

123-052-0040

Requirements for Beginning Farmers

(1) As required by federal law, a Beginning Farmer must:

(a) Be a "first-time farmer" within the meaning of Section 147(c)(2) of the Code. That section of the Code generally provides that a first-time farmer is an individual who has not at any time had any direct or indirect ownership interest in Substantial Farmland in the operation of which the individual has materially participated. However, in certain cases land that was disposed of while the individual was insolvent may be disregarded for this purpose. Dispositions of land while the individual was insolvent should be listed in the Application for Program financing.

(b) Be the principal user of the Financed Property.

(c) Materially and substantially participate in the operation of the farm of which the Financed Property is a part.

(d) Not have received Tax-exempt financing under Section 147(c)(2) of the Code in an aggregate amount that, when added to the amount financed through the Program, exceeds the Federal Maximum.

(2) A Beginning Farmer must be a resident of the State of Oregon.

(3) Any property owned by an individual's spouse or minor children will be treated as owned by the individual. Any material participation in the operation of a farm by an individual's spouse or minor children will be treated as operation of that farm by the individual. Any receipt of Tax-exempt financing by an individual's spouse or minor children will be treated as receipt by the individual.

Stat. Auth.: ORS 285A.420 - 285A.435, ch. 742 OL 2013

Stats. Implemented: ORS 285A.420,420 - 285A.435, ch. 742 OL 2013

Hist.: OBDD 5-2014(Temp), f. & cert. ef. 4-1-14 thru 9-27-14

123-052-0050

Requirements for Property Financed through the Program

(1) Federal law requires that:

(a) Property financed through the Program consist only of:

(A) Agricultural Land as defined in OAR 123-052-0020(3)

(B) Agricultural Improvements as defined in OAR 123-052-0020(2)

(C) New Depreciable Agricultural Property, as defined in OAR 123-052-0020(11), that is used for farming on Agricultural Land, and

(D) No more than \$62,500 of used Depreciable Agricultural Property, as defined in OAR 123-052-0020(11), that is used for farming on Agricultural Land, including for purposes of compliance with the \$62,500 limit, financing received by an individual's spouse or minor children. The Applicant must provide the Department with an appraisal or other method

of determining the value of any used Depreciable Agricultural Property that will be financed through the Program. The appraisal or other method of determining the value of any used Depreciable Agricultural Property must be satisfactory to the Department.

(b) No more than two percent of the borrowed funds are used to pay costs related to obtaining the loan or participating in the Program.

(c) Except as provided in 123-052-0050(1)(d), below, the Borrower cannot use Aggie Bond proceeds to acquire property from a Related Person, within the meaning of OAR 123-052-0020(19).

(d) Property may be acquired from a Related Person only if:

(A) The acquisition price is the fair market value of the property, as shown in an independent, professional appraisal that is performed to qualify the property for financing with the Program and is acceptable to the Department; and

(B) The Related Person will not have a financial interest in the farming operation in which the Financed Property is used.

(2) The Financed Property is located, or will be used, in the State of Oregon.

(3) The Financed Property will only be used for farming by the Beginning Farmer or by the Beginning Farmer and the Beginning Farmer's family.

Stat. Auth.: ORS 285A.420 - 285A.435, ch. 742 OL 2013

Stats. Implemented: ORS 285A.420,420 - 285A.435, ch. 742 OL 2013

Hist.: OBDD 5-2014(Temp), f. & cert. ef. 4-1-14 thru 9-27-14

123-052-0060

Requirements for Lenders

(1) A lender must either be:

(a) An insured institution, as defined by ORS 706.008, that is authorized to do business in Oregon and that regularly makes loans to persons engaging in farming or similar operations;

(b) An "Accredited Investor" (AI) as defined under Section 3(a)(2) of the Securities Act of 1933;

(c) A "Qualified Institutional Buyer" (QIB) as defined under Rule 144A of the Securities Act of 1933; or

(d) A "Sophisticated Investor" (SI) as the term is defined in Rule 501 Regulation D under the Securities Act and further described in 17 CFR 230.506(b)(2)(ii) as one who has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment.

(2) If a lender is an AI, QIB or SI, they must agree in writing that the securities are being acquired for investment and are intended to be held for their own account and not with a view to, or for resale in connection with, the distribution or transfer of the bonds.

(3) Under no circumstances can AI, QIB or SI lenders be substantial users of the Financed Property nor related to a substantial user of that property. For this purpose "related" means a Related Person within the meaning of OAR 123-052-0020(19) but shall also include a partnership and any of its partners (and their spouses and minor children), and an S corporation and each of its shareholders (and their spouses and minor children).

Stat. Auth.: ORS 285A.420 - 285A.435, ch. 742 OL 2013

Stats. Implemented: ORS 285A.420,420 - 285A.435, ch. 742 OL 2013

Hist.: OBDD 5-2014(Temp), f. & cert. ef. 4-1-14 thru 9-27-14

123-052-0070

Additional Requirements for Aggie Bonds

(1) The expenditures financed under the Program cannot exceed the Federal Maximum, reduced by the total amount of Tax-exempt financing under Section 147(c)(2) of the Code that the Borrower, the Borrower's spouse or minor children have received.

(2) The Department must obtain an allocation of private activity bond volume cap for each Aggie Bond from the Department's legislative allocation or the private activity bond committee. If an adequate allocation is not available for any reason, the Aggie Bond will not be issued until such allocation is made to the Program.

(3) The Department must hold a "TEFRA hearing" and the State Treasurer must approve the issuance of each Aggie Bond.

(4) The Loan Documents must provide that loan proceeds may only be spent on costs of property described in OAR 123-052-0050.

(5) The Lender Documents must not secure the loan with any stock, other equity securities, any debt securities or any other "investment property" (within the meaning of Treasury Regulation section 1.148-1(b)), or require that the Borrower maintain continuing balances of specified amounts in accounts in financial institutions.

(6) To obtain the approving opinion of the Program's Bond Counsel:

(a) The Borrower must complete a tax and arbitrage certificate, in form and substance satisfactory to the Department and its bond counsel,

ADMINISTRATIVE RULES

certifying the accuracy of facts that are necessary for Program Bond Counsel to issue its approving opinion.

(b) The lender must certify that it has not and does not intend to reoffer for the Aggie Bond.

(c) The State, the Borrower and the lender must execute any other documents required by Program Bond Counsel in order to deliver its approving tax and legal opinions.

Stat. Auth.: ORS 285A.420 - 285A.435, ch. 742 OL 2013

Stats. Implemented: ORS 285A.420.420 - 285A.435, ch. 742 OL 2013

Hist.: OBDD 5-2014(Temp), f. & cert. ef. 4-1-14 thru 9-27-14

123-052-0080

Procedure after Preliminary Eligibility Determination

(1) If the Department notifies the Applicant pursuant to OAR 123-052-0030(3) that the Applicant, the proposed project and the proposed lender appear eligible for the Program, the Borrower may file a request for a final eligibility determination with the Department. This request shall be accompanied by a nonrefundable processing fee of 1.5% of the total Aggie Bonds to be issued for the project, with a minimum of \$2,000. The request for final eligibility determination shall be filed on a form provided by the Department, and shall contain:

(a) A detailed description of the costs to be financed;

(b) A statement, signed by the Borrower and in substantially the form provided by the Department:

(A) That the Borrower is a Beginning Farmer who meets the requirements of OAR 123-052-0050, that the Aggie Bond proceeds will be spent only on costs described in OAR 123-052-0050, and that the requested loan complies with OAR 123-052-0080; and

(B) Whether the Borrower is electing the simplified Aggie Bond option under OAR 123-052-0090.

(c) A statement, signed by the lender and in substantially the form provided by the Department:

(A) Attaching drafts of the Lender Documents, in substantially final form;

(2) Describing the principal amount of the requested Aggie Bonds, the interest rate and other material loan terms, including but not limited to all fees and points being charged by the lender (if not stated in the Lender Documents).

(3) That the lender is eligible to purchase Aggie Bonds under OAR 123-052-0070, and providing facts supporting this statement.

(4) That the lender has completed its credit review and is prepared to make the loan under the Lenders Documents provided to the Department, and that no significant contingencies remain.

(5) A signed, completed final tax questionnaire on a form provided by the Department.

(6) Any other information specified in the form of request for final eligibility determination provided by the Department.

(7) The Department review the request for final eligibility determination when the completed request has been filed with the Department and make a final eligibility determination. The final eligibility determination may be favorable or unfavorable.

(a) The Department shall notify the Applicant of a favorable final eligibility determination no later than [five] business days after Program Bond Counsel notifies the Department that it expects to be able to issue an approving opinion. The notice of a favorable final eligibility determination shall state that that financing described in the Application and request for final eligibility determination is eligible for Aggie Bond financing, and that the Applicant is authorized to proceed to closing, subject to any conditions imposed by the Department in the final eligibility determination.

(b) The Department shall notify the Applicant of a unfavorable final eligibility determination no later than [five] business days after the first to occur of the following: the Department determines that the financing does not qualify under Oregon law or these rules for Aggie Bond financing, or Program Bond Counsel notifies the Department that it does not expect to be able to issue an approving opinion. The notice of an unfavorable final eligibility determination shall state that that financing described in the Application and request for final eligibility determination is not eligible for Aggie Bond financing, and shall state that the

Applicant is entitled to appeal that determination to the Finance Committee of the Oregon Business Development Commission by filing a notice of appeal with the Department no later than [ten] business days after the Department notifies the Applicant of the unfavorable final eligibility determination. Unless it is appealed, an unfavorable final eligibility determination shall become final on the [eleventh] day after the Department notifies the Applicant of that determination. Any decision by the Finance

Committee of the Oregon Business Development Commission on an appeal is final when it is made.

Stat. Auth.: ORS 285A.420 - 285A.435, ch. 742 OL 2013

Stats. Implemented: ORS 285A.420.420 - 285A.435, ch. 742 OL 2013

Hist.: OBDD 5-2014(Temp), f. & cert. ef. 4-1-14 thru 9-27-14

123-052-0090

Simplified Aggie Bond Option

(1) The Code has many complex requirements for Tax-exempt loans. The cost to the Borrower of participating in the Program may be reduced if the facts associated with the Applicant's financing do not raise complex tax issues.

(2) An Applicant may elect the simplified Aggie Bond option if:

(a) All Depreciable Agricultural Property financed under the Program is new property that has a cost of no more than [25%] of the amount financed, and that has a useful life of at least [ten] years.

(3) The Borrower is acquiring all the Financed Property from people or entities that are not Related Persons as defined in OAR 123-052-0020(19).

(4) The lender is an insured institution described in OAR 123-052-0060.

Stat. Auth.: ORS 285A.420 - 285A.435, ch. 742 OL 2013

Stats. Implemented: ORS 285A.420.420 - 285A.435, ch. 742 OL 2013

Hist.: OBDD 5-2014(Temp), f. & cert. ef. 4-1-14 thru 9-27-14

123-052-0100

Bond Counsel Opinion

(1) The state requires the Applicant and its lender obtain a traditional approving opinion from the Program's Bond Counsel concluding that the Aggie Bond issued for the Applicant is a valid and binding obligation of the State, and that interest on the Aggie Bond is exempt from Federal and personal State taxation.

(2) If the Department determines that the financing described in the Application and request for final eligibility determination, filed by the Applicant pursuant to OAR 123-052-0060, is eligible for participation in the Program, the Department shall forward the request for final eligibility determination to the Program's Bond Counsel. Program Bond Counsel shall:

(a) Conduct tax due diligence and provide forms of tax and arbitrage certificates, and other necessary documents, for the Borrower and lender to execute;

(b) Draft the bond documents and send them to the Borrower and lender for review;

(c) Determine whether Bond Counsel will be able to issue approving opinions on the proposed Aggie Bonds, and notify the Department of that determination.

(3) If Bond Counsel determines it will be able to issue approving opinions on a proposed Aggie Bond, the Department will forward the Aggie Bond documents to the Treasurer with a request that the Treasurer approve the issuance of the Aggie Bonds. The Treasurer, an independent, elected official of the State of Oregon, has no legal obligation to approve any Aggie Bond issue. If the Treasurer approves issuance of an Aggie Bond, the Department will coordinate the closing with the Borrower, the lender, the State Treasurer, and Bond Counsel.

Stat. Auth.: ORS 285A.420 - 285A.435, ch. 742 OL 2013

Stats. Implemented: ORS 285A.420.420 - 285A.435, ch. 742 OL 2013

Hist.: OBDD 5-2014(Temp), f. & cert. ef. 4-1-14 thru 9-27-14

123-052-0110

Fees and Costs

(1) The Applicant shall pay the Department the nonrefundable \$250 application fee. The Applicant shall pay the Department the nonrefundable processing fee of 1.5% of the total Aggie Bonds to be issued for the project, with a minimum of \$2,000.

(2) At closing, the Borrower shall pay the Department or appropriate party the following costs or fees:

(a) Out of pocket costs or fees of the State, including but not limited to any indirect costs charged to the Department or Treasurer by Oregon Department of Justice for complex transactions.

(b) Treasury costs or fees related to the review, approval and processing of each Aggie Bond issuance request and issuance.

(c) Any State Private Activity Bond Committee costs or fees.

(d) Bond Counsel costs or fees

(3) Applicants or beneficiaries of Aggie Bond financing shall pay the Department or appropriate party any costs or fees related to issuance, refunding, modifications, or restructuring of Aggie Bonds including but not limited to Bond Counsel's legal fees and direct expenses.

(4) If the Department issues an unfavorable final eligibility determination, or the Department's Bond Counsel determines it is not able to issue

ADMINISTRATIVE RULES

an approving opinion, or the Treasurer does not approve issuance of Aggie Bonds, or the requested Aggie Bonds are not issued for any other reason, the Applicant's Application will terminate and the Borrower shall not be entitled to the return of any fees it has paid, or entitled to recover any costs it may have incurred in the preparation and submission of the Application or any damages it may have suffered as a result of the failure of such Application.

Stat. Auth.: ORS 285A.420 - 285A.435, ch. 742 OL 2013
Stats. Implemented: ORS 285A.420.420 - 285A.435, ch. 742 OL 2013
Hist.: OBDD 5-2014(Temp), f. & cert. ef. 4-1-14 thru 9-27-14

123-052-0120

Security for Aggie Bonds

(1) Each Aggie Bond will be a special, limited obligation of the State of Oregon that is payable solely from the Eligible Revenue paid to the lender as provided in the Lender Documents

(2) As required by 2013 Oregon Laws, Chapter 742, the Aggie Bonds are not:

(a) Secured by, payable from or chargeable to moneys other than the Eligible Revenue that is committed to pay the Aggie Bonds;

(b) A liability of the State of Oregon. No lender or other owner of an Aggie Bond may: compel an exercise of the taxing power of the state to pay any Aggie Bonds or the interest on any Aggie Bonds or enforce payment of any Aggie Bonds against any property of the state except the Eligible Revenue that is committed to pay the Aggie Bond.

(c) A charge lien or encumbrance, legal or equitable, upon any property of the state, except the Eligible Revenue that is committed to pay an Aggie Bond.

(3) No Aggie Bond shall be a general obligation of the Department, the state of Oregon, or any department, agency, or political subdivision of the State of Oregon.

(4) The full faith and credit of the Department or the State of Oregon or any department, agency, or political subdivision of the State of Oregon shall not be pledged for the payment of any Aggie Bond.

Stat. Auth.: ORS 285A.420 - 285A.435, ch. 742 OL 2013
Stats. Implemented: ORS 285A.420.420 - 285A.435, ch. 742 OL 2013
Hist.: OBDD 5-2014(Temp), f. & cert. ef. 4-1-14 thru 9-27-14

123-052-0130

Waiver

The Department may, in its discretion, waive any of the requirements of these administrative rules to the extent such requirements are not otherwise imposed by law.

Stat. Auth.: ORS 285A.420 - 285A.435, ch. 742 OL 2013
Stats. Implemented: ORS 285A.420.420 - 285A.435, ch. 742 OL 2013
Hist.: OBDD 5-2014(Temp), f. & cert. ef. 4-1-14 thru 9-27-14

123-052-0140

Authority to Manage the Program

The Program shall be managed by the Department, and is not a Program of the Business Development Commission.

Stat. Auth.: ORS 285A.420 - 285A.435, ch. 742 OL 2013
Stats. Implemented: ORS 285A.420.420 - 285A.435, ch. 742 OL 2013
Hist.: OBDD 5-2014(Temp), f. & cert. ef. 4-1-14 thru 9-27-14

123-052-0150

Confidential Records

(1) Upon written request and within a reasonable time, the Director or his designee shall provide program records, for inspection in accordance with ORS Chapter 192.

(2) The person requesting records will be charged for preparing and mailing such records. Costs may include but not be limited to costs incurred in locating records, separating exempt and nonexempt records, having a custodian present during the inspection, preparing lists of data, making photocopies and telefaxing materials. Fees to be collected shall be set forth in the Department's schedule of fees and may be amended from time to time as the Department may determine.

(3) Except as otherwise provided in ORS 192.410-192.595, records exempt from disclosure include but are not limited to:

(a) Reports and analyses of reports which bear on the Applicant's character, finances, management ability and reliability, and which were obtained in confidence from persons or firms not required by law to submit them and the Department has obliged itself in good faith not to disclose the information;

(b) Financial statements, tax returns, business records, employment history and other personal data submitted by or for Applicants, or analysis of such data;

(c) Intra-departmental advisory memoranda preliminary to a decision;

(d) Formulas, plans, designs and related information that constitute trade secrets under ORS 192;

(e) Personal financial statement;

(f) Financial statements of Applicants;

(g) Customer lists;

(h) Information of an Applicant pertaining to litigation to which the Applicant is a party if the complaint has been filed, or if the complaint has not been filed, if the Applicant shows that such litigation is reasonably likely to occur. This exemption does not apply to conclude litigation and nothing in this section shall limit any right or opportunity granted by law to a party involved in litigation;

(i) Production, sales or cost data; and

(j) Marketing strategy information that relates to an Applicant's plan to address specific markets and Applicant's strategy regarding specific competitors.

Stat. Auth.: ORS 285A.420 - 285A.435, ch. 742 OL 2013
Stats. Implemented: ORS 285A.420.420 - 285A.435, ch. 742 OL 2013
Hist.: OBDD 5-2014(Temp), f. & cert. ef. 4-1-14 thru 9-27-14

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

Adm. Order No.: OBDD 6-2014

Filed with Sec. of State: 4-1-2014

Certified to be Effective: 4-1-14

Notice Publication Date: 3-1-2014

Rules Adopted: 123-630-0110

Rules Amended: 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

Rules Repealed: 123-630-0000(T), 123-630-0010(T), 123-630-0020(T), 123-630-0030(T), 123-630-0040(T), 123-630-0050(T), 123-630-0060(T), 123-630-0070(T), 123-630-0080(T), 123-630-0090(T), 123-630-0100(T)

Subject: 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 Quality Equity Investment. Other changes were made to the rules for application, reporting requirements and certification.

Temporary rules were filed in October of 2013 and are now being made permanent.

Rules Coordinator: Mindee Sublette—(503) 986-0036

123-630-0000

Purpose

This division of administrative rules specifies procedures and criteria necessary to administer processes under the Oregon Low Income Community Jobs Initiative for the certification of a qualified equity investment in order to receive a credit allowance for taxes otherwise due under ORS Chapter 316, 317 or 318.

Stat. Auth.: ORS 285C.650-285C.656, 315.526 - 315.536
Stats. Implemented: ORS 285C.650-285C.656, 315.526 - 315.536
Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12, OBDD 9-2013(Temp), f. & cert. ef. 10-15-13 thru 4-11-14; OBDD 6-2014, f. & cert. ef. 4-1-14

123-630-0010

Definitions

For the purposes of this division of administrative rules, additional definitions are found in Procedural Rules, OAR chapter 123-001. As used in OAR chapter 123 division 630 the following terms have the meanings set forth below and in ORS 285C.650-285C.656 and ORS 315.526-315.536, unless the context clearly indicates otherwise.

(1) "Applicable percentage" means zero percent for each of the first two credit allowance dates, seven percent for the third credit allowance date and eight percent for the next four credit allowance dates.

(2) "Credit allowance date" means, with respect to any qualified equity investment:

(a) The date on which the investment is initially made; and

(b) Each of the six yearly anniversary dates after that initial date.

(3) "Long-term debt security" means any debt instrument issued by a qualified community development entity, at par value or at a premium, with an original maturity date of at least seven years from the date of its issuance, with no acceleration of repayment, amortization or prepayment features prior to its original maturity date.

(4) "Purchase price" means the amount of cash paid to a qualified community development entity for a qualified equity investment.

ADMINISTRATIVE RULES

(5) "Qualified active low-income community business" has the meaning given that term in section 45D of the Internal Revenue Code and the rules and regulations adopted pursuant thereto. "Qualified active low-income community business" does not include, a business that derives or projects to derive 15 percent or more of its annual revenue from the rental or sale of real estate, unless the business is controlled by, or under common control with, another business that:

(a) Does not derive or project to derive 15 percent or more of its annual gross revenues from the rental or sale of real estate; and

(b) Is the primary tenant of real estate leased from the controlled business.

(6) "Qualified community development entity" has the meaning given that term in section 45D of the Internal Revenue Code, provided that the entity has entered into, or is controlled by an entity that has entered into, an allocation agreement with the Community Development Financial Institutions Fund of the United States Department of the Treasury with respect to credits authorized by section 45D of the Internal Revenue Code, and the State of Oregon is included within the service area set forth in the allocation agreement.

(7) "Qualified equity investment" means any equity investment in, or long-term debt security issued by, a qualified community development entity, that:

(a) Is acquired at its original issuance solely in exchange for cash after July 1, 2012, unless it was a qualified equity investment in the hands of a prior holder; and

(b) Within 12 months of its issuance substantially all of its cash purchase price is used by the issuer to make qualified low-income community investments in qualified active low-income community businesses located in this state and thereafter over the term of the qualified equity investment no less than 85 percent of its cash purchase price is used by the issuer to make qualified low-income community investments in qualified active low-income community businesses located in this state. All reinvestments must be made in this state.

(8) "Qualified low-income community investment" means any capital or equity investment in, or loan to, any qualified active low-income community business made after July 1, 2012.

Stat. Auth.: ORS 315.526 – 315.536
Stats. Implemented: ORS 315.526 – 315.536
Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12; OBDD 9-2013(Temp), f. & cert. ef. 10-15-13 thru 4-11-14; OBDD 6-2014, f. & cert. ef. 4-1-14

123-630-0020

Credit Allowance

(1) A person or entity that makes a qualified equity investment shall, at the time of investment, earn a vested credit against the taxes otherwise due under ORS chapter 316, 317 or 318.

(2) The total amount of the tax credit available to a taxpayer under this section shall equal 39 percent of the purchase price of the qualified equity investment. The applicable percentage is zero percent for years 1 and 2, seven percent for year 3 and eight percent for years 4, 5, 6 and 7. A tax credit allowed under this section may not be sold or transferred, with the exception that tax credits that a partnership, limited liability company, S corporation or other pass-through entity is entitled to claim may be allocated to the partners, members or shareholders of the entity for their direct use in accordance with the provisions of any agreement among the partners, members or shareholders.

(3) The holder of a qualified equity investment or any partner, member or shareholder of such holder pursuant to subparagraph 2 above on a particular credit allowance date of the qualified equity investment may claim a portion of the tax credit against its tax liability for the tax year that includes the credit allowance date equal to the applicable percentage for that credit allowance date multiplied by the purchase price of the qualified equity investment.

(4) The credit allowed under this section may not exceed the tax liability of the taxpayer claiming the credit for the tax year in which the credit is claimed.

(5) For qualified low-income community investments made, any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular tax year may be carried forward and offset against the taxpayer's tax liability in any succeeding tax year. Any credit remaining in the next succeeding tax year may be carried forward and used in the second succeeding tax year. Any credit remaining unused in the second succeeding tax year may be carried forward and used in the third succeeding tax year. Any credit remaining unused in the third succeeding tax year may be carried forward and used in the fourth succeeding tax year. Any credit remaining unused in the fourth succeeding tax year may be carried forward and

used in the fifth succeeding tax year, but may not be used in any tax year thereafter. For qualified low-income community investments made prior to January 1, 2014, any tax credit otherwise allowed under this section that is not used by the taxpayer in a particular tax year may be carried forward and offset against the taxpayer's tax liability in any succeeding tax year.

Stat. Auth.: ORS 315.526 – 315.536
Stats. Implemented: ORS 315.526 – 315.536, ORS 316, 317 or 318
Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12; OBDD 9-2013(Temp), f. & cert. ef. 10-15-13 thru 4-11-14; OBDD 6-2014, f. & cert. ef. 4-1-14

123-630-0030

Eligibility

(1) The following conditions and/or criteria must exist for a taxpayer to be eligible for the credit:

(a) A qualified community development entity that issues a debt instrument may not make cash interest payments on the debt instrument during the period commencing with its issuance and ending on its final credit allowance date in excess of the sum of the cash interest payments and the cumulative operating income, as defined in the regulations promulgated under section 45D of the Internal Revenue Code, of the qualified community development entity for the same period. This limitation shall only apply to long-term debt securities issued by a qualified community development entity that are designated as qualified equity investments and shall not apply to other debt of the qualified community development entity. Neither this paragraph nor the definition of "long-term debt security" provided in ORS 315.529 in any way limits the holder's ability to accelerate payments on the debt instrument in situations where the qualified community development entity has defaulted on covenants designed to ensure compliance with this section or section 45D of the Internal Revenue Code.

(b) A business is considered a qualified active low-income community business for the duration of a qualified community development entity's investment in or loan to the business if it is reasonable to expect that at the time of the qualified community development entity's investment in or loan to a qualified active low-income community business, the business will continue throughout the duration of the investment in or loan to the business.

(c) A qualified equity investment must be designated a qualified equity investment by the qualified community development entity and be certified by the department.

(d) Prior to January 1, 2014, the maximum amount of qualified low-income community investments made in a qualified active low-income community business, together with all of its affiliates, that may count towards the requirement that a qualified community development entity invest substantially all of the qualified equity investment required by OAR 123-630-0010(7)(b) in qualified active low-income community businesses in this state is \$4 million, whether made by one or several qualified community development entities.

(e) The maximum amount of qualified low-income community investments made in a qualified active low-income community business, together with all of its affiliates, that may count towards the requirement that a qualified community development entity invest at least the percentage of the qualified equity investment required by OAR 123-630-0010(7)(b) in qualified active low-income community businesses in this state is \$8 million, whether made by one or several qualified community development entities. New or revised projects summaries submitted by the community development entity on or after January 1, 2014, to demonstrate increased qualified low-income community investment must demonstrate that the new or expanded project is new and distinct from the original project to the extent of the increased qualified low-income community investment made on or after January 1, 2014. Project summaries received prior to January 1, 2014 will be considered under 123-630-0030(1)(d).

(f) A qualified equity investment must be made before July 1, 2016. Nothing in this paragraph precludes an entity that makes a qualified equity investment prior to July 1, 2016, from claiming a tax credit relating to that qualified equity investment for each applicable credit allowance date.

(g) No more than 40% of the total project costs that are paid for by the qualified low-income community investment may be for working capital, financing and other fees and other soft costs.

(2) A taxpayer claiming a credit may not claim any other credit under ORS 315 or 285C during the same tax year based on activities related to the same qualified active low-income community business.

Stat. Auth.: ORS 285C.650-285C.656, 315.526 – 315.536
Stats. Implemented: ORS 285C.650-285C.656, 315.526 – 315.536
Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12; OBDD 9-2013(Temp), f. & cert. ef. 10-15-13 thru 4-11-14; OBDD 6-2014, f. & cert. ef. 4-1-14

ADMINISTRATIVE RULES

123-630-0040

Ineligible Activities

Not all projects or businesses will qualify for the Oregon Low Income Community Jobs Initiative. Example businesses that are ineligible include but are not limited to:

- (1) Residential rental;
- (2) Owner occupied housing;
- (3) Farming operations;
- (4) Private or commercial golf courses;
- (5) Country clubs;
- (6) Massage parlors;
- (7) Hot tub facilities;
- (8) Suntan facilities;
- (9) Racetracks or other facilities used for gambling; and
- (10) Any store of which the principal business is the sale of alcoholic beverages for consumption off premises.

Stat. Auth.: ORS 285C.650-285C.656, 315.526 – 315.536

Stats. Implemented: ORS 285C.650-285C.656, 315.526 – 315.536

Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12; OBDD 9-2013(Temp), f. & cert. ef. 10-15-13 thru 4-11-14; OBDD 6-2014, f. & cert. ef. 4-1-14

123-630-0050

Application and Fees

(1) An applicant seeking to have an equity investment or long-term debt security certified as a qualified equity investment and eligible for a tax credit under ORS 285C.650 and OAR 123-630-0080 must submit an application to the department on a form that the department provides. A complete application must include all of the following:

(a) The entity's name, address, tax identification number and evidence of certification as a qualified community development entity.

(b) A copy of an allocation agreement executed by the entity, or its controlling entity, and the Community Development Financial Institutions Fund that includes the State of Oregon in its service area.

(c) A certificate executed by an executive officer of the entity attesting that the allocation agreement remains in effect and has not been revoked or canceled by the Community Development Financial Institutions Fund.

(d) A description of the proposed purchase price, structure and purchaser of the equity investment or long-term debt security.

(e) The name and tax identification number of any person eligible to claim a tax credit, under ORS 285C.650 – 285C.656, and 315.526 – 315.536, allowed as a result of the certification of the qualified equity investment.

(f) Information regarding the proposed use of proceeds from the issuance of the qualified equity investment on a form provided by the department. If the information described in the previous sentence is not submitted with the application, the applicant shall, at least 20 days prior to the date of the applicant proposes to make a qualified low-income community investment, submit to the department for review and approval of the qualified low-income community investment, an updated qualified low-income community investment certification on a form provided by the department. The information will include but is not limited to the following for each proposed qualified low-income community investment:

- (A) Location;
- (B) Sources and uses of funds;
- (C) Impacts to communities;
- (D) Revenues;
- (E) Number of jobs created and/or retained; and
- (F) Economic impacts

(g) A nonrefundable application fee of \$20,000. This fee shall be paid to the department and shall be required for each application submitted.

(2) In addition to what is required by the application or in this division of administrative rules, the applicant will submit any information requested by the department for purposes of evaluating the application.

(3) A qualified community development entity submitting an application for certification of an additional equity investment or long-term debt security as a qualified equity investment and eligible for a tax credit under ORS 315.533, must demonstrate to the satisfaction of the department that all previous equity investments and long-term debt securities certified as qualified equity investments have been fully committed and used in compliance with the requirements of the Oregon Low Income Community Jobs Initiative.

(4) A qualified community development entity that is certified under ORS 285C.650 and OAR 123-630-0080 shall pay an annual evaluation fee of \$1,000 to the department with the submission of each report described in 123-630-0070.

(5) Applications will be processed on a first come, first serve basis.

Stat. Auth.: ORS 285C.650 , 315.526 – 315.536

Stats. Implemented: ORS 285C.650 & 315.526 – 315.536

Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12; OBDD 9-2013(Temp), f. & cert. ef. 10-15-13 thru 4-11-14; OBDD 6-2014, f. & cert. ef. 4-1-14

123-630-0060

Preference

The department may give preference to applications for projects in traded sectors as identified by the Commission in the Strategic Plan and that demonstrates overall community benefit and have one or more of the following characteristics:

(1) Produce goods that directly reduce emissions of greenhouse gases or are designed as environmentally sensitive replacements for products in current use;

(2) Have a primary purpose of improving the environment or reducing emissions of greenhouse gases;

(3) Are operated by businesses with 100 or fewer employees;

(4) Are located in rural or distressed areas of the state;

(5) Employ displaced workers in the area;

(6) Assist in the economic diversification of the area;

(7) Contain a significant amount of owner equity capital. At least ten percent of the project costs for established companies and 30 percent of project costs for start-ups should come from equity or subordinated loans from the owners;

(8) Encourage the flow of capital from outside the local area; or

(9) Do not cause adverse competitive disadvantages to existing businesses.

Stat. Auth.: ORS 285C.650 , 315.526 – 315.536

Stats. Implemented: ORS 285C.650 & 315.526 – 315.536

Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12; OBDD 6-2014, f. & cert. ef. 4-1-14

123-630-0070

Reporting Requirements

(1) The qualified community development entity will submit a report by the first anniversary of the initial credit allowance date that provides proof that substantially all of the cash purchase price of its qualified equity investment was used to make qualified low-income community investments in qualified active low-income community businesses located in this state.

(2) Thereafter, the qualified community development entity will submit an annual report within 45 days of the beginning of the state's fiscal year during the compliance period on a form provided by the department. No annual report shall be due prior to the first anniversary of the initial credit allowance date. The form shall be remitted to the department both in electronic and hard copy formats. The information provided in an annual report will be submitted by the department to the Oregon Department of Administrative Services no later than September 30 following submission of the report and will be posted on the Oregon transparency website no later than December 31 of the same year. The report will include but is not limited to the following:

(a) Number of employment positions created and retained as a result of qualified low-income community investments;

(b) Annual salary of each position described in subparagraph (a) of this paragraph; and

(c) Number of positions described in subparagraph (a) of this paragraph that provide health benefits as described in ORS 743.730.

(d) Proof that substantially all of the cash purchase price of the qualified equity investment continues to be used to make qualified low-income community investments in qualified active low-income community businesses located in this state.

(e) The costs and expenses of making the qualified low-income community investment, including but not limited to fees paid for professional services, including legal and accounting services, related to the formation of operating entities; and

(f) Information with respect to the qualified equity investments made for the purpose of making qualified low-income community investments in Oregon that would be reported as part of the institution level report and transaction level reports submitted by qualified community development entities pursuant to section 45D of the Internal Revenue Code.

(3) The qualified community development entity will submit a report, in a format acceptable to the department, within 5 business days of each qualified low-income community investment made in a qualified low-income community business located in this state. The report will include, but is not limited to, the amount of the investment and the date on which the investment was made to the qualified active low-income community business and will be accompanied by documentation satisfactory to the department regarding the investment.

ADMINISTRATIVE RULES

(4) The qualified community development entity will submit a quarterly report that provides proof that each qualified low-income community investment continues to be invested in qualified active low-income community businesses located in this state. The report will include, but is not limited to, the amount of the original investment, the date on which the original investment was made to the qualified active low-income community business, the current balance of the investment in the qualified active low-income community business, and any reinvestment of capital returned to or recovered from the original investment, exclusive of any profits realized (together with the same type of information regarding said investment as was reported regarding the original investment).

Stat. Auth.: ORS 285C.650, 315.526 – 315.536
Stats. Implemented: ORS 285C.650 & 315.526 – 315.536
Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12; OBDD 9-2013(Temp), f. & cert. ef. 10-15-13 thru 4-11-14; OBDD 6-2014, f. & cert. ef. 4-1-14

123-630-0080

Certification

(1) Within 15 days after having received a complete application, the department will grant or deny the application in full or in part and notify the applicant of the decision.

(2) If the application is deemed complete, the department will certify the proposed equity investment or long-term debt security as a qualified equity investment and eligible for a tax credit under ORS 285C.650 and this rule, and subject to the limitations stated in applicable statutes and these rules. The department shall provide written notice of the certification to the qualified community development entity. The notice shall include the names of those taxpayers who are eligible to utilize the credits and their respective credit amounts. If the names of the persons or entities that are eligible to utilize the credits change due to a transfer of a qualified equity investment or a change in an allocation pursuant to OAR 123-630-0020(2), the qualified community development entity shall notify the department of the change.

(3)(a) Except as otherwise provided in paragraph (b) below, within 60 days after receiving notice of certification, the qualified community development entity shall issue the qualified equity investment and receive cash in the amount of the certified purchase price. The qualified community development entity must provide the department with evidence of the receipt of the cash investment within 10 business days after receipt. If the qualified community development entity does not receive the cash investment and issue the qualified equity investment on or before the 60th day following receipt of the certification notice, the certification shall lapse and the entity may not issue the qualified equity investment without reapplying to the department for certification. A certification that lapses reverts to the department and may be reissued only in accordance with the application process outlined in this section.

(b) For a qualified equity investment described in ORS 285C.653(2), a qualified community development entity shall issue the qualified equity investment during the period beginning July 1, 2012, and ending 60 days after receiving notice of certification. If the qualified equity investment is issued prior to the submission of an application for certification under the applicable statutes and rules, the qualified community development entity must provide the department with evidence of the qualified equity investment and of receipt of the cash investment at the time of application for certification.

(4) The department shall certify qualified equity investments in the order applications are received by the department. Applications received on the same day shall be deemed to have been received simultaneously. For applications received on the same day and deemed complete, the department shall certify, consistent with remaining tax credit capacity, qualified equity investments in proportionate percentages based upon the ratio of the amount of qualified equity investment requested in an application to the total amount of qualified equity investments requested in all applications received on the same day. Applications for certification under ORS 285C.653(2) and OAR 123-630-0090(2) submitted without complete project summaries commensurate with the amount of certification applied for, may be reduced at the sole discretion of the department. Applications must demonstrate the ability to identify projects described in ORS 285C.653(2) and OAR 123-630-0090(2), and failure to identify projects described in ORS 285C.653(2) and OAR 123-630-0090(2) may additionally result in a reduction of the certification. If a pending request cannot be fully certified because of the limitations in the applicable statutes and 123-630-0090, the department shall certify the portion that may be certified unless the qualified community development entity elects to withdraw its request rather than receive partial credit.

(5) If the department denies any part of the application, the notification to the applicant will include the grounds for denial. The applicant will have 15 days of receipt of the notification to provide additional information to mediate the denial. Within 15 days after the department receives any such additional information, the department will reconsider the application. If the department grants the application upon reconsideration, the approval will be effective as of the original date of submission. If the applicant fails to provide additional information within 15 days of receipt of the denial, the application remains denied.

Stat. Auth.: ORS 285C.650, 315.526 – 315.536
Stats. Implemented: ORS 285C.650 & 315.526 – 315.536
Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12; OBDD 9-2013(Temp), f. & cert. ef. 10-15-13 thru 4-11-14; OBDD 6-2014, f. & cert. ef. 4-1-14

123-630-0090

Limitations for Certification

(1) Once the department has certified a cumulative amount of qualified equity investments that can result in the utilization of \$16 million of tax credits in any tax year, the department may not certify any more qualified equity investments under ORS 285C.650 and OAR 123-630-0080. This limitation shall be based on the scheduled utilization of tax credits without regard to the potential for taxpayers to carry forward tax credits to later tax years.

(2) The department will reserve \$30 million of qualified equity investment authority for qualified low-income community investments in qualified active low-income community businesses that:

(a) Have a primary purpose of improving the environment or reducing emissions of greenhouse gases; or

(b) Produce goods that directly reduce emissions of greenhouse gases or are designed as environmentally sensitive replacements for products in current use.

(3) The department will reserve \$130 million of qualified equity investment authority for all other qualified active low-income community investments (which may include the types of investments described in ORS 285C.653(s) and OAR 123-630-0090(2)).

(4) All applications will indicate the amount of qualified equity investment authority sought by the applicant under OAR 123-630-0090(2) and 123-630-0090(3). The maximum amount of qualified equity investment authority for which an applicant may apply under 123-630-0090(2) is \$30 million and under 123-630-0090(3) is \$170 million.

Stat. Auth.: ORS 285C.650 – 653, 315.526 – 315.536
Stats. Implemented: ORS 315.526 – 315.536
Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12; OBDD 9-2013(Temp), f. & cert. ef. 10-15-13 thru 4-11-14; OBDD 6-2014, f. & cert. ef. 4-1-14

123-630-0100

Recapture of Tax Credit

(1) The Department of Revenue may recapture any portion of a tax credit per ORS 285C.656 and 315.533.

(2) The Department of Revenue may recapture any portion of a tax credit if the qualified community development entity applies for and receives qualified equity investment authority under ORS 285C.653(2) and OAR 123-630-0090(2) and fails to invest at least 85 percent of the cash purchase price of the QEI in qualified active low-income community businesses that satisfy the requirements of ORS 285C.653(2) and OAR 123-630-0090(2) within 12 months of the issuance of the qualified equity investment and maintain such level of investment in qualified active low-income community businesses satisfying such requirements until the last credit allowance date for such qualified equity investment.

(3) The department shall pre-screen a qualified community development entity's proposed investment in a qualified active low-income community business for purposes of determining if the business satisfies the requirements of ORS 285C.653(2) and OAR 123-630-0090(2). The department shall, not later than 15 business days after the date of receipt of all relevant documentation, determine whether the qualified active low-income community business satisfies the requirements of ORS 285C.653(2) and OAR 123-630-0090(2) and notify the qualified community development entity in writing of the determination and an explanation of its determination. If the department fails to notify the qualified community development entity with respect to the proposed investment within the period specified in this paragraph, the business in which the qualified community development entity proposes to invest is considered to satisfy the requirements of ORS 285C.653(2) and OAR 123-630-0090(2).

Stat. Auth.: ORS 285C.656 & 315.526 – 315.536
Stats. Implemented: ORS 285C.656 & 315.526 – 315.536
Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12; OBDD 9-2013(Temp), f. & cert. ef. 10-15-13 thru 4-11-14; OBDD 6-2014, f. & cert. ef. 4-1-14

ADMINISTRATIVE RULES

123-630-0110

Confidential Records

(1) Upon written request and within a reasonable time, the Director or his designee shall provide program records, for inspection in accordance with ORS Chapter 192.

(2) The person requesting records will be charged for preparing and mailing such records. Costs may include but not be limited to costs incurred in locating records, separating exempt and nonexempt records, having a custodian present during the inspection, preparing lists of data, making photocopies and telefaxing materials. Fees to be collected shall be set forth in the Department's schedule of fees and may be amended from time to time as the Department may determine.

(3) Except as otherwise provided in ORS 192.410-192.595, records exempt from disclosure include but are not limited to:

(a) Reports and analyses of reports which bear on the Applicant's character, finances, management ability and reliability, and which were obtained in confidence from persons or firms not required by law to submit them and the Department has obliged itself in good faith not to disclose the information;

(b) Financial statements, tax returns, business records, employment history and other personal data submitted by or for Applicants, or analysis of such data;

(c) Intra-departmental advisory memoranda preliminary to a decision;

(d) Formulas, plans, designs and related information that constitute trade secrets under ORS 192;

(e) Personal financial statement;

(f) Financial statements of Applicants;

(g) Customer lists;

(h) Information of an Applicant pertaining to litigation to which the Applicant is a party if the complaint has been filed, or if the complaint has not been filed, if the Applicant shows that such litigation is reasonably likely to occur. This exemption does not apply to conclude litigation and nothing in this section shall limit any right or opportunity granted by law to a party involved in litigation;

(i) Production, sales or cost data; and

(j) Marketing strategy information that relates to an Applicant's plan to address specific markets and Applicant's strategy regarding specific competitors.

Stat. Auth.: ORS 285A.075, 192, 285C.656 & 315.526 – 315.536

Stats. Implemented: ORS 192, 285C.656 & 315.526 – 315.536

Hist.: OBDD 6-2014, f. & cert. ef. 4-1-14

Oregon Department of Education

Chapter 581

Rule Caption: Establish an Early Learning Professional Development Grant Program

Adm. Order No.: ODE 17-2014(Temp)

Filed with Sec. of State: 3-28-2014

Certified to be Effective: 3-28-14 thru 9-24-14

Notice Publication Date:

Rules Adopted: 581-018-0575, 581-018-0578, 581-018-0581, 581-018-0584, 581-018-0587, 581-018-0590

Subject: The purpose of the grant program is to provide early learning professional development opportunities that take into account the unique needs of the workforce. It will expand and scale up partnerships involving community colleges to create certificates, credentials, and degree programs that prepare more non-traditional, dual language educators and support a more seamless transition from high school to degree completion. It will also scale up AA degree programs to be flexible in meeting the needs of the existing early childhood workforce and provide a comprehensive array of supports to individuals completing degrees in Early Childhood Education.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-018-0575

Definitions

The following definitions apply to OAR 581-018-0575 to 581-018-0590:

(1) "Early Learning workforce" means those individuals employed in the provision of services to children who are zero through six years of age.

(2) "Equity Lens" means the Equity Lens adopted by the Oregon Education Investment Board and described in OAR 581-018-0010.

(3) "Non-profit organization" means:

(a) An organization established as a nonprofit organization under the laws of Oregon; and

(b) Qualifies as an exempt organization under section 501(c)(3) of the Internal Revenue Code as defined in ORS 314.011.

(4) "Postsecondary Institution" means a:

(a) A community college operated under ORS Chapter 341.

(b) The following public universities within the Oregon University System:

(A) University of Oregon.

(B) Oregon State University.

(C) Portland State University.

(D) Oregon Institute of Technology.

(E) Western Oregon University.

(F) Southern Oregon University.

(G) Eastern Oregon University.

(c) Oregon Health and Science University.

(d) An Oregon-based, generally accredited, not-for-profit institution of higher education.

(5) "Underserved student" means a student (English language learner, student of color, an economically disadvantaged student or a student with disabilities) who has not historically considered enrolling in a post-secondary education program.

Stat. Auth. ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 17-2014(Temp), f. & cert. ef. 3-28-14 thru 9-24-14

581-018-0578

Establishment

(1) There is established the Early Learning Professional Development Grant Program to implement ORS 342.950(3)(i).

(2) The Early Learning Professional Development Grant Program has the following purposes:

(a) To expand and scale up partnerships involving community colleges and undergraduate educator preparation programs at post-secondary institutions that are dedicated to creation of early childhood stackable and portable certificates, credentials, and degree programs that prepare more non-traditional dual language educators and that support more seamless transition from Associate of Arts (AA) to Bachelor of Arts (BA) completion.

(b) To scale up AA/BA degree programs that can flexibly meet the needs of the existing early childhood workforce and provide a comprehensive array of supports to individuals completing degrees in Early Childhood Education.

Stat. Auth. ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 17-2014(Temp), f. & cert. ef. 3-28-14 thru 9-24-14

581-018-0581

Eligibility

(1) The following types of organizations may apply for funding:

(a) Post-secondary institutions;

(b) Non-profit organizations; and

(c) Providers of early learning services.

(2) A single grant proposal may include more than one eligible applicant, but the lead applicant must be one of the eligible applicants identified in subsection (1) of this rule.

(3) Each grant proposal must contain at least one post-secondary institution as a partner in the proposal.

Stat. Auth. ORS 342.950

Stat. Implemented: ORS 342.950

Hist.: ODE 17-2014(Temp), f. & cert. ef. 3-28-14 thru 9-24-14

581-018-0584

Criteria

(1) Applicants for grant funds must demonstrate a commitment and readiness to design or revise programming that address the following features:

(a) Transferability across post-secondary institutions;

(b) Provide direct support for students; and

(c) Program designed for underserved students.

(2) Priority for funding shall be given to applicants that have met the grant requirements along with the following considerations regarding communities to be served by the grant:

(a) Communities that have a high percentage of culturally or linguistically diverse young children;

(b) Communities that have a high percentage of culturally or linguistically diverse candidates in the local early childhood workforce;

ADMINISTRATIVE RULES

(c) Location of the community to support geographic diversity among the recipients of grant program funds across the state.

(3) Consideration shall also be given to whether the grant application identifies how the funds will be used to improve education outcomes identified by the Oregon Education Investment Board, contained in achievement compacts or set forth in ORS 351.009.

Stat. Auth. ORS 342.950
Stat. Implemented: ORS 342.950
Hist.: ODE 17-2014(Temp), f. & cert. ef. 3-28-14 thru 9-24-14

581-018-0587

Funding

(1) The Department of Education shall determine for each fiscal year the portion of the funds available for the Early Learning Professional Development.

(2) Funds received under this section must be separately accounted for and may be used only to provide funding for the purposes described in the application of the grant recipient.

(3) The Department shall determine the amount of the grant based on the merits of the designed programs and alignment of the criteria.

Stat. Auth. ORS 342.950
Stat. Implemented: ORS 342.950
Hist.: ODE 17-2014(Temp), f. & cert. ef. 3-28-14 thru 9-24-14

581-018-0590

Reporting

Recipients of the Early Learning Professional Development grant funds must report on the grant to the Department of Education and Oregon Education Investment Board. The report must include:

(1) Evidence toward meeting defined outcomes as articulated in the grant; and

(2) Description of outputs and activities related to creation of Early Learning Professional Development program.

(3) Data related to the impact of the project on students, teachers and community partners. These data may include but are not limited to the following:

- (a) Number of students enrolled in the program(s).
- (b) Interviews or surveys conducted by Department staff or evaluators.
- (c) Data on specific measures of teacher knowledge and skills related to project outcomes.

Stat. Auth. ORS 342.950
Stat. Implemented: ORS 342.950
Hist.: ODE 17-2014(Temp), f. & cert. ef. 3-28-14 thru 9-24-14

.....

Rule Caption: Establishes American Indian/Alaskan Native Culturally Relevant Teaching, Learning, and Pedagogy Grant Program

Adm. Order No.: ODE 18-2014(Temp)

Filed with Sec. of State: 3-28-2014

Certified to be Effective: 3-28-14 thru 9-24-14

Notice Publication Date:

Rules Adopted: 581-018-0520, 581-018-0523, 581-018-0526, 581-018-0529, 581-018-0532, 581-018-0535

Subject: The purpose of the grant is to support districts in developing equitable and culturally responsive professional development and training models and practices in an effort to improve academic outcomes for American Indian/Alaskan Native students.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-018-0520

Definitions

The following definitions apply to OAR 581-018-0520 to 581-018-0535:

(1) “Achievement gap” means the research-based gap in opportunity that often exists between students who are economically disadvantaged, students learning English as a second language and students who are African American, Hispanic or Native American and their White peers.

(2) “American Indian”/Alaskan Native means persons having origins in any of the original peoples of North and South America (including Central American) and who maintain tribal affiliation or community attachment.

(3) “Closing the Achievement Gap for American Indian/Alaskan Native Students Grant” means the Grant established in OAR 581-018-0523 to implement ORS 342.950(3)(f).

(4) “Culturally and/or linguistically diverse” means: students who identify as racial and/or ethnically diverse (Hispanic, African American, Native American, Alaskan Native, Pacific Islander) or whose native language is not English.

(5) “Culturally competent” means the ability to successfully teach students who come from a culture or cultures other than our own. It entails developing certain personal and interpersonal awareness and sensitivities, understanding certain bodies of cultural knowledge, and mastering a set of skills that, taken together, underlie effective cross-cultural teaching and culturally responsive teaching.

(6) “Culturally relevant” means pedagogy and practices that propose the following: students must experience academic success, students must develop and/or maintain cultural competence, and students must develop a critical consciousness through which they challenge the status quo of the current social order.

(7) “Culturally responsive” means the implicit use of the cultural knowledge, prior experiences, frames of reference, and performance styles of diverse students to make learning more appropriate and effective for them.

(8) “Non-profit organization” means:

(a) An organization established as a nonprofit organization under the laws of Oregon; and

(b) Qualifies as an exempt organization under section 501(c)(3) of the Internal Revenue Code as defined in ORS 314.011.

(9) “Postsecondary Institution” means:

(a) A community college operated under ORS Chapter 341.

(b) The following public universities within the Oregon University System:

- (A) University of Oregon.
- (B) Oregon State University.
- (C) Portland State University.
- (D) Oregon Institute of Technology.
- (E) Western Oregon University.
- (F) Southern Oregon University.
- (G) Eastern Oregon University.
- (H) Oregon Health and Science University.
- (I) An Oregon-based, generally accredited, not-for-profit institution of higher education.

(10) “Systemic Equity” means the transformed ways in which systems and individuals habitually operate to ensure that every learner — in whatever learning environment that learner is found — has the greatest opportunity to learn enhanced by the resources and supports necessary to achieve competence, excellence, independence, responsibility, and self-sufficiency for school and for life.

(11) “Title VII Indian Education” means a federally funded program receiving United States Department of Education Title VII — Indian, Native Hawaiian, and Alaska Native Education funding.

(12) “Tribe” means:

- (a) The Confederated Tribes of the Warm Springs Indian Reservation.
- (b) The Confederated Tribes of the Umatilla Indian Reservation.
- (c) The Burns-Paiute Tribe.
- (d) The Confederated Tribes of Siletz Indians of Oregon.
- (e) The Confederated Tribes of the Grand Ronde.
- (f) The Cow Creek Band of Umpqua Indians.
- (g) The Confederated Coos, Lower Umpqua and Siuslaw Tribes.
- (h) The Klamath Tribe.
- (i) The Coquille Tribe.

Stat. Auth.: ORS 342.950
Stat. Implemented: ORS 342.950
Hist.: ODE 18-2014(Temp), f. & cert. ef. 3-28-14 thru 9-24-14

581-018-0523

Establishment

(1) There is established the American Indian/Alaskan Native Culturally Relevant Teaching, Learning, and Pedagogy Grant Program to support the collaborative efforts to design, implement, improve, expand or otherwise infuse American Indian/Alaskan Native culturally responsive pedagogy and effective instructional practices to increase student academic achievement, high school completion and successful engagement in post-secondary educational opportunities.

(2) Subject to available funds, the grant will be awarded for the biennium based on a detailed description of proposed programming or services.

(3) The purpose of the grant program is to provide funds for programs that have the potential to become exemplar programs and can create collaborative practices through the facilitation of:

ADMINISTRATIVE RULES

- (a) Strengthening relationships between school district, local community and tribal governance;
 - (b) Collaboration between school districts, non-profit organizations, Title VII Indian Education Programs, postsecondary institutions, native communities or organizations, and education service districts to assist with identifying evidence-based practices and best practices;
 - (c) Enhancing the American Indian/Alaskan Native cultural competence of district educators;
 - (d) Developing and implementing best practices in an effort of increasing academic outcomes of American Indian/Alaskan Native; and
 - (e) Developing or expanding opportunities to include American Indian/Alaskan Native language and culture in classrooms.
- Stat. Auth.: ORS 342.950
Stat. Implemented: ORS 342.950
Hist.: ODE 18-2014(Temp), f. & cert. ef. 3-28-14 thru 9-24-14

581-018-0526

Eligibility

- (1) To be eligible to receive the American Indian/Alaskan Native Culturally Relevant Teaching, Learning, and Pedagogy Grant Program a qualified applicant must:
 - (a) Be a school district or consortia of districts and must have a partnership with one or more of Oregon's federally recognized Tribes; or
 - (b) Be a non-profit organization focusing on Indian education applying in collaboration with a school district.
 - (2) Qualified applicants must also be available to work with a consultant, provided by Oregon Department of Education, to receive guidance and support during all phases of the funding cycle.
 - (3) A single grant proposal may include more than one eligible proposal and other entities but the lead agency for the proposal must be a school district or a non-profit organization.
 - (4) The Department of Education shall give preference to applicants that meet the minimum qualifications described in this section and who can demonstrate collaborative relationships with partners with expertise in working with American Indian/Alaskan Native students or educators who provide educational services to American Indian/Alaskan Native students. The partners may include but are not limited to postsecondary institutions, education service districts, federal Title VII Indian Education programs and native communities or organizations.
- Stat. Auth.: ORS 342.950
Stat. Implemented: ORS 342.950
Hist.: ODE 18-2014(Temp), f. & cert. ef. 3-28-14 thru 9-24-14

581-018-0529

Criteria

- (1) The Oregon Department of Education shall establish a request for proposal solicitation and approval process to be conducted for the American Indian/Alaskan Native Culturally Relevant Teaching, Learning, and Pedagogy Grant Program funds. All proposals must comply with the requirements of ORS 342.950 and rules adopted to implement that section.
- (2) Grants shall be awarded based on the following criteria:
 - (a) Whether the grant application identifies how the funds will be used to reach the 40-40-20 goal and improve education outcomes for American Indian/Alaskan Native students as identified by the Oregon Education Investment Board Equity Lens document;
 - (b) Whether the grant application describes a strong and robust plan to close achievement gaps for American Indian/Alaskan Native students;
 - (c) Whether the grant application describes expected outcomes and a strong and robust plan to achieve those outcomes; and
 - (d) Whether the grant applications demonstrates how partners will collaborate on a mutually designed proposal in which all essential parties participate.
- (3) The Department shall give priority to proposals that meet the minimum criteria and that demonstrate the use of evidence-based or best practice models of the required elements specific to American Indian/Alaskan Native:
 - (a) Culturally Responsive Pedagogy:
 - (A) Communication of high expectations.
 - (B) Teacher as facilitator within classroom.
 - (C) Integration of students' prior knowledge and skills through cultural activities, language, ways of life, the arts, and traditional knowledge system.
 - (D) Positive perspectives on parents and families of culturally and linguistically diverse students.
 - (E) Cultural sensitivity.
 - (F) Curricular decisions.
 - (G) Culturally mediated instruction.

- (H) Student-centered, student-controlled classroom discourse.
 - (b) Culturally Responsive Leadership:
 - (A) Commitment to reform the educational system to reflect cultural-responsiveness through organization of the school and school policies and procedures.
 - (B) Reshaping the curriculum.
 - (C) Professional development that is grounded in the principles of culturally responsive teaching.
 - (c) Culturally Responsive Community Engagement:
 - (A) Collaboration with one or more of the Tribes in Oregon or Title VII Indian Education Program.
 - (B) Postsecondary institution.
 - (C) Education Service Districts.
 - (D) Local American Indian/Alaskan Native communities and organizations.
 - (E) Community involvement of stakeholders (families, advocacy organizations, and other private, non-profit, business, faith-based organizations).
 - (F) Communication with families that is regular, uses diverse media and shares student achievement status and goals.
 - (d) Culturally Responsive Pre-Service and In-Service for Teachers:
 - (A) Coursework and field experiences for pre-service teachers that focuses on culturally responsive teaching, learning, and practice that:
 - (i) Reflects relevant research;
 - (ii) Uses local data;
 - (iii) Ensures principles of culturally responsive pedagogy.
 - (B) Includes collaboration with institutes of higher education (specifically Oregon Native American Indian Education Teacher Programs).
 - (e) Provide a sustainability plan to continue the program for at least two years after the grant funding has ended.
 - (f) The extent to which the proposal clearly documents its capacity to implement and carry out programming and services for American Indian/Alaskan Native culturally responsive pedagogy, practices, and professional development and demonstrates intentions to work in a collaboration with identified partners.
- Stat. Auth.: ORS 342.950
Stat. Implemented: ORS 342.950
Hist.: ODE 18-2014(Temp), f. & cert. ef. 3-28-14 thru 9-24-14

581-018-0532

Funding

- (1) The Department may award grants up to \$100,000 based on a detailed budget narrative and budget template.
 - (2) Grantees shall use funds received for the grant for activities outlined in the request for proposal.
 - (3) Grantees must be able to expend the funds for allowable purposes specified in the request for proposal within the grant timeline according to acceptable accounting procedures.
- Stat. Auth.: ORS 342.950
Stat. Implemented: ORS 342.950
Hist.: ODE 18-2014(Temp), f. & cert. ef. 3-28-14 thru 9-24-14

581-018-0535

Reporting

- The Oregon Department of Education shall provide to grant recipients a template for an interim and final grant report. Grantees are required to submit a final report prior to receiving their final request for funds.
- Stat. Auth.: ORS 342.950
Stat. Implemented: ORS 342.950
Hist.: ODE 18-2014(Temp), f. & cert. ef. 3-28-14 thru 9-24-14

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

Rule Caption: Service Wait Lists for Adults with Intellectual or Developmental Disabilities
Adm. Order No.: MHS 8-2014
Filed with Sec. of State: 4-1-2014
Certified to be Effective: 4-1-14
Notice Publication Date: 3-1-2014
Rules Repealed: 309-041-1190, 309-041-1200, 309-041-1210, 309-041-1220, 309-041-1230, 309-041-1240, 309-041-1250
Subject: The Department of Human Services (Department) is permanently repealing the service wait list rules for adults with intel-

ADMINISTRATIVE RULES

lectual 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 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: Nola Russell—(503) 945-7652

Oregon Health Authority,
Division of Medical Assistance Programs
Chapter 410

Rule Caption: Amendment of HERC Prioritized List of Health Services Reflecting Approved Modifications Effective April 1, 2014

Adm. Order No.: DMAP 13-2014(Temp)

Filed with Sec. of State: 3-20-2014

Certified to be Effective: 4-1-14 thru 9-28-14

Notice Publication Date:

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 temporarily amend 410-141-0520 to reference the Health Evidenced Review Committee (HERC) Prioritized List of Health Services January 1, 2011 to December 31, 2013. The HERC has made interim modifications and technical changes to the October 13, 2013 Prioritized List of Health Services. The changes will be effective April 1, 2014.

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 website: <http://www.oregon.gov/oha/herc/Pages/PrioritizedList.aspx>. 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 April 1, 2014 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 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. 4-27-00, cert. ef. 4-27-00 thru 9-26-00; OMAP 13-2000, f. & cert. ef. 9-12-00; OMAP 14-2000(Temp), f. 9-15-00, cert. ef. 10-1-00 thru 3-30-01; OMAP 40-2000, f. 11-17-00, cert. ef. 11-20-00; OMAP 22-2001(Temp), f. 3-30-01, cert. ef. 4-1-01 thru 9-1-01; OMAP 28-2001, f. & cert. ef. 8-10-01; OMAP 53-2001, f. & cert. ef. 10-1-01; OMAP 18-2002, f. 4-15-02, cert. ef. 5-1-02; OMAP 64-2002, f. & cert. ef. f. & cert. ef. 10-2-02; OMAP 65-2002(Temp), f. & cert. ef. 10-2-02 thru 3-15-0; OMAP 88-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 14-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 30-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 79-2003(Temp), f. & cert. ef. 10-2-03 thru 3-15-04; OMAP 81-2003(Temp), f. & cert. ef. 10-23-03 thru 3-15-04; OMAP 94-2003, f. 12-31-03 cert. ef. 1-1-04; OMAP 17-2004(Temp), f. 3-15-04 cert. ef. 4-1-04 thru 9-15-04; OMAP 28-2004, f. 4-22-04 cert. ef. 5-1-04; OMAP 48-2004, f. 7-28-04 cert. ef. 8-1-04; OMAP 51-2004, f. 9-9-04, cert. ef. 10-1-04; OMAP 68-2004(Temp), f. 9-14-04, cert. ef. 10-1-04 thru 3-15-05; OMAP 83-2004, f. 10-29-04 cert. ef. 11-1-04; OMAP 27-2005, f. 4-20-05, cert. ef. 5-1-05; OMAP 54-2005(Temp), f. & cert. ef. 10-14-05 thru 4-1-06; OMAP 62-2005, f. 11-29-05, cert. ef. 12-

1-05; OMAP 71-2005, f. 12-21-05, cert. ef. 1-1-06; OMAP 6-2006, f. 3-22-06, cert. ef. 4-1-06; OMAP 46-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 14-2007(Temp), f. & cert. ef. 10-1-07 thru 3-28-08; DMAP 28-2007(Temp), f. & cert. ef. 12-20-07 thru 3-28-08; DMAP 8-2008, f. & cert. ef. 3-27-08; DMAP 10-2008(Temp), f. & cert. ef. 4-1-08 thru 9-15-08; DMAP 23-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 31-2008(Temp), f. & cert. ef. 10-1-08 thru 3-29-09; DMAP 40-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 4-2009(Temp), f. & cert. ef. 1-30-09 thru 6-25-09; DMAP 6-2009(Temp), f. 3-26-09, cert. ef. 4-1-09 thru 9-25-09; DMAP 8-2009(Temp), f. & cert. ef. 4-17-09 thru 9-25-09; DMAP 26-2009, f. 8-3-09, cert. ef. 8-5-09; DMAP 30-2009(Temp), f. 9-15-09, cert. ef. 10-1-09 thru 3-29-10; DMAP 36-2009(Temp), f. 12-10-09 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. 3-5-10, cert. ef. 3-17-10; DMAP 5-2010(Temp), f. 3-26-10, cert. ef. 4-1-10 thru 9-1-10; DMAP 10-2010, f. & cert. ef. 4-26-10; DMAP 27-2010(Temp), f. 9-24-10, cert. ef. 10-1-10 thru 3-25-11; DMAP 43-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 4-2011, f. 3-23-11, cert. ef. 4-1-11; DMAP 24-2011(Temp), f. 9-15-11, cert. ef. 10-1-11 thru 3-26-12; DMAP 45-2011, f. 12-21-11, cert. ef. 12-23-11; DMAP 47-2011(Temp), f. 12-13-11, cert. ef. 1-1-12 thru 6-25-12; DMAP 22-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 9-21-12; DMAP 43-2012(Temp), f. 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; DMAP 13-2014(Temp), f. 3-20-14, cert. ef. 4-1-14 thru 9-28-14

Rule Caption: PA Guide May 23, July 25, Sept 26, 2013, January 30, 2014 DUR/PT Action

Adm. Order No.: DMAP 14-2014(Temp)

Filed with Sec. of State: 3-21-2014

Certified to be Effective: 3-21-14 thru 9-17-14

Notice Publication Date:

Rules Amended: 410-121-0040

Subject: The Pharmaceutical Services Program administrative rules (Division 121) govern Division payments for services provided to certain clients. The Division needs to amend rules as follows:

410-121-0040:

Hydroxyprogesterone Caproate (Makena(R)) — new criteria.

Analgesics, Non-Steroidal Anti-Inflammatory Drugs — updated criteria.

Antiemetics — updated criteria.

Anti-Parkinsons Agents — updated criteria.

Fentanyl Transmucosal, Buccal, and Sprays — updated criteria.

Hepatitis C Oral Protease Inhibitors / Triple Therapy — updated criteria.

Incretin Enhancers — updated criteria.

Incretin Mimetics — updated criteria.

LABA / ICS Inhalers — updated criteria.

Mipomersen and Lomitapide — new criteria.

Naltrexone Extended Release Inj (Vivitrol(R)) — new criteria.

Oral MS Drugs — updated criteria.

Oral Direct Factor Xa Inhibitor — updated criteria.

Oral Direct Thrombin Inhibitor — updated criteria.

Repository Corticotropin Injection (Acthar Gel(R)) new criteria.

Roflumilast — updated criteria.

Saproterin — updated criteria.

Skeletal Muscle Relaxants — updated criteria.

Sodium-Glucose Co-Transporter 2 (SGLT2) — new criteria.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-121-0040

Prior Authorization Required for Drugs and Products

(1) Prescribing practitioners are responsible for obtaining prior authorization (PA) for the drugs and categories of drugs requiring PA in this rule using the procedures required in OAR 410-121-0060.

(2) All drugs and categories of drugs, including but not limited to those drugs and categories of drugs that require PA as described in this rule, are subject to the following requirements for coverage:

(a) Each drug must be prescribed for conditions funded by Oregon Health Plan (OHP) in a manner consistent with the Oregon Health Services Commission's Prioritized List of Health Services (OAR 410141-0480 through 410-141-0520). If the medication is for a non-covered diagnosis, the medication may not be covered unless there is a co-morbid condition for which coverage would be extended. The use of the medication shall meet corresponding treatment guidelines, be included within the client's benefit package of covered services and not otherwise excluded or limited;

(b) Each drug shall also meet other criteria applicable to the drug or category of drug in these pharmacy provider rules, including PA requirements imposed in this rule.

(3) The Oregon Health Authority (Authority) may require PA for individual drugs and categories of drugs to ensure that the drugs prescribed are

ADMINISTRATIVE RULES

indicated for conditions funded by OHP and consistent with the Prioritized List of Health Services and its corresponding treatment guidelines (see OAR 410-141-0480). The drugs and categories of drugs that the Authority requires PA for this purpose are found in the OHP Fee-For-Service Pharmacy PA Criteria Guide (PA Criteria Guide) dated March 21, 2014, incorporated in rule by reference and found on our Web page at: <http://www.dhs.state.or.us/policy/healthplan/guides/pharmacy/clinical.html>

(4) The Authority may require PA for individual drugs and categories of drugs to ensure medically appropriate use or to address potential client safety risk associated with the particular drug or category of drug, as recommended by the Pharmacy & Therapeutics Committee (P&T) and adopted by the Authority in this rule (see OAR 410-121-0100 for a description of the DUR program). The drugs and categories of drugs for which the Authority requires PA for this purpose are found in the Pharmacy PA Criteria Guide.

(5) New drugs shall be evaluated when added to the weekly upload of the First DataBank drug file:

(a) If the new drug is in a class where current PA criteria apply, all associated PA criteria shall be required at the time of the drug file load;

(b) If the new drug is indicated for a condition below the funding line on the Prioritized List of Health Services, PA shall be required to ensure that the drug is prescribed for a condition funded by OHP;

(c) PA criteria for all new drugs shall be reviewed by the DUR/P&T Committee.

(6) PA is required for brand name drugs that have two or more generically equivalent products available and that are NOT determined Narrow Therapeutic Index drugs by the Oregon DUR/P&T Committee:

(a) Immunosuppressant drugs used in connection with an organ transplant must be evaluated for narrow therapeutic index within 180 days after United States patent expiration;

(b) Manufacturers of immunosuppressant drugs used in connection with an organ transplant must notify the department of patent expiration within 30 days of patent expiration for (5)(a) to apply;

(c) Criteria for approval are:

(A) If criteria established in subsection (3) or (4) of this rule applies, follow that criteria;

(B) If (6)(A) does not apply, the prescribing practitioner must document that the use of the generically equivalent drug is medically contraindicated and provide evidence that either the drug has been used and has failed or that its use is contraindicated based on evidence-based peer reviewed literature that is appropriate to the client's medical condition.

(7) PA is required for non-preferred Preferred Drug List (PDL) products in a class evaluated for the PDL except in the following cases:

(a) The drug is a mental health drug as defined in OAR 410-121-0000;

(b) The original prescription is written prior to 1/1/10;

(c) The prescription is a refill for the treatment of seizures, cancer, HIV or AIDS; or

(d) The prescription is a refill of an immunosuppressant.

(8) PA may not be required:

(a) When the prescription ingredient cost plus the dispensing fee is less than the PA processing fees as determined by the Authority;

(b) For over-the-counter (OTC) covered drugs when prescribed for conditions covered under OHP or;

(c) If a drug is in a class not evaluated from the Practitioner-Managed Prescription Drug Plan under ORS 414.334.

Stat. Auth.: ORS 409.110, 413.042, 414.065, 414.325, 414.334
Stats. Implemented: ORS 414.065

Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; AFS 2-1990, f. & cert. ef. 1-16-90; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90, Renumbered from 461-016-0170; HR 10-1991, f. & cert. ef. 2-19-91; HR 14-1993, f. & cert. ef. 7-2-93; HR 25-1994, f. & cert. ef. 7-1-94; HR 6-1995, f. 3-31-95, cert. ef. 4-1-95; HR 18-1996(Temp), f. & cert. ef. 10-1-96; HR 8-1997, f. 3-13-97, cert. ef. 3-15-97; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 31-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 44-2002, f. & cert. ef. 10-1-02; OMAP 66-2002, f. 10-31-02, cert. ef. 11-1-02; OMAP 29-2003, f. 3-31-03, cert. ef. 4-1-03; OMAP 40-2003, f. 5-27-03, cert. ef. 6-1-03; OMAP 43-2003(Temp), f. 6-10-03, cert. ef. 7-1-03 thru 12-15-03; OMAP 49-2003, f. 7-31-03, cert. ef. 8-1-03; OMAP 84-2003, f. 11-25-03, cert. ef. 12-1-03; OMAP 87-2003(Temp), f. & cert. ef. 12-15-03 thru 5-15-04; OMAP 9-2004, f. 2-27-04, cert. ef. 3-1-04; OMAP 71-2004, f. 9-15-04, cert. ef. 10-1-04; OMAP 74-2004, f. 9-23-04, cert. ef. 10-1-04; OMAP 89-2004, f. 11-24-04, cert. ef. 12-1-04; OMAP 4-2006(Temp), f. & cert. ef. 3-15-06 thru 9-7-06; OMAP 32-2006, f. 8-31-06, cert. ef. 9-1-06; OMAP 41-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 4-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 26-2007, f. 12-11-07, cert. ef. 1-1-08; DMAP 9-2008, f. 3-31-08, cert. ef. 4-1-08; DMAP 16-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08; DMAP 14-2009, f. 6-12-09, cert. ef. 7-1-09; DMAP 39-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 17-2010, f. 6-15-10, cert. ef. 7-1-10; DMAP 40-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 27-2011(Temp), f. & cert. ef. 9-30-11 thru 3-15-12; DMAP 44-2011, f. 12-21-11, cert. ef. 1-1-12; DMAP 12-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12; DMAP 18-2012, f. 3-30-12, cert. ef. 4-9-12; DMAP 23-2012(Temp), f. & cert. ef. 4-20-12 thru 10-15-12; DMAP 27-2012(Temp), f. & cert. ef. 5-14-12 thru 10-15-12; DMAP 29-2012, f. & cert. ef. 6-21-12; DMAP 33-2012(Temp), f. 7-18-12, cert. ef. 7-23-12 thru 1-18-13; DMAP 40-2012(Temp), f.

& cert. ef. 8-20-12 thru 1-18-13; DMAP 44-2012(Temp), f. & cert. ef. 9-26-12 thru 1-18-13; DMAP 61-2012, f. 12-27-12, cert. ef. 1-1-13; DMAP 6-2013(Temp), f. & cert. ef. 2-21-13 thru 8-19-13; DMAP 23-2013(Temp), f. 4-30-13, cert. ef. 5-1-13 thru 8-19-13; Administrative correction, 7-18-13; DMAP 43-2013, f. & cert. ef. 8-16-13; DMAP 76-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 14-2014(Temp), f. & cert. ef. 3-21-14 thru 9-17-14

Rule Caption: PDL-May 23, July 25, Sept 26, Nov 21, 2013, Jan 30, 2014 DUR/P&T Action, SR-Contract

Adm. Order No.: DMAP 15-2014(Temp)

Filed with Sec. of State: 3-21-2014

Certified to be Effective: 3-21-14 thru 9-17-14

Notice Publication Date:

Rules Amended: 410-121-0030

Subject: The Pharmaceutical Services Program administrative rules (Division 121) govern Division payments for services provided to certain clients. The Division needs to amend rules as follows:

410-121-0030:

Preferred:

Butorphanol Tartrate Spray.

Sumatriptan Succinate.

Peginterferon Alpha-2A.

Peginterferon Alpha-2A Sub Q.

TricorTM.

TrilipixTM.

Bacitracin Zinc/Polymyx B Sulfate.

Somatropin (Norditropin(R)).

Mesalamine (Lialda(R)).

Golimumab (Simponi(R))

Valproic Acid solution.

Interferon Beta-1A/Albumin (RefibTM).

Interferon Beta-1B (BetaseronTM).

Carbidopa/Levodopa tablet ER.

MetadateTM.

Methylphenidate (DaytranaTM).

Buprenorphine.

Buprenorphine-Naloxone (SuboxoneTM).

Buprenorphine HCL/Naloxone (SuboxoneTM).

Ipratropium/Albuterol Sulfate (Combivent RespimatTM).

Budesonide (Pulmicort Flexhaler(R)).

Budesonide/Formoterol Fumarate (Symbicort(R)).

Benzonatate.

Guaifenesin.

Guaifenesin/Codeine Phosphate.

Guaifenesin/Dextromethorphan.

Pseudoephedrine HCL.

Atomoxetine HCL (Strattera(R)).

Chlorpromazine HCL.

Fluphenazine Decanoate.

Fluphenazine HCL.

Haloperidol.

Haloperidol Decanoate.

Haloperidol Lactate.

Loxapine HCL.

Loxapine Succinate.

Perhenazine.

Promazine HCL.

Thioridazine HCL.

Thiothixene.

Thiothixene HCL.

Trifluoperazine HCL.

Triflupromazine HCL.

Sofosbuvir (Sovaldi(R)).

Simeprevir (Olysio(R)).

Estradiol Transdermal patch (Vivelle Dot(R), Alora(R)).

Non-Preferred:

Methadone HCL.

Tramadol HCL.

Imitrex(R).

ADMINISTRATIVE RULES

Zolmitriptan.
Fenofibrate, Nanocrystallized.
Spinosad (Natroba(R)).
Testosterone patch TD24.
Dextroamphetamine Sulfate.
Ciclesonide.
Montelukast Sodium gram pack.
Zafirlukast.
Insulin Lispro (Humalog(R)).
Insulin NPL/Insulin Lispro (Humalog Mix 50/50(R)).
Insulin NPL/Insulin Lispro (Humalog Mix 75/25(R)).
Nadolol.
Captopril.
Captopril/Hydrochlorothiazide
Fosinopril Sodium.
Fosinopril/Hydrochlorothiazide.
Moexipril HCL.
Moexipril/Hydrochlorothiazide.
Quinapril HCL.
Quinapril/Hydrochlorothiazide.
Trandolapril.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-121-0030

Practitioner-Managed Prescription Drug Plan

(1) The Practitioner-Managed Prescription Drug Plan (PMPDP) is a plan that ensures that fee-for-service clients of the Oregon Health Plan shall have access to the most effective prescription drugs appropriate for their clinical conditions at the best possible price:

(a) Licensed health care practitioners (informed by the latest peer reviewed research) make decisions concerning the clinical effectiveness of the prescription drugs;

(b) The licensed health care practitioners also consider the health condition of a client or characteristics of a client, including the client's gender, race or ethnicity.

(2) PMPDP Preferred Drug List (PDL):

(a) The PDL is the primary tool that the Division developed to inform licensed health care practitioners about the results of the latest peer-reviewed research and cost effectiveness of prescription drugs;

(b) The PDL (as defined in 410-121-0000 (cc)) consists of prescription drugs that the Division in consultation with the Drug Use Review (DUR) Pharmacy & Therapeutics Committee (P&T) has determined represent the most effective drug(s) available at the best possible price;

(c) The PDL shall include drugs that are Medicaid reimbursable and the Food and Drug Administration (FDA) has determined to be safe and effective.

(3) PMPDP PDL Selection Process:

(a) The Division shall utilize the recommendations made by the P&T that result from an evidence-based evaluation process as the basis for selecting the most effective drug(s);

(b) The Division shall determine the drugs selected in (3)(a) that are available for the best possible price and shall consider any input from the P&T about other FDA-approved drug(s) in the same class that are available for a lesser relative price. The Division shall determine relative price using the methodology described in subsection (4);

(c) The Division shall evaluate selected drug(s) for the drug classes periodically:

(A) Evaluation shall occur more frequently at the discretion of the Division if new safety information or the release of new drugs in a class or other information that makes an evaluation advisable;

(B) New drugs in classes already evaluated for the PDL shall be non-preferred until the new drug has been reviewed by the P&T;

(C) The Division shall make all changes or revisions to the PDL using the rulemaking process and shall publish the changes on the Division's Pharmaceutical Services provider rules webpage.

(4) Relative cost and best possible price determination:

(a) The Division shall determine the relative cost of all drugs in each selected class that are Medicaid reimbursable and that the FDA has determined to be safe and effective;

(b) The Division may also consider dosing issues, patterns of use and compliance issues. The Division shall weigh these factors with any advice provided by the P&T in reaching a final decision;

(5) Pharmacy providers shall dispense prescriptions in the generic form, unless:

(a) The practitioner requests otherwise, subject to the regulations outlined in OAR 410-121-0155;

(b) The brand name medication is listed as preferred on the PDL.

(6) The exception process for obtaining non-preferred physical health drugs that are not on the PDL drugs shall be as follows:

(a) If the prescribing practitioner in their professional judgment wishes to prescribe a physical health drug not on the PDL, they may request an exception, subject to the requirements of OAR 410-121-0040;

(b) The prescribing practitioner must request an exception for physical health drugs not listed in the PDL subject to the requirements of OAR 410-121-0060;

(c) Exceptions shall be granted in instances:

(A) Where the prescriber in their professional judgment determines the non-preferred drug is medically appropriate after consulting with the Division or the Oregon Pharmacy Help Desk; or

(B) Where the prescriber requests an exception subject to the requirement of (6)(b) and fails to receive a report of PA status within 24 hours, subject to OAR 410-121-0060.

(7) Table 121-0030-1, PMPDP PDL dated, March 21, 2014 is incorporated in rule by reference and is found on our webpage at www.orpdl.org.

Stat. Auth.: ORS 409.025, 409.040, 409.110, 414.065, 413.042 & 414.325

Stats. Implemented: ORS 414.065

Hist.: OMAP 25-2002, f. 6-14-02 cert. ef. 7-1-02; OMAP 31-2002, f. & cert. ef. 8-1-02; OMAP 36-2002, f. 8-30-02, cert. ef. 9-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 35-2003, f. & cert. ef. 5-1-03; OMAP 47-2003, f. & cert. ef. 7-1-03; OMAP 57-2003, f. 9-5-03, cert. ef. 10-1-03; OMAP 70-2003(Temp), f. 9-15-03, cert. ef. 10-1-03 thru 3-15-04; OMAP 82-2003, f. 10-31-03, cert. ef. 11-1-03; OMAP 9-2004, f. 2-27-04, cert. ef. 3-1-04; OMAP 29-2004, f. 4-23-04 cert. ef. 5-1-04; OMAP 34-2004, f. 5-26-04 cert. ef. 6-1-04; OMAP 45-2004, f. 7-22-04 cert. ef. 8-1-04; OMAP 81-2004, f. 10-29-04 cert. ef. 11-1-04; OMAP 89-2004, f. 11-24-04 cert. ef. 12-1-04; OMAP 19-2005, f. 3-21-05, cert. ef. 4-1-05; OMAP 32-2005, f. 6-21-05, cert. ef. 7-1-05; OMAP 58-2005, f. 10-27-05, cert. ef. 11-1-05; OMAP 16-2006, f. 6-12-06, cert. ef. 7-1-06; OMAP 32-2006, f. 8-31-06, cert. ef. 9-1-06; OMAP 48-2006, f. 12-28-06, cert. ef. 1-1-07; DMAP 4-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 16-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 36-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 39-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 17-2010, f. 6-15-10, cert. ef. 7-1-10; DMAP 40-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 2-2011(Temp), f. & cert. ef. 3-1-11 thru 8-20-11; DMAP 19-2011, f. 7-15-11, cert. ef. 7-17-11; DMAP 44-2011, f. 12-21-11, cert. ef. 1-1-12; DMAP 12-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12; DMAP 18-2012, f. 3-30-12, cert. ef. 4-9-12; DMAP 26-2012, f. & cert. ef. 5-14-12; DMAP 29-2012, f. & cert. ef. 6-21-12; DMAP 33-2012(Temp), f. 7-18-12, cert. ef. 7-23-12 thru 1-18-13; DMAP 40-2012(Temp), f. & cert. ef. 8-20-12 thru 1-18-13; DMAP 44-2012(Temp), f. & cert. ef. 9-26-12 thru 1-18-13; DMAP 61-2012, f. 12-27-12, cert. ef. 1-1-13; DMAP 6-2013(Temp), f. & cert. ef. 2-21-13 thru 8-19-13; DMAP 23-2013(Temp), f. 4-30-13, cert. ef. 5-1-13 thru 8-19-13; Administrative correction, 7-18-13; DMAP 43-2013, f. & cert. ef. 8-16-13; DMAP 76-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 1-2014(Temp), f. & cert. ef. 1-10-14 thru 7-9-14; DMAP 15-2014(Temp), f. & cert. ef. 3-21-14 thru 9-17-14

Rule Caption: Repeal of Health Insurers' Tax Rules

Adm. Order No.: DMAP 16-2014

Filed with Sec. of State: 3-25-2014

Certified to be Effective: 4-1-14

Notice Publication Date: 3-1-2014

Rules Repealed: 410-050-0100, 410-050-0110, 410-050-0120, 410-050-0130, 410-050-0140, 410-050-0150, 410-050-0160, 410-050-0170, 410-050-0180, 410-050-0190, 410-050-0200, 410-050-0210, 410-050-0220, 410-050-0230, 410-050-0240, 410-050-0250

Subject: 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.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

Rule Caption: Hospital Assessment Sunset Date Change

Adm. Order No.: DMAP 17-2014

Filed with Sec. of State: 3-25-2014

Certified to be Effective: 3-25-14

Notice Publication Date: 3-1-2014

Rules Amended: 410-050-0870

Rules Repealed: 410-050-0870(T)

Subject: 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

ADMINISTRATIVE RULES

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.

Rules Coordinator: Sandy Cafourek — (503) 945-6430

410-050-0870

Sunset Provisions

The hospital tax applies to net revenue received by hospitals on or after January 1, 2004 and before October 1, 2015

Stat. Auth.: ORS 413.042, 410.070 & 411.060

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

Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08; DMAP 33-2009, f. & cert. ef. 10-1-09; DMAP 53-2013(Temp), f. & cert. ef. 10-1-13 thru 3-29-14; DAMP 17-2014, f. & cert. ef. 3-25-14

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

Adm. Order No.: DMAP 18-2014

Filed with Sec. of State: 3-28-2014

Certified to be Effective: 3-31-14

Notice Publication Date: 3-1-2014

Rules Amended: 410-120-0006

Rules Repealed: 410-120-0006(T)

Subject: 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 — (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 & 414.065

Hist.: DMAP 10-2011, f. 6-29-11, cert. ef. 7-1-11; DMAP 18-2011(Temp), f. & cert. ef. 7-15-11 thru 1-11-12; DMAP 21-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 1-11-12; DMAP 25-2011(Temp), f. 9-28-11, cert. ef. 10-1-11 thru 1-11-12; DMAP 36-2011, f. 12-13-11, cert. ef. 1-1-12; DMAP 1-2012(Temp), f. & cert. ef. 1-13-12 thru 7-10-12; DMAP 2-2012(Temp), f. & cert. ef. 1-26-12 thru 7-10-12; DMAP 3-2012(Temp), f. & cert. ef. 1-31-12 thru 2-1-12; DMAP 4-2012(Temp), f. 1-31-12, cert. ef. 2-1-12 thru 7-10-12; DMAP 9-2012(Temp), f. & cert. ef. 3-1-12 thru 7-10-12; DMAP 21-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 7-10-12; DMAP 25-2012(Temp), f. & cert. ef. 5-1-12 thru 7-10-12; 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; DMAP 18-2014, f. 3-28-14, cert. ef. 3-31-14

Rule Caption: Eliminate OHP Standard; Expand Age Fluoride in Medical Setting; Incorporate Changes to Prioritized List

Adm. Order No.: DMAP 19-2014(Temp)

Filed with Sec. of State: 3-28-2014

Certified to be Effective: 4-1-14 thru 6-30-14

Notice Publication Date:

Rules Amended: 410-123-1200, 410-123-1260

Rules Suspended: 410-123-1200(T), 410-123-1260(T)

Subject: This temporary rulemaking incorporates two prior temporary actions amending OAR 410-123-1200 and 1260. The first, "Elimination of OHP Standard Benefit Plan effective January 1, 2014," was effective 1/1/14 through 6/30/2014. The second, "Expand Age for Topical Fluoride Varnish in Medical Setting and Update Language for Dental Integration," was effective 2/28/2014 through 6/30/2014.

This new temporary filing additionally amends OAR 410-123-1200 to add two dental services (carries risk assessment and documentation and gingival irrigation) to the list of services that are not separately reimbursed. Both services have new Current Dental Terminology codes for 2014 but are already routinely included as part of other reimbursed procedures.

Finally, this new temporary filling amends OAR 410-123-1260 to align OHP Plus coverage to changes by the Health Evidence Review Commission's Prioritized List of Health Services effective April 1, 2014, and to correct formatting, and punctuation and other typographical errors.

All changes will be permanently filed no later than June 30, 2014.

Rules Coordinator: Sandy Cafourek — (503) 945-6430

410-123-1200

Services Not To Be Billed Separately

(1) Services that are not to be billed separately may be included in the Current Dental Terminology (CDT) codebook and may not be listed as combined with another procedure, however they are considered to be either minimal, included in the examination, part of another service, or included in routine post-op or follow-up care.

(2) The following services do not warrant an additional fee:

(a) Alveolectomy/Alveoloplasty in conjunction with extractions;

(b) Cardiac and other monitoring;

(c) Caries risk assessment and documentation;

(d) Curettage and root planing — per tooth;

(e) Diagnostic casts;

(f) Dietary counseling;

(g) Direct pulp cap;

(h) Discing;

(i) Dressing change;

(j) Electrosurgery;

(k) Equilibration;

(l) Gingival curettage — per tooth;

(m) Gingival irrigation;

(n) Gingivectomy or gingivoplasty to allow for access for restorative procedure, per tooth;

(o) Indirect pulp cap;

(p) Local anesthesia;

(q) Medicated pulp chambers;

(r) Occlusal adjustments;

(s) Occlusal analysis;

(t) Odontoplasty;

(u) Oral hygiene instruction;

(v) Periodontal charting, probing;

(w) Post removal;

(x) Polishing fillings;

(y) Post extraction treatment for alveolitis (dry socket treatment) if done by the provider of the extraction;

(z) Pulp vitality tests;

(aa) Smooth broken tooth;

ADMINISTRATIVE RULES

- (bb) Special infection control procedures;
- (cc) Surgical procedure for isolation of tooth with rubber dam;
- (dd) Surgical splint;
- (ee) Surgical stent; and
- (ff) Suture removal.

Stat. Auth.: ORS 413.042, 414.065 & 414.707

Stats. Implemented: ORS 414.065 & 414.707

Hist.: HR 3-1994, f. & cert. ef. 2-1-94; HR 32-1994, f. & cert. ef. 11-1-94; OMAP 48-2002, f. & cert. ef. 10-1-02; DMAP 25-2007, f. 12-11-07, cert. ef. 1-1-08; DMAP 13-2013, f. 3-27-13, cert. ef. 4-1-13; DMAP 75-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 19-2014(Temp), f. 3-28-14, cert. ef. 4-1-14 thru 6-30-14

410-123-1260

OHP Plus Dental Benefits

(1) General:

(a) Early and Periodic Screening, Diagnosis and Treatment (EPSDT):

(A) Refer to Code of Federal Regulations (42 CFR 441, Subpart B) and OAR chapter 410, division 120 for definitions of the EPSDT program, eligible clients, and related services. EPSDT dental services include, but are not limited to:

(i) Dental screening services for eligible EPSDT individuals; and

(ii) Dental diagnosis and treatment that is indicated by screening, at as early an age as necessary, needed for relief of pain and infections, restoration of teeth and maintenance of dental health;

(B) Providers must provide EPSDT services for eligible Division of Medical Assistance Programs (Division) clients according to the following documents:

(i) The Dental Services Program administrative rules (OAR chapter 410, division 123), for dentally appropriate services funded on the Oregon Health Evidence Review Commission's Prioritized List of Health Services (Prioritized List); and

(ii) The "Oregon Health Plan (OHP) — Recommended Dental Periodicity Schedule," dated January 1, 2010, incorporated by reference and posted on the Division Web site in the Dental Services Provider Guide document at www.oha.state.or.us/policy/healthplan/guides/dental/main.html;

(b) Restorative, periodontal and prosthetic treatments:

(A) Treatments must be consistent with the prevailing standard of care, documentation must be included in the client's charts to support the treatment, and may be limited as follows:

(i) When prognosis is unfavorable;

(ii) When treatment is impractical;

(iii) A lesser-cost procedure would achieve the same ultimate result;

or

(iv) The treatment has specific limitations outlined in this rule;

(B) Prosthetic treatment, including porcelain fused to metal crowns, are limited until rampant progression of caries is arrested and a period of adequate oral hygiene and periodontal stability is demonstrated; periodontal health needs to be stable and supportive of a prosthetic.

(2) Diagnostic Services:

(a) Exams:

(A) For children under 19 years of age:

(i) The Division shall reimburse exams (billed as D0120, D0145, D0150, or D0180) a maximum of twice every 12 months with the following limitations:

(I) D0150: once every 12 months when performed by the same practitioner;

(II) D0150: twice every 12 months only when performed by different practitioners;

(III) D0180: once every 12 months;

(ii) The Division shall reimburse D0160 only once every 12 months when performed by the same practitioner;

(B) For adults 19 years of age and older, the Division shall reimburse exams (billed as D0120, D0150, D0160, or D0180) once every 12 months;

(C) For problem focused exams (urgent or emergent problems), the Division shall reimburse D0140 for the initial exam. The Division shall reimburse D0170 for related problem-focused follow-up exams. Providers should not bill D0140 and D0170 for routine dental visits;

(D) The Division only covers oral exams by medical practitioners when the medical practitioner is an oral surgeon;

(E) As the American Dental Association's Current Dental Terminology (CDT) codebook specifies the evaluation, diagnosis and treatment planning components of the exam are the responsibility of the dentist, the Division may not reimburse dental exams when furnished by a dental hygienist (with or without an expanded practice permit);

(b) Assessment of a patient (D0191):

(A) When performed by a dental practitioner, the Division shall reimburse:

(i) If performed by a dentist outside of a dental office;

(ii) If performed by a dental hygienist with an expanded practice dental hygiene permit;

(iii) Only if an exam (D0120-D0180) is not performed on the same date of service. An oral assessment is included in the exam;

(iv) For children under 19 years of age, a maximum of twice every 12 months; and

(v) For adults age 19 and older, a maximum of once every 12 months;

(B) An assessment does not take the place of the need for oral evaluations/exams;

(c) Radiographs:

(A) The Division shall reimburse for routine radiographs once every 12 months;

(B) The Division shall reimburse bitewing radiographs for routine screening once every 12 months;

(C) The Division shall reimburse a maximum of six radiographs for any one emergency;

(D) For clients under age six, radiographs may be billed separately every 12 months as follows:

(i) D0220 — once;

(ii) D0230 — a maximum of five times;

(iii) D0270 — a maximum of twice, or D0272 once;

(E) The Division shall reimburse for panoramic (D0330) or intra-oral complete series (D0210) once every five years, but both cannot be done within the five-year period;

(F) Clients must be a minimum of six years old for billing intra-oral complete series (D0210). The minimum standards for reimbursement of intra-oral complete series are:

(i) For clients age six through 11 — a minimum of 10 periapicals and two bitewings for a total of 12 films;

(ii) For clients ages 12 and older — a minimum of 10 periapicals and four bitewings for a total of 14 films;

(G) If fees for multiple single radiographs exceed the allowable reimbursement for a full mouth complete series (D0210), the Division shall reimburse for the complete series;

(H) Additional films may be covered if dentally or medically appropriate, e.g., fractures (Refer to OAR 410-123-1060 and 410-120-0000);

(I) If the Division determines the number of radiographs to be excessive, payment for some or all radiographs of the same tooth or area may be denied;

(J) The exception to these limitations is if the client is new to the office or clinic and the office or clinic was unsuccessful in obtaining radiographs from the previous dental office or clinic. Supporting documentation outlining the provider's attempts to receive previous records must be included in the client's records;

(K) Digital radiographs, if printed, should be on photo paper to assure sufficient quality of images.

(3) Preventive Services:

(a) Prophylaxis:

(A) For children under 19 years of age — Limited to twice per 12 months;

(B) For adults 19 years of age and older — Limited to once per 12 months;

(C) Additional prophylaxis benefit provisions may be available for persons with high risk oral conditions due to disease process, pregnancy, medications or other medical treatments or conditions, severe periodontal disease, rampant caries and/or for persons with disabilities who cannot perform adequate daily oral health care;

(D) Are coded using the appropriate Current Dental Terminology (CDT) coding:

(i) D1110 (Prophylaxis — Adult) — Use for clients 14 years of age and older; and

(ii) D1120 (Prophylaxis — Child) — Use for clients under 14 years of age;

(b) Topical fluoride treatment:

(A) For adults 19 years of age and older — Limited to once every 12 months;

(B) For children under 19 years of age — Limited to twice every 12 months;

(C) For children under 19 years of age, topical fluoride varnish may be applied by a medical practitioner during a medical visit.

ADMINISTRATIVE RULES

(i) Bill the Division directly when the client is fee-for-service (FFS), is enrolled in a CCO that does not include integrated dental services, or is enrolled in a PHP that does not include integrated dental services;

(ii) Bill the client's Coordinated Care Organization (CCO) if the client is enrolled in a CCO that includes integrated dental services;

(iii) Bill using a professional claim format with the appropriate CDT code (D1206 — Topical Fluoride Varnish);

(D) Additional topical fluoride treatments may be available, up to a total of four treatments per client within a 12-month period, when high-risk conditions or oral health factors are clearly documented in chart notes for the following clients who:

(i) Have high-risk oral conditions due to disease process, medications, other medical treatments or conditions, or rampant caries;

(ii) Are pregnant;

(iii) Have physical disabilities and cannot perform adequate, daily oral health care;

(iv) Have a developmental disability or other severe cognitive impairment that cannot perform adequate, daily oral health care; or

(v) Are under seven years old with high-risk oral health factors, such as poor oral hygiene, deep pits and fissures (grooves) in teeth, severely crowded teeth, poor diet, etc.;

(E) Fluoride limits include any combination of fluoride varnish (D1206) or other topical fluoride (D1208);

(c) Sealants (D1351):

(A) Are covered only for children under 16 years of age;

(B) The Division limits coverage to:

(i) Permanent molars; and

(ii) Only one sealant treatment per molar every five years, except for visible evidence of clinical failure;

(d) Tobacco cessation:

(A) For services provided during a dental visit, bill as a dental service using CDT code D1320 when the following brief counseling is provided:

(i) Ask patients about their tobacco-use status at each visit and record information in the chart;

(ii) Advise patients on their oral health conditions related to tobacco use and give direct advice to quit using tobacco and a strong personalized message to seek help; and

(iii) Refer patients who are ready to quit, utilizing internal and external resources to complete the remaining three A's (assess, assist, arrange) of the standard intervention protocol for tobacco;

(B) The Division allows a maximum of 10 services within a three-month period;

(C) For tobacco cessation services provided during a medical visit follow criteria outlined in OAR 410-130-0190;

(e) Space management:

(A) The Division shall cover fixed and removable space maintainers (D1510, D1515, D1520, and D1525) only for clients under 19 years of age;

(B) The Division may not reimburse for replacement of lost or damaged removable space maintainers.

(4) Restorative Services:

(a) Amalgam and resin-based composite restorations - direct:

(A) Resin-based composite crowns on anterior teeth (D2390) are only covered for clients under 21 years of age or who are pregnant;

(B) The Division reimburses posterior composite restorations at the same rate as amalgam restorations;

(C) The Division limits payment for replacement of posterior composite restorations to once every five years;

(D) The Division limits payment of covered restorations to the maximum restoration fee of four surfaces per tooth. Refer to the American Dental Association (ADA) CDT codebook for definitions of restorative procedures;

(E) Providers must combine and bill multiple surface restorations as one line per tooth using the appropriate code. Providers may not bill multiple surface restorations performed on a single tooth on the same day on separate lines. For example, if tooth #30 has a buccal amalgam and a mesial-occlusal-distal (MOD) amalgam, then bill MOD, B, using code D2161 (four or more surfaces);

(F) The Division may not reimburse for an amalgam or composite restoration and a crown on the same tooth;

(G) Interim therapeutic restoration on primary dentition (D2941) is covered to restore and prevent progression of dental caries. Interim therapeutic restoration is not a definitive restoration.

(H) Reattachment of tooth fragment (D2921) is covered once in the lifetime of a tooth when there is no pulp exposure and no need for endodontic treatment.

(I) The Division reimburses for a surface not more than once in each treatment episode regardless of the number or combination of restorations;

(J) The restoration fee includes payment for occlusal adjustment and polishing of the restoration;

(b) Indirect crowns and related services:

(A) General payment policies:

(i) The fee for the crown includes payment for preparation of the gingival tissue;

(ii) The Division shall cover crowns only when:

(I) There is significant loss of clinical crown and no other restoration will restore function; and

(II) The crown-to-root ratio is 50:50 or better and the tooth is restorable without other surgical procedures;

(iii) The Division shall cover core buildup (D2950) only when necessary to retain a cast restoration due to extensive loss of tooth structure from caries or a fracture and only when done in conjunction with a crown. Less than 50% of the tooth structure must be remaining for coverage of the core buildup.

(iv) Reimbursement of retention pins (D2951) is per tooth, not per pin;

(B) The Division shall not cover the following services:

(i) Endodontic therapy alone (with or without a post);

(ii) Aesthetics (cosmetics);

(iii) Crowns in cases of advanced periodontal disease or when a poor crown/root ratio exists for any reason;

(C) The Division shall cover acrylic heat or light cured crowns (D2970 temporary crown, fractured tooth) — allowed only for anterior permanent teeth;

(D) The Division shall cover the following only for clients under 21 years of age or who are pregnant:

(i) Prefabricated plastic crowns (D2932) are allowed only for anterior teeth, permanent or primary;

(ii) Stainless steel crowns (D2930/D2931) are allowed only for anterior primary teeth and posterior permanent or primary teeth;

(iii) Prefabricated stainless steel crowns with resin window (D2933) are allowed only for anterior teeth, permanent or primary;

(iv) Prefabricated post and core in addition to crowns (D2954/D2957);

(v) Permanent crowns (resin-based composite — D2710 and D2712, and porcelain fused to metal (PFM) — D2751 and D2752) as follows:

(I) Limited to teeth numbers 6–11, 22 and 27 only, if dentally appropriate;

(II) Limited to four in a seven-year period. This limitation includes any replacement crowns allowed according to (E)(i) of this rule;

(III) Only for clients at least 16 years of age; and

(IV) Rampant caries are arrested and the client demonstrates a period of oral hygiene before prosthetics are proposed;

(vi) PFM crowns (D2751 and D2752) must also meet the following additional criteria:

(I) The dental practitioner has attempted all other dentally appropriate restoration options, and documented failure of those options;

(II) Written documentation in the client's chart indicates that PFM is the only restoration option that will restore function;

(III) The dental practitioner submits radiographs to the Division for review; history, diagnosis, and treatment plan may be requested. (See OAR 410-123-1100 Services Reviewed by the Division);

(IV) The client has documented stable periodontal status with pocket depths within 1–3 millimeters. If PFM crowns are placed with pocket depths of 4 millimeter and over, documentation must be maintained in the client's chart of the dentist's findings supporting stability and why the increased pocket depths will not adversely affect expected long term prognosis;

(V) The crown has a favorable long-term prognosis; and

(VI) If tooth to be crowned is clasp/abutment tooth in partial denture, both prognosis for crown itself and tooth's contribution to partial denture must have favorable expected long-term prognosis;

(E) Crown replacement:

(i) Permanent crown replacement limited to once every seven years;

(ii) All other crown replacement limited to once every five years; and

(iii) The Division may make exceptions to crown replacement limitations due to acute trauma, based on the following factors:

(I) Extent of crown damage;

ADMINISTRATIVE RULES

- (II) Extent of damage to other teeth or crowns;
- (III) Extent of impaired mastication;
- (IV) Tooth is restorable without other surgical procedures; and
- (V) If loss of tooth would result in coverage of removable prosthetic;
- (F) Crown repair (D2980) is limited to only anterior teeth.
- (5) Endodontic Services:
 - (a) Endodontic therapy:
 - (A) Pulpal therapy on primary teeth (D3230 and D3240) is covered only for clients under 21 years of age;
 - (B) For permanent teeth:
 - (i) Anterior and bicuspid endodontic therapy (D3310 and D3320) is covered for all OHP Plus clients; and
 - (ii) Molar endodontic therapy (D3330):
 - (I) For clients through age 20, is covered only for first and second molars; and
 - (II) For clients age 21 and older who are pregnant, is covered only for first molars;
 - (C) The Division covers endodontics only if the crown-to-root ratio is 50:50 or better and the tooth is restorable without other surgical procedures;
 - (b) Endodontic retreatment and apicoectomy:
 - (A) The Division does not cover retreatment of a previous root canal or apicoectomy for bicuspid or molars;
 - (B) The Division limits either a retreatment or an apicoectomy (but not both procedures for the same tooth) to symptomatic anterior teeth when:
 - (i) Crown-to-root ratio is 50:50 or better;
 - (ii) The tooth is restorable without other surgical procedures; or
 - (iii) If loss of tooth would result in the need for removable prosthodontics;
 - (C) Retrograde filling (D3430) is covered only when done in conjunction with a covered apicoectomy of an anterior tooth;
 - (c) The Division does not allow separate reimbursement for open-and-drain as a palliative procedure when the root canal is completed on the same date of service, or if the same practitioner or dental practitioner in the same group practice completed the procedure;
 - (d) The Division covers endodontics if the tooth is restorable within the OHP benefit coverage package;
 - (e) Apexification/recalcification procedures:
 - (A) The Division limits payment for apexification to a maximum of five treatments on permanent teeth only;
 - (B) Apexification/recalcification procedures are covered only for clients under 21 years of age or who are pregnant.
 - (6) Periodontic Services:
 - (a) Surgical periodontal services:
 - (A) Gingivectomy/Gingivoplasty (D4210 and D4211) — limited to coverage for severe gingival hyperplasia where enlargement of gum tissue occurs that prevents access to oral hygiene procedures, e.g., Dilantin hyperplasia; and
 - (B) Includes six months routine postoperative care;
 - (C) The Division shall consider gingivectomy or gingivoplasty to allow for access for restorative procedure, per tooth (D4212) as part of the restoration and will not provide a separate reimbursement for this procedure;
 - (b) Non-surgical periodontal services:
 - (A) Periodontal scaling and root planing (D4341 and D4342):
 - (i) For clients through age 20, allowed once every two years;
 - (ii) For clients age 21 and over, allowed once every three years;
 - (iii) A maximum of two quadrants on one date of service is payable, except in extraordinary circumstances;
 - (iv) Quadrants are not limited to physical area, but are further defined by the number of teeth with pockets 5 mm or greater:
 - (I) D4341 is allowed for quadrants with at least four or more teeth with pockets 5 mm or greater;
 - (II) D4342 is allowed for quadrants with at least two teeth with pocket depths of 5 mm or greater;
 - (v) Prior authorization for more frequent scaling and root planing may be requested when:
 - (I) Medically/dentally necessary due to periodontal disease as defined above is found during pregnancy; and
 - (II) Client's medical record is submitted that supports the need for increased scaling and root planing;
 - (B) Full mouth debridement (D4355):
 - (i) For clients through age 20, allowed only once every two years;
 - (ii) For clients age 21 and older, allowed once every three years;
 - (c) Periodontal maintenance (D4910):
 - (A) For clients through age 20, allowed once every six months;
 - (B) For clients age 21 and older:
 - (i) Limited to following periodontal therapy (surgical or non-surgical) that is documented to have occurred within the past three years;
 - (ii) Allowed once every twelve months;
 - (iii) Prior authorization for more frequent periodontal maintenance may be requested when:
 - (I) Medically/dentally necessary, such as due to presence of periodontal disease during pregnancy; and
 - (II) Client's medical record is submitted that supports the need for increase periodontal maintenance (chart notes, pocket depths and radiographs);
 - (d) Records must clearly document the clinical indications for all periodontal procedures, including current pocket depth charting and/or radiographs;
 - (e) The Division may not reimburse for procedures identified by the following codes if performed on the same date of service:
 - (A) D1110 (Prophylaxis — adult);
 - (B) D1120 (Prophylaxis — child);
 - (C) D4210 (Gingivectomy or gingivoplasty — four or more contiguous teeth or bounded teeth spaces per quadrant);
 - (D) D4211 (Gingivectomy or gingivoplasty — one to three contiguous teeth or bounded teeth spaces per quadrant);
 - (E) D4341 (Periodontal scaling and root planning — four or more teeth per quadrant);
 - (F) D4342 (Periodontal scaling and root planning — one to three teeth per quadrant);
 - (G) D4355 (Full mouth debridement to enable comprehensive evaluation and diagnosis); and
 - (H) D4910 (Periodontal maintenance).
 - (7) Removable Prosthodontic Services:
 - (a) Clients age 16 years and older are eligible for removable resin base partial dentures (D5211-D5212) and full dentures (complete or immediate, D5110-D5140);
 - (b) The Division limits full dentures for clients age 21 and older to only those clients who are recently edentulous:
 - (A) For the purposes of this rule:
 - (i) "Edentulous" means all teeth removed from the jaw for which the denture is being provided; and
 - (ii) "Recently edentulous" means the most recent extractions from that jaw occurred within six months of the delivery of the final denture (or, for fabricated prosthetics, the final impression) for that jaw;
 - (B) See OAR 410-123-1000 for detail regarding billing fabricated prosthetics;
 - (c) The fee for the partial and full dentures includes payment for adjustments during the six-month period following delivery to clients;
 - (d) Resin partial dentures (D5211-D5212):
 - (A) The Division may not approve resin partial dentures if stainless steel crowns are used as abutments;
 - (B) For clients through age 20, the client must have one or more anterior teeth missing or four or more missing posterior teeth per arch with resulting space equivalent to that loss demonstrating inability to masticate. Third molars are not a consideration when counting missing teeth;
 - (C) For clients age 21 and older, the client must have one or more missing anterior teeth or six or more missing posterior teeth per arch with documentation by the provider of resulting space causing serious impairment to mastication. Third molars are not a consideration when counting missing teeth;
 - (D) The dental practitioner must note the teeth to be replaced and teeth to be clasped when requesting prior authorization (PA);
 - (e) Replacement of removable partial or full dentures, when it cannot be made clinically serviceable by a less costly procedure (e.g., relining, rebase, repair, tooth replacement), is limited to the following:
 - (A) For clients at least 16 years and under 21 years of age — the Division shall replace full or partial dentures once every ten years, only if dentally appropriate. This does not imply that replacement of dentures or partials must be done once every ten years, but only when dentally appropriate;
 - (B) For clients 21 years of age and older — the Division may not cover replacement of full dentures, but shall cover replacement of partial dentures once every 10 years only if dentally appropriate;
 - (C) The ten year limitations apply to the client regardless of the client's OHP or Dental Care Organization (DCO), /Coordinated Care Organization (CCO) enrollment status at the time client's last denture or partial was received. For example: a client receives a partial on February 1,

ADMINISTRATIVE RULES

2002, and becomes a FFS OHP client in 2005. The client is not eligible for a replacement partial until February 1, 2012. The client gets a replacement partial on February 3, 2012 while FFS and a year later enrolls in a DCO or CCO. The client would not be eligible for another partial until February 3, 2022, regardless of DCO, CCO or FFS enrollment;

(D) Replacement of partial dentures with full dentures is payable ten years after the partial denture placement. Exceptions to this limitation may be made in cases of acute trauma or catastrophic illness that directly or indirectly affects the oral condition and results in additional tooth loss. This pertains to, but is not limited to, cancer and periodontal disease resulting from pharmacological, surgical and/or medical treatment for aforementioned conditions. Severe periodontal disease due to neglect of daily oral hygiene may not warrant replacement;

(f) The Division limits reimbursement of adjustments and repairs of dentures that are needed beyond six months after delivery of the denture as follows for clients 21 years of age and older:

(A) A maximum of four times per year for:

(i) Adjusting complete and partial dentures, per arch (D5410-D5422);

(ii) Replacing missing or broken teeth on a complete denture — each tooth (D5520);

(iii) Replacing broken tooth on a partial denture — each tooth (D5640);

(iv) Adding tooth to existing partial denture (D5650);

(B) A maximum of two times per year for:

(i) Repairing broken complete denture base (D5510);

(ii) Repairing partial resin denture base (D5610);

(iii) Repairing partial cast framework (D5620);

(iv) Repairing or replacing broken clasp (D5630);

(v) Adding clasp to existing partial denture (D5660);

(g) Replacement of all teeth and acrylic on cast metal framework (D5670D5671):

(A) Is covered for clients age 16 and older a maximum of once every 10 years, per arch;

(B) Ten years or more must have passed since the original partial denture was delivered;

(C) Is considered replacement of the partial so a new partial denture may not be reimbursed for another ten years; and

(D) Requires prior authorization as it is considered a replacement partial denture;

(h) Denture rebase procedures:

(A) The Division shall cover rebases only if a relines may not adequately solve the problem;

(B) For clients through age 20, the Division limits payment for rebase to once every three years;

(C) For clients age 21 and older:

(i) There must be documentation of a current relines which has been done and failed; and

(ii) The Division limits payment for rebase to once every five years;

(D) The Division may make exceptions to this limitation in cases of acute trauma or catastrophic illness that directly or indirectly affects the oral condition and results in additional tooth loss. This pertains to, but is not limited to, cancer and periodontal disease resulting from pharmacological, surgical and medical treatment for aforementioned conditions. Severe periodontal disease due to neglect of daily oral hygiene may not warrant rebasing;

(i) Denture relines procedures:

(A) For clients through age 20, the Division limits payment for relines of complete or partial dentures to once every three years;

(B) For clients age 21 and older, the Division limits payment for relines of complete or partial dentures to once every five years;

(C) The Division may make exceptions to this limitation under the same conditions warranting replacement;

(D) Laboratory relines:

(i) Are not payable prior to six months after placement of an immediate denture; and

(ii) For clients through age 20, are limited to once every three years;

(iii) For clients age 21 and older, are limited to once every five years;

(j) Interim partial dentures (D5820-D5821, also referred to as “flippers”):

(A) Are allowed if the client has one or more anterior teeth missing; and

(B) The Division shall reimburse for replacement of interim partial dentures once every five years, but only when dentally appropriate;

(k) Tissue conditioning:

(A) Is allowed once per denture unit in conjunction with immediate dentures; and

(B) Is allowed once prior to new prosthetic placement.

(8) Maxillofacial Prosthetic Services:

(a) Fluoride gel carrier (D5986) is limited to those patients whose severity of oral disease causes the increased cleaning and fluoride treatments allowed in rule to be insufficient. The dental practitioner must document failure of those options prior to use of the fluoride gel carrier;

(b) All other maxillofacial prosthetics (D5900-D5999) are medical services. Refer to the “Covered and Non-Covered Dental Services” document and OAR 410-123-1220:

(A) Bill for medical maxillofacial prosthetics using the professional (CMS1500, DMAP 505 or 837P) claim format:

(B) For clients receiving services through a CCO or PHP, bill medical maxillofacial prosthetics to the CCO or PHP;

(C) For clients receiving medical services through FFS, bill the Division.

(9) Oral Surgery Services:

(a) Bill the following procedures in an accepted dental claim format using CDT codes:

(A) Procedures that are directly related to the teeth and supporting structures that are not due to a medical condition or diagnosis, including such procedures performed in an ambulatory surgical center (ASC) or an inpatient or outpatient hospital setting;

(B) Services performed in a dental office setting or an oral surgeon’s office:

(i) Such services include, but are not limited to, all dental procedures, local anesthesia, surgical postoperative care, radiographs and follow-up visits;

(ii) Refer to OAR 410-123-1160 for any PA requirements for specific procedures;

(b) Bill the following procedures using the professional claim format and the appropriate American Medical Association (AMA) CPT procedure and ICD9 diagnosis codes:

(A) Procedures that are a result of a medical condition (i.e., fractures, cancer);

(B) Services requiring hospital dentistry that are the result of a medical condition/diagnosis (i.e., fracture, cancer);

(c) Refer to the “Covered and Non-Covered Dental Services” document to see a list of CDT procedure codes on the Prioritized List that may also have CPT medical codes. See OAR 410-123-1220. The procedures listed as “medical” on the table may be covered as medical procedures, and the table may not be all-inclusive of every dental code that has a corresponding medical code;

(d) For clients enrolled in a DCO or CCO responsible for dental services, the DCO or CCO shall pay for those services in the dental plan package;

(e) Oral surgical services performed in an ASC or an inpatient or outpatient hospital setting:

(A) Require PA;

(B) For clients enrolled in a CCO or FCHP, the CCO or FCHP shall pay for the facility charge and anesthesia services. For clients enrolled in a Physician Care Organization (PCO), the PCO shall pay for the outpatient facility charge (including ASCs) and anesthesia. Refer to the current Medical Surgical Services administrative rules in OAR chapter 410, division 130 for more information;

(C) If a client is enrolled in a CCO or PHP, the provider must contact the CCO or PHP for any required authorization before the service is rendered;

(f) All codes listed as “by report” require an operative report;

(g) The Division covers payment for tooth re-implantation only in cases of traumatic avulsion where there are good indications of success;

(h) Biopsies collected are reimbursed as a dental service. Laboratory services of biopsies are reimbursed as a medical service;

(i) The Division does not cover surgical excisions of soft tissue lesions (D7410-D7415);

(j) Extractions — Includes local anesthesia and routine postoperative care, including treatment of a dry socket if done by the provider of the extraction. Dry socket is not considered a separate service;

(k) Surgical extractions:

(A) Include local anesthesia and routine post-operative care;

(B) The Division limits payment for surgical removal of impacted teeth or removal of residual tooth roots to treatment for only those teeth that have acute infection or abscess, severe tooth pain, and/or unusual swelling of the face or gums;

ADMINISTRATIVE RULES

(C) The Division does not cover alveoplasty in conjunction with extractions (D7310 and D7311) separately from the extraction;

(D) The Division covers alveoplasty not in conjunction with extractions (D7320-D7321) only for clients under 21 years of age or who are pregnant;

(I) Frenulectomy/frenulotomy (D7960) and frenuloplasty (D7963):

(A) The Division covers either frenulectomy or frenuloplasty once per lifetime per arch only for clients under age 21;

(B) The Division covers maxillary labial frenulectomy only for clients age 12 through 20;

(C) The Division shall cover frenulectomy/frenuloplasty in the following situations:

(i) When the client has ankyloglossia;

(ii) When the condition is deemed to cause gingival recession; or

(iii) When the condition is deemed to cause movement of the gingival margin when the frenum is placed under tension;

(m) The Division covers excision of pericoronal gingival (D7971) only for clients under age 21 or who are pregnant.

(10) Orthodontia Services:

(a) The Division limits orthodontia services and extractions to eligible clients:

(A) With the ICD-9-CM diagnosis of:

(i) Cleft palate; or

(ii) Cleft palate with cleft lip; and

(B) Whose orthodontia treatment began prior to 21 years of age; or

(C) Whose surgical corrections of cleft palate or cleft lip were not completed prior to age 21;

(b) PA is required for orthodontia exams and records. A referral letter from a physician or dentist indicating diagnosis of cleft palate or cleft lip must be included in the client's record and a copy sent with the PA request;

(c) Documentation in the client's record must include diagnosis, length and type of treatment;

(d) Payment for appliance therapy includes the appliance and all follow-up visits;

(e) Orthodontists evaluate orthodontia treatment for cleft palate/cleft lip as two phases. Stage one is generally the use of an activator (palatal expander) and stage two is generally the placement of fixed appliances (banding). The Division shall reimburse each phase separately;

(f) The Division shall pay for orthodontia in one lump sum at the beginning of each phase of treatment. Payment for each phase is for all orthodontia-related services. If the client transfers to another orthodontist during treatment, or treatment is terminated for any reason, the orthodontist must refund to the Division any unused amount of payment, after applying the following formula: Total payment minus \$300.00 (for banding) multiplied by the percentage of treatment remaining;

(g) The Division shall use the length of the treatment plan from the original request for authorization to determine the number of treatment months remaining;

(h) As long as the orthodontist continues treatment, the Division may not require a refund even though the client may become ineligible for medical assistance sometime during the treatment period;

(i) Code:

(A) D8660 — PA required (reimbursement for required orthodontia records is included);

(B) Codes D8010-D8690 — PA required.

(11) Adjunctive General and Other Services:

(a) Fixed partial denture sectioning (D9120) is covered only when extracting a tooth connected to a fixed prosthesis and a portion of the fixed prosthesis is to remain intact and serviceable, preventing the need for more costly treatment;

(b) Anesthesia:

(A) Only use general anesthesia or IV sedation for those clients with concurrent needs: age, physical, medical or mental status, or degree of difficulty of the procedure (D9220, D9221, D9241 and D9242);

(B) The Division reimburses providers for general anesthesia or IV sedation as follows:

(i) D9220 or D9241: For the first 30 minutes;

(ii) D9221 or D9242: For each additional 15-minute period, up to three hours on the same day of service. Each 15-minute period represents a quantity of one. Enter this number in the quantity column;

(C) The Division reimburses administration of Nitrous Oxide (D9230) per date of service, not by time;

(D) Oral pre-medication anesthesia for conscious sedation (D9248):

(i) Limited to clients under 13 years of age;

(ii) Limited to four times per year;

(iii) Includes payment for monitoring and Nitrous Oxide; and

(iv) Requires use of multiple agents to receive payment;

(E) Upon request, providers must submit a copy of their permit to administer anesthesia, analgesia and sedation to the Division;

(F) For the purpose of Title XIX and Title XXI, the Division limits payment for code D9630 to those oral medications used during a procedure and is not intended for "take home" medication;

(c) The Division limits reimbursement of house/extended care facility call (D9410) only for urgent or emergent dental visits that occur outside of a dental office. This code is not reimbursable for provision of preventive services or for services provided outside of the office for the provider or facilities' convenience;

(d) Oral devices/appliances (E0485, E0486):

(A) These may be placed or fabricated by a dentist or oral surgeon, but are considered a medical service;

(B) Bill the Division, CCO or the PHP for these codes using the professional claim format.

Stat. Auth.: ORS 413.042, 414.065 & 414.707

Stats. Implemented: ORS 414.065 & 414.707

Hist.: HR 3-1994, f. & cert. ef. 2-1-94; HR 20-1995, f. 9-29-95, cert. ef. 10-1-95; OMAP 13-1998(Temp), f. & cert. ef. 5-1-98 thru 9-1-98; OMAP 28-1998, f. & cert. ef. 9-1-98; OMAP 23-1999, f. & cert. ef. 4-30-99; OMAP 8-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 17-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 48-2002, f. & cert. ef. 10-1-02; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 65-2003, f. 9-10-03, cert. ef. 10-1-03; OMAP 55-2004, f. 9-10-04, cert. ef. 10-1-04; OMAP 12-2005, f. 3-11-05, cert. ef. 4-1-05; DMAP 25-2007, f. 12-11-07, cert. ef. 1-1-08; DMAP 18-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 38-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 16-2009, f. 6-12-09, cert. ef. 7-1-09; DMAP 41-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 14-2010, f. 6-10-10, cert. ef. 7-1-10; DMAP 31-2010, f. 12-15-10, cert. ef. 1-1-11; DMAP 17-2011, f. & cert. ef. 7-12-11; DMAP 41-2011, f. 12-21-11, cert. ef. 1-1-12; DMAP 46-2011, f. 12-23-11, cert. ef. 1-1-12; DMAP 13-2013, f. 3-27-13, cert. ef. 4-1-13; DMAP 28-2013(Temp), f. 6-26-13, cert. ef. 7-1-13 thru 12-28-13; DMAP 68-2013, f. 12-5-13, cert. ef. 12-23-13; DMAP 75-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 10-2014(Temp), f. & cert. ef. 2-28-14 thru 8-27-14; DMAP 19-2014(Temp), f. 3-28-14, cert. ef. 4-1-14 thru 6-30-14

Rule Caption: Eligibility Requirements of the Oregon Health Authority's Office of Client and Community Services Medical Programs

Adm. Order No.: DMAP 20-2014

Filed with Sec. of State: 3-28-2014

Certified to be Effective: 3-28-14

Notice Publication Date: 3-1-2014

Rules Adopted: 410-200-0010, 410-200-0015, 410-200-0100, 410-200-0105, 410-200-0110, 410-200-0111, 410-200-0115, 410-200-0120, 410-200-0125, 410-200-0130, 410-200-0135, 410-200-0140, 410-200-0145, 410-200-0146, 410-200-0147, 410-200-0148, 410-200-0149, 410-200-0150, 410-200-0151, 410-200-0152, 410-200-0153, 410-200-0154, 410-200-0155, 410-200-0156, 410-200-0157, 410-200-0158, 410-200-0159, 410-200-0160, 410-200-0161, 410-200-0162, 410-200-0163, 410-200-0164, 410-200-0165, 410-200-0166, 410-200-0167, 410-200-0168, 410-200-0169, 410-200-0170, 410-200-0171, 410-200-0172, 410-200-0173, 410-200-0174, 410-200-0175, 410-200-0176, 410-200-0177, 410-200-0178, 410-200-0179, 410-200-0180, 410-200-0181, 410-200-0182, 410-200-0183, 410-200-0184, 410-200-0185, 410-200-0186, 410-200-0187, 410-200-0188, 410-200-0189, 410-200-0190, 410-200-0191, 410-200-0192, 410-200-0193, 410-200-0194, 410-200-0195, 410-200-0196, 410-200-0197, 410-200-0198, 410-200-0199, 410-200-0200, 410-200-0201, 410-200-0202, 410-200-0203, 410-200-0204, 410-200-0205, 410-200-0206, 410-200-0207, 410-200-0208, 410-200-0209, 410-200-0210, 410-200-0211, 410-200-0212, 410-200-0213, 410-200-0214, 410-200-0215, 410-200-0216, 410-200-0217, 410-200-0218, 410-200-0219, 410-200-0220, 410-200-0221, 410-200-0222, 410-200-0223, 410-200-0224, 410-200-0225, 410-200-0226, 410-200-0227, 410-200-0228, 410-200-0229, 410-200-0230, 410-200-0231, 410-200-0232, 410-200-0233, 410-200-0234, 410-200-0235, 410-200-0236, 410-200-0237, 410-200-0238, 410-200-0239, 410-200-0240, 410-200-0241, 410-200-0242, 410-200-0243, 410-200-0244, 410-200-0245, 410-200-0246, 410-200-0247, 410-200-0248, 410-200-0249, 410-200-0250, 410-200-0251, 410-200-0252, 410-200-0253, 410-200-0254, 410-200-0255, 410-200-0256, 410-200-0257, 410-200-0258, 410-200-0259, 410-200-0260, 410-200-0261, 410-200-0262, 410-200-0263, 410-200-0264, 410-200-0265, 410-200-0266, 410-200-0267, 410-200-0268, 410-200-0269, 410-200-0270, 410-200-0271, 410-200-0272, 410-200-0273, 410-200-0274, 410-200-0275, 410-200-0276, 410-200-0277, 410-200-0278, 410-200-0279, 410-200-0280, 410-200-0281, 410-200-0282, 410-200-0283, 410-200-0284, 410-200-0285, 410-200-0286, 410-200-0287, 410-200-0288, 410-200-0289, 410-200-0290, 410-200-0291, 410-200-0292, 410-200-0293, 410-200-0294, 410-200-0295, 410-200-0296, 410-200-0297, 410-200-0298, 410-200-0299, 410-200-0300, 410-200-0301, 410-200-0302, 410-200-0303, 410-200-0304, 410-200-0305, 410-200-0306, 410-200-0307, 410-200-0308, 410-200-0309, 410-200-0310, 410-200-0311, 410-200-0312, 410-200-0313, 410-200-0314, 410-200-0315, 410-200-0316, 410-200-0317, 410-200-0318, 410-200-0319, 410-200-0320, 410-200-0321, 410-200-0322, 410-200-0323, 410-200-0324, 410-200-0325, 410-200-0326, 410-200-0327, 410-200-0328, 410-200-0329, 410-200-0330, 410-200-0331, 410-200-0332, 410-200-0333, 410-200-0334, 410-200-0335, 410-200-0336, 410-200-0337, 410-200-0338, 410-200-0339, 410-200-0340, 410-200-0341, 410-200-0342, 410-200-0343, 410-200-0344, 410-200-0345, 410-200-0346, 410-200-0347, 410-200-0348, 410-200-0349, 410-200-0350, 410-200-0351, 410-200-0352, 410-200-0353, 410-200-0354, 410-200-0355, 410-200-0356, 410-200-0357, 410-200-0358, 410-200-0359, 410-200-0360, 410-200-0361, 410-200-0362, 410-200-0363, 410-200-0364, 410-200-0365, 410-200-0366, 410-200-0367, 410-200-0368, 410-200-0369, 410-200-0370, 410-200-0371, 410-200-0372, 410-200-0373, 410-200-0374, 410-200-0375, 410-200-0376, 410-200-0377, 410-200-0378, 410-200-0379, 410-200-0380, 410-200-0381, 410-200-0382, 410-200-0383, 410-200-0384, 410-200-0385, 410-200-0386, 410-200-0387, 410-200-0388, 410-200-0389, 410-200-0390, 410-200-0391, 410-200-0392, 410-200-0393, 410-200-0394, 410-200-0395, 410-200-0396, 410-200-0397, 410-200-0398, 410-200-0399, 410-200-0400, 410-200-0401, 410-200-0402, 410-200-0403, 410-200-0404, 410-200-0405, 410-200-0406, 410-200-0407, 410-200-0408, 410-200-0409, 410-200-0410, 410-200-0411, 410-200-0412, 410-200-0413, 410-200-0414, 410-200-0415, 410-200-0416, 410-200-0417, 410-200-0418, 410-200-0419, 410-200-0420, 410-200-0421, 410-200-0422, 410-200-0423, 410-200-0424, 410-200-0425, 410-200-0426, 410-200-0427, 410-200-0428, 410-200-0429, 410-200-0430, 410-200-0431, 410-200-0432, 410-200-0433, 410-200-0434, 410-200-0435, 410-200-0436, 410-200-0437, 410-200-0438, 410-200-0439, 410-200-0440, 410-200-0441, 410-200-0442, 410-200-0443, 410-200-0444, 410-200-0445, 410-200-0446, 410-200-0447, 410-200-0448, 410-200-0449, 410-200-0450, 410-200-0451, 410-200-0452, 410-200-0453, 410-200-0454, 410-200-0455, 410-200-0456, 410-200-0457, 410-200-0458, 410-200-0459, 410-200-0460, 410-200-0461, 410-200-0462, 410-200-0463, 410-200-0464, 410-200-0465, 410-200-0466, 410-200-0467, 410-200-0468, 410-200-0469, 410-200-0470, 410-200-0471, 410-200-0472, 410-200-0473, 410-200-0474, 410-200-0475, 410-200-0476, 410-200-0477, 410-200-0478, 410-200-0479, 410-200-0480, 410-200-0481, 410-200-0482, 410-200-0483, 410-200-0484, 410-200-0485, 410-200-0486, 410-200-0487, 410-200-0488, 410-200-0489, 410-200-0490, 410-200-0491, 410-200-0492, 410-200-0493, 410-200-0494, 410-200-0495, 410-200-0496, 410-200-0497, 410-200-0498, 410-200-0499, 410-200-0500, 410-200-0501, 410-200-0502, 410-200-0503, 410-200-0504, 410-200-0505, 410-200-0506, 410-200-0507, 410-200-0508, 410-200-0509, 410-200-0510, 410-200-0511, 410-200-0512, 410-200-0513, 410-200-0514, 410-200-0515, 410-200-0516, 410-200-0517, 410-200-0518, 410-200-0519, 410-200-0520, 410-200-0521, 410-200-0522, 410-200-0523, 410-200-0524, 410-200-0525, 410-200-0526, 410-200-0527, 410-200-0528, 410-200-0529, 410-200-0530, 410-200-0531, 410-200-0532, 410-200-0533, 410-200-0534, 410-200-0535, 410-200-0536, 410-200-0537, 410-200-0538, 410-200-0539, 410-200-0540, 410-200-0541, 410-200-0542, 410-200-0543, 410-200-0544, 410-200-0545, 410-200-0546, 410-200-0547, 410-200-0548, 410-200-0549, 410-200-0550, 410-200-0551, 410-200-0552, 410-200-0553, 410-200-0554, 410-200-0555, 410-200-0556, 410-200-0557, 410-200-0558, 410-200-0559, 410-200-0560, 410-200-0561, 410-200-0562, 410-200-0563, 410-200-0564, 410-200-0565, 410-200-0566, 410-200-0567, 410-200-0568, 410-200-0569, 410-200-0570, 410-200-0571, 410-200-0572, 410-200-0573, 410-200-0574, 410-200-0575, 410-200-0576, 410-200-0577, 410-200-0578, 410-200-0579, 410-200-0580, 410-200-0581, 410-200-0582, 410-200-0583, 410-200-0584, 410-200-0585, 410-200-0586, 410-200-0587, 410-200-0588, 410-200-0589, 410-200-0590, 410-200-0591, 410-200-0592, 410-200-0593, 410-200-0594, 410-200-0595, 410-200-0596, 410-200-0597, 410-200-0598, 410-200-0599, 410-200-0600, 410-200-0601, 410-200-0602, 410-200-0603, 410-200-0604, 410-200-0605, 410-200-0606, 410-200-0607, 410-200-0608, 410-200-0609, 410-200-0610, 410-200-0611, 410-200-0612, 410-200-0613, 410-200-0614, 410-200-0615, 410-200-0616, 410-200-0617, 410-200-0618, 410-200-0619, 410-200-0620, 410-200-0621, 410-200-0622, 410-200-0623, 410-200-0624, 410-200-0625, 410-200-0626, 410-200-0627, 410-200-0628, 410-200-0629, 410-200-0630, 410-200-0631, 410-200-0632, 410-200-0633, 410-200-0634, 410-200-0635, 410-200-0636, 410-200-0637, 410-200-0638, 410-200-0639, 410-200-0640, 410-200-0641, 410-200-0642, 410-200-0643, 410-200-0644, 410-200-0645, 410-200-0646, 410-200-0647, 410-200-0648, 410-200-0649, 410-200-0650, 410-200-0651, 410-200-0652, 410-200-0653, 410-200-0654, 410-200-0655, 410-200-0656, 410-200-0657, 410-200-0658, 410-200-0659, 410-200-0660, 410-200-0661, 410-200-0662, 410-200-0663, 410-200-0664, 410-200-0665, 410-200-0666, 410-200-0667, 410-200-0668, 410-200-0669, 410-200-0670, 410-200-0671, 410-200-0672, 410-200-0673, 410-200-0674, 410-200-0675, 410-200-0676, 410-200-0677, 410-200-0678, 410-200-0679, 410-200-0680, 410-200-0681, 410-200-0682, 410-200-0683, 410-200-0684, 410-200-0685, 410-200-0686, 410-200-0687, 410-200-0688, 410-200-0689, 410-200-0690, 410-200-0691, 410-200-0692, 410-200-0693, 410-200-0694, 410-200-0695, 410-200-0696, 410-200-0697, 410-200-0698, 410-200-0699, 410-200-0700, 410-200-0701, 410-200-0702, 410-200-0703, 410-200-0704, 410-200-0705, 410-200-0706, 410-200-0707, 410-200-0708, 410-200-0709, 410-200-0710, 410-200-0711, 410-200-0712, 410-200-0713, 410-200-0714, 410-200-0715, 410-200-0716, 410-200-0717, 410-200-0718,

ADMINISTRATIVE RULES

410-200-0010

Overview

These rules, OAR 410-200-0010 through 0510, describe eligibility requirements for the Office of Client and Community Services (OCCS) medical programs.

Stat. Auth.: ORS 411.402, 411.404 & 413.042
Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440, 414.534, 414.536 & 414.706
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

410-200-0015

General Definitions

(1) "Action" means a termination, suspension, denial, or reduction of Medicaid or CHIP eligibility or covered services.

(2) "Address Confidentiality Program (ACP)" means a program of the Oregon Department of Justice that provides a substitute mailing address and mail forwarding service for ACP participants who are victims of domestic violence, sexual assault or stalking.

(3) "AEN" means Assumed Eligible Newborn (see OAR 410-200-0115).

(4) "Affordable Care Act" means the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111-148), as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111-152), as amended by the Three Percent Withholding Repeal and Job Creation Act (Pub. L. 112-56).

(5) "Agency" means the Oregon Health Authority, Department of Human Services, and Cover Oregon.

(6) "American Indian and Alaska Native income exceptions" means:

(a) Distributions from Alaska Native Corporations and Settlement Trusts;

(b) Distributions from any property held in trust, subject to Federal restrictions, located within the most recent boundaries of a prior Federal reservation or otherwise under the supervision of the Secretary of the Interior;

(c) Distributions and payments from rents, leases, rights of way, royalties, usage rights or natural resource extraction and harvest from:

(A) Rights of ownership or possession in any lands described in section (b) of this part; or

(B) Federally protected rights regarding off-reservation hunting, fishing, gathering or usage of natural resources.

(d) Distributions resulting from real property ownership interests related to natural resources and improvements:

(A) Located on or near a reservation or within the most recent boundaries of a prior federal reservation; or

(B) Resulting from the exercise of federally-protected rights relating to such real property ownership interests.

(e) Payments resulting from ownership interests in or usage rights to items that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional lifestyle according to applicable tribal law or custom;

(f) Student financial assistance provided under the Bureau of Indian Affairs education programs.

(7) "Applicant" means an individual who is seeking an eligibility determination themselves or someone for whom they are applying through an application submission or a transfer from another agency or insurance affordability program.

(8) "Application" means:

(a) The single streamlined application for all insurance affordability programs developed by Cover Oregon and the Authority; or

(b) For individuals applying or who may be eligible for assistance on a basis other than the applicable MAGI standard, an application designed specifically to determine eligibility on a basis other than the applicable MAGI standard, submitted by or on behalf of the individual.

(9) "APTC" means Advance payments of the premium tax credit, which means payment of the tax credits specified in section 36B of the Internal Revenue Code (as added by section 1401 of the Affordable Care Act) that are provided on an advance basis to an eligible individual enrolled in a QHP through an Exchange in accordance with sections 1402 and 1412 of the Affordable Care Act.

(10) "Assumed eligibility" means an individual is deemed to be eligible for a period of time based on receipt of another program benefits or because of another individual's eligibility.

(11) "Appeal Request" means a clear expression, oral or written, by an individual or the individual's representative that the individual wishes to appeal an Authority decision or action.

(12) "Authorized Representative" means an individual or organization that acts on behalf of an applicant or beneficiary in assisting with the individual's application and renewal of eligibility and other ongoing communications with the Agency. (See OAR 410-200-0111 Authorized Representatives.)

(13) "Beneficiary" means an individual who has been determined eligible and is currently receiving OCCS Medical Program benefits.

(14) "BRS" means Behavioral Residential Services.

(15) "Budget Month" means the calendar month from which financial and nonfinancial information is used to determine eligibility.

(16) "Caretaker" means a parent, caretaker relative or non-related caretaker who assumes primary responsibility for a child's care.

(17) "Caretaker Relative" means a relative of a dependent child by blood, adoption or marriage with whom the child is living who assumes primary responsibility for the child's care, which may but is not required to be indicated by claiming the child as a tax dependent for federal income tax purposes and who is one of the following:

(a) The child's father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew or niece.

(b) The spouse of the parent or relative even after the marriage is terminated by death or divorce.

(c) An individual described in this section who is a relative of the child based on blood, including those of half-blood, adoption or marriage.

(18) "CAWEM" means Citizen/Alien-Waived Emergent Medical which is Medicaid coverage for emergent medical needs for clients who are not eligible for other medical programs solely because they do not meet citizenship and alien status requirements. See OAR 410-200-0240.

(19) "CAWEM Prenatal" means medical services for pregnant CAWEM clients

(20) "Child" means an individual including minor parent, under the age of 19. Child does not include an unborn. Child includes a natural or biological, adopted or step child.

(21) "Citizenship" includes status as a "national of the United States" defined in 8 U.S.C. 1101(a)(22) that includes both citizens of the United States and non-citizen nationals of the United States.

(22) "Claim" means a legal action or a demand by, or on behalf of, an applicant or beneficiary for damages for or arising out of a personal injury which is against any person, public body, agency or commission other than the State Accident Insurance Fund Corporation or Worker's Compensation Board.

(23) "Claimant" means an individual who has requested an appeal.

(24) "Code" means Internal Revenue Code of 1986 as amended.

(25) "Combined eligibility notice" means an eligibility notice that informs an individual, or multiple family members of a household when feasible, of eligibility for each of the insurance affordability programs and enrollment in a qualified health plan through Cover Oregon for which a determination or denial was made by Cover Oregon or the Authority.

(26) "Community partner" means all external entities (non-agents) who partner with Cover Oregon and enter into formal agreement with the Authority to conduct outreach or enrollment assistance, whether or not they are funded or compensated by Cover Oregon.

(27) "Coordinated content" means information included in eligibility notice regarding the transfer of the individual's or household's electronic account to another insurance affordability program for a determination of eligibility.

(28) "Cover Oregon" means the Oregon Health Insurance Exchange Corporation.

(29) "Custodial Parent" means the parent with whom the child spends more than half of their nights.

(30) "Date of Request" means the earlier of:

(a) The date the request for medical benefits is received; or

(b) The date the applicant received a medical service, if the request for medical benefits is received by midnight of the following business day.

(31) "Decision notice" means a written notice of a decision made regarding eligibility for an OCCS medical program benefit. A decision notice may be a:

(a) "Basic decision notice" mailed no later than the date of action given in the notice.

(b) "Combined Decision notice" informs an individual or multiple family members of a household, when feasible, of the eligibility decision made for each of the MAGI insurance affordability programs.

(c) "Timely continuing benefit decision notice" informs the client of the right to continued benefits and is mailed no later than 15 calendar days prior to the effective date of the change for clients in the Address

ADMINISTRATIVE RULES

Confidentiality Program and ten (10) calendar days prior to the effective date of the change for all other clients.

(32) "Department" means the Department of Human Services.

(33) "Dependent child" means a child who is under the age of 18 or age 18 and a full-time student in a secondary school or equivalent vocational or technical training, if before attaining age 19 the child may reasonably be expected to complete the school or training.

(34) "ELA" (Express Lane Agency) means the Department of Human Services making determinations regarding one or more eligibility requirements for the OHP-OPC or OHP-CHP programs.

(35) "ELE" (Express Lane Eligibility) means the Oregon Health Authority's option to rely on a determination made within a reasonable period by an ELA finding that a child satisfies the requirements for OHP-CHP, OHP-OPC, MAGI Child, or MAGI CHIP program eligibility. ELE qualifies a child for medical assistance benefits based on a finding from another public agency, even when the other Agency's eligibility methodology differs from that ordinarily used by the Department of Human Services to determine OHP-CHP and OHP-OPC program eligibility.

(36) "Electronic account" means an electronic file that includes all information collected and generated by the Agency regarding each individual's Medicaid or CHIP eligibility and enrollment, including all required documentation and including any information collected or generated as part of a fair hearing process conducted by the Authority or through Cover Oregon appeals process.

(37) "Electronic application" means an application electronically signed and submitted through the Internet.

(38) "Eligibility determination" means an approval or denial of eligibility and a renewal or termination of eligibility.

(39) "Expedited appeal" means a hearing held within five working days of the Authority's receipt of an appeal request, unless the claimant requests more time.

(40) "Family size" means the number of individuals used to compare to the income standards chart for the applicable program. The family size consists of all members of the Household group and each unborn child of any pregnant members of the Household group.

(41) "Federal data services hub" means an electronic service established by the Secretary of the Department of Health and Human Services through which all insurance affordability programs can access specified data from pertinent federal agencies needed to verify eligibility, including SSA, the Department of Treasury, and the Department of Homeland Security.

(42) "Federal poverty level (FPL)" means the Federal poverty level updated periodically in the Federal Register by the Secretary of the Department of Health and Human Services under the authority of 42 U.S.C. 9902(2) as in effect for the applicable budget period used to determine an individual's eligibility in accordance with 42 CFR 435.603(h).

(43) "Household group" consists of every individual whose income is considered for determining each medical applicant's eligibility as defined in OAR 410-200-0310.

(44) "Inmate" means:

(a) An individual living in a public institution that is:

(A) Confined involuntarily in a local, state or federal prison, jail, detention facility or other penal facility, including being held involuntarily in a detention center awaiting trial or serving a sentence for a criminal offense;

(B) Residing involuntarily in a facility under a contract between the facility and a public institution where, under the terms of the contract, the facility is a public institution;

(C) Residing involuntarily in a facility that is under governmental control; or

(D) Receiving care as an outpatient while residing involuntarily in a public institution.

(b) An individual is not considered an inmate when:

(A) The individual is released on parole, probation or post-prison supervision;

(B) The individual is on home or work-release, unless the individual is required to report to a public institution for an overnight stay;

(C) The individual is receiving inpatient care at a medical institution not associated with the public institution where the individual is an inmate;

(D) The individual is staying voluntarily in a detention center, jail or county penal facility after his or her case has been adjudicated and while other living arrangements are being made for the individual; or

(E) The individual is in a public institution pending other arrangements as defined in 42 CFR 435.1010.

(45) "Insurance affordability program" means a program that is one of the following:

(a) Medicaid;

(b) CHIP;

(c) A program that makes coverage available in a qualified health plan through Cover Oregon with advance payments of the premium tax credit established under section 36B of the Internal Revenue Code available to qualified individuals;

(d) A program that makes coverage available in a qualified health plan through Cover Oregon with cost-sharing reductions established under section 1402 of the Affordable Care Act.

(46) "Lawfully present" means an individual:

(a) Is a qualified non-citizen, as defined in this section;

(b) Has valid nonimmigrant status, as defined in 8 U.S.C. 1101(a)(15) or otherwise under the immigration laws (as defined in 8 U.S.C. 1101(a)(17));

(c) Is paroled into the United States in accordance with 8 U.S.C. 1182(d)(5) for less than one year, except for an individual paroled for prosecution, for deferred inspection or pending removal proceedings; or

(d) Belongs to one of the following classes:

(A) Granted temporary resident status in accordance with 8 U.S.C. 1160 or 1255a, respectively;

(B) Granted Temporary Protected Status (TPS) in accordance with 8 U.S.C. 1254a and individuals with pending applications for TPS who have been granted employment authorization;

(C) Granted employment authorization under 8 CFR 274a.12(c);

(D) Family Unity beneficiaries in accordance with section 301 of Public Law 101-649, as amended;

(E) Under Deferred Enforced Departure (DED) in accordance with a decision made by the President;

(F) Granted Deferred Action status;

(G) Granted an administrative stay of removal under 8 CFR part 241; (viii) Beneficiary of approved visa petition that has a pending application for adjustment of status.

(e) Is an individual with a pending application for asylum under 8 U.S.C. 158, or for withholding of removal under 8 U.S.C. 1231, or under the Convention Against Torture who:

(A) Has been granted employment authorization; or

(B) Is under the age of 14 and has had an application pending for at least 180 days.

(f) Has been granted withholding of removal under the Convention Against Torture;

(g) Is a child who has a pending application for Special Immigrant Juvenile status as described in 8 U.S.C. 1101(a)(27)(J);

(h) Is lawfully present in American Samoa under the immigration laws of American Samoa;

(i) Is a victim of a severe form of trafficking in persons, in accordance with the Victims of Trafficking and Violence Protection Act of 2000, Public Law 106-386, as amended (22 U.S.C. 7105(b)); or

(j) Exception: An individual with deferred action under the Department of Homeland Security's deferred action for childhood arrivals process, as described in the Secretary of Homeland Security's June 15, 2012 memorandum, shall not be considered to be lawfully present with respect to any of the above categories in sections (a) through (i) of this rule.

(47) "Legal Argument" has the meaning given that term in OAR 137-003-0008(c).

(48) "Medicaid or Oregon Health Plan (OHP)" means Oregon's Medicaid program under Title XIX of the Social Security Act.

(49) "MAGI" means Modified Adjusted Gross Income and has the meaning provided at IRC 36B(d)(2)(B) and generally means federally taxable income with the following exceptions:

(a) The income of the following individuals is excluded when they are not expected to be required to file a tax return for the tax year in which eligibility is being determined. This subsection applies whether or not the child or tax dependent actually files a tax return:

(A) Children, regardless of age, who are included in the household of a parent;

(B) Tax dependents.

(b) In applying subsection (a) of this section, IRC § 6012(a)(1) is used to determine who is required to file a tax return.

(50) "MAGI-based income" means income calculated using the same financial methodologies used to determine MAGI as defined in section 36B(d)(2)(B) of the Code with the following exceptions:

(a) American Indian and Alaska Native income exceptions;

(b) Child support;

ADMINISTRATIVE RULES

- (c) Life insurance proceeds;
- (d) Non-taxable Veterans' benefits;
- (e) Non-taxable workers' compensation benefits;
- (f) Scholarships, awards or fellowship grants used for educational expenses;

(g) Supplemental Security Income (SSI);
(h) An amount received as a lump sum is counted as income only in the month received. Lump sum income includes but is not limited to:

- (A) Winnings;
- (B) Countable educational income;
- (C) Capital gains;
- (D) Dividends, interest, royalties.

(i) Scholarships, awards or fellowship grants used for education purposes and not for living expenses;

(j) Self-employment and business entity income is determined by adding gross receipts and other business income and subtracting deductions described in Internal Revenue Code (IRC) §§ 161 through 249. Items not deductible are described in IRC §§ 261 through 280 include, but are not limited to, most capital expenditures, such as business start-up costs, build-ings, and furniture and payments or deductions for personal, living or family use. Business structures are determined by state statutes and are dependent on elections made by business owners. Each state may use different regulations for business structures. Salaries and wages paid to employees, including those who are owners or stockholders, are countable income to the employees. Business income is countable to owners and stockholders as described below:

(A) Sole proprietors, independent contractors, and Limited Liability Companies (LLC) who choose to file federal taxes as a sole proprietor: The necessary and ordinary costs of producing income are subtracted from gross receipts and other business income to determine countable income. Expenses related to costs for both business and personal use are prorated according to the proportions used for each purpose. Costs are limited to those described in IRC §§161 through 199 and Treasury Regulations §§ Sec. 1.162 through 1.263.

(B) Partnerships that are not publicly traded and LLCs who choose to file federal taxes as a partnership: Owners' income is determined as follows:

(i) The distributive share of income, gain and loss is determined proportionately according to the partnership agreement or the LLC agreement.

(ii) Income from other partnerships, estates and trusts is added to the amount in paragraph (A) of this subsection.

(iii) The costs of producing income described in subsection (4)(a) except for oil and gas depletion and costs listed below are proportionately subtracted from gross receipts to determine each partner's countable income:

- (I) Bad debts;
- (II) Guaranteed payments to partners;
- (III) Losses from other partnerships, farms, estates and trusts;
- (IV) Retirement plans.

(C) S Corporations and LLCs who choose to file Federal taxes as an S Corporation: Shareholders' income is determined as follows:

(i) The distributive share of profits, gain and loss are determined proportionately on the basis of the stockholders' shares of stock.

(ii) The costs of producing income described in subsection (a) are proportionately subtracted from gross receipts to determine each stockholder's countable income.

(iii) The distributive share of profits is countable income to the shareholders whether or not it is actually distributed to the shareholders.

(D) C Corporations and LLCs who choose to file taxes as C Corporations: Shareholders' income is countable when it is distributed to them through dividends.

(51) "MAGI income standard" means the monthly income standard for the relevant program and family size described in OAR 410-200-0315.

(52) "Minimum essential coverage" means medical coverage under:

(a) A government-sponsored plan, including Medicare Part A, Medicaid, CHIP, TRICARE, the veterans' health care program, and the Peace Corps program;

(b) Employer-sponsored plans with respect to an employee, including coverage offered by an employer that is a government plan, any other plan or coverage offered in the small or large group market within the state and any plan established by an Indian tribal government;

- (c) Plans in the individual market;
- (d) Grandfathered health plans; and

(e) Any other health benefits coverage, such as a state health benefits risk pool, as recognized by the HHS secretary in coordination with the Treasury Secretary.

(53) "Non-applicant" means an individual not seeking an eligibility determination for him or herself and is included in an applicant's or beneficiary's household to determine eligibility for the applicant or beneficiary.

(54) "Non-citizen" has the meaning given the term "alien" as defined in section 101(a)(3) of the Immigration and Nationality Act (INA), (8 U.S.C. 1101(a)(3)) and includes any individual who is not a citizen or national of the United States, defined at 8 U.S.C. 1101(a)(22).

(55) "OCCS" means the Office of Client and Community Services, part of the Medical Assistance Programs under the Oregon Health Authority.

(56) "OCCS Medical Programs" means all programs under the Authority, OCCS including:

(a) "CEC" means Continuous Eligibility for OHP-CHP pregnant women. Title XXI medical assistance for a pregnant non-CAWEM child found eligible for the OHP-CHP program who, for a reason other than moving out of state or becoming a recipient of private major medical health insurance, otherwise would lose her eligibility.

(b) "CEM" means Continuous Eligibility for Medicaid: Title XIX medical assistance for a non-CAWEM child found eligible for Medicaid who loses his or her eligibility for a reason other than turning 19 years of age or moving out of state.

(c) "MAA" means Medical Assistance Assumed.

(d) "MAF" means Medical Assistance to Families. The Medical Assistance to Families program provides medical assistance to people who are ineligible for MAA but are eligible for Medicaid using ADC program standards and methodologies that were in effect as of July 16, 1996.

(e) "EXT" means Extended Medical Assistance. The Extended Medical Assistance program provides medical assistance for a period of time after a family loses its eligibility for the MAA, MAF, or Pre-TANF program due to an increase in their child support or earned income.

(f) "OHP" means Oregon Health Plan. The Oregon Health Plan program provides medical assistance to many low-income individuals and families. The program includes five categories of individuals who may qualify for benefits. The acronyms for these categories are:

(A) "OHP-CHP" Persons Under 19. OHP coverage for persons under 19 years of age who qualify at or below the 300 percent income standard.

(B) "OHP-OPC" Children. OHP coverage for children who qualify under the 100 percent income standard.

(C) "OHP-OPP" Pregnant Females and their newborn children. OHP coverage for pregnant females who qualify under the 185 percent income standard and their newborn children.

(D) "OHP-OPU" Adults. OHP coverage for adults who qualify under the 100 percent income standard. A person eligible under OHP-OPU is referred to as a health plan new/non-categorical (HPN) client.

(E) "OHP-OP6" Children under 6. OHP coverage for children under age 6 who qualify under the 133 percent income standard.

(g) "SAC" means Medical Coverage for Children in Substitute or Adoptive Care.

(h) "BCCTP" means Breast and Cervical Cancer Treatment Program.

(i) "MAGI Medicaid/CHIP" means OCCS Medical Programs for which eligibility is based on MAGI, including:

- (A) MAGI Child;
- (B) MAGI Parent or Other Caretaker Relative;
- (C) MAGI Pregnant Woman;
- (D) MAGI Children's Health Insurance Program (CHIP);
- (E) MAGI Adult.

(57) "OCWP" means Office of Child Welfare Programs.

(58) "OSIPM" means Oregon Supplemental Income Program Medical. Medical coverage for elderly and disabled individuals administered by the Department of Human Services, Aging and People with Disabilities and Developmental Disabilities.

(59) "Parent" means a natural or biological, adopted or step parent.

(60) "Personal Injury" means a physical or emotional injury to an individual including but not limited to assault, battery, or medical malpractice arising from the physical or emotional injury.

(61) "Post-eligibility pend period" means the period of time provided to a beneficiary or an individual of the beneficiary's choosing to ensure all verification and non-financial eligibility requirements are met.

(a) The Post-eligibility pend period begins on, and must extend 90 days from, the date on which the pend notice is received by the individual.

ADMINISTRATIVE RULES

(b) The date on which the notice is received is considered to be five days after the date on the notice, unless the individual shows that he or she did not receive the notice within the five-day period.

(62) "Pregnant woman" means a woman during pregnancy and the postpartum period that begins on the date the pregnancy ends, extends 60 days and ends on the last day of the month in which the 60-day period ends.

(63) "Primary person" means the primary person the Agency will communicate with and:

(a) Is listed as the case name; or

(b) Is the individual named as the primary contact on the Cover Oregon/Oregon Health Authority medical application.

(64) "Private major medical health insurance" means a comprehensive major medical insurance plan that at a minimum provides physician services, inpatient and outpatient hospitalization, outpatient lab, x-ray, immunizations and prescription drug coverage. This term does not include coverage under the Kaiser Child Health Program or Kaiser Transition Program but does include policies that are purchased privately or are employer-sponsored.

(65) "PRTF" means Psychiatric Residential Treatment Facility.

(66) "Public institution" means any of the following:

(a) A state hospital (see ORS 162.135).

(b) A local correctional facility (see ORS 169.005) a jail or prison for the reception and confinement of prisoners that is provided, maintained and operated by a county or city and holds individuals for more than 36 hours.

(c) A Department of Corrections institution (see ORS 421.005), a facility used for the incarceration of individuals sentenced to the custody of the Department of Corrections, including a satellite, camp or branch of the facility.

(d) A youth correction facility (see ORS 162.135):

(A) A facility used for the confinement of youth offenders and other individuals placed in the legal or physical custody of the youth authority, including a secure regional youth facility, a regional accountability camp, a residential academy and satellite, and camps and branches of those facilities; or

(B) A facility established under ORS 419A.010 to 419A.020 and 419A.050 to 419A.063 for the detention of children, wards, youth or youth offenders pursuant to a judicial commitment or order.

(e) As used in this rule, the term public institution does not include:

(A) A medical institution as defined in 42 CFR 435.1010 including the Secure Adolescent Inpatient Program (SAIP) and the Secure Children's Inpatient Program (SCIP);

(B) An intermediate care facility as defined in 42 CFR 440.140 and 440.150; or

(C) A publicly operated community residence that serves no more than 16 residents, as defined in 42 CFR 435.1009.

(67) "Qualified Hospital" means a hospital that:

(a) Participates as an enrolled Oregon Medicaid provider;

(b) Notifies the Authority of their decision to make presumptive eligibility determinations;

(c) Agrees to make determinations consistent with Authority policies and procedures;

(d) Informs applicants for presumptive eligibility of their responsibility and available assistance to complete and submit the full Medicaid application and to understand any documentation requirements; and

(e) Are not disqualified by the Authority for violations related to standards established for the presumptive eligibility program under 42 CFR § 435.1110(d).

(68) "Qualified non-citizen" means an individual that is any of the following:

(a) A non-citizen lawfully admitted for permanent residence under the INA (8 U.S.C. 1101 et seq);

(b) A refugee admitted to the United States as a refugee under section 207 of the INA (8 U.S.C. 1157);

(c) A non-citizen granted asylum under section 208 of the INA (8 U.S.C. 1158);

(d) A non-citizen whose deportation is being withheld under section 243(h) of the INA (8 U.S.C. 1253(h)) (as in effect immediately before April 1, 1997) or section 241(b)(3) of the INA (8 U.S.C. 1231(b)(3)) (as amended by section 305(a) of division C of the Omnibus Consolidated Appropriations Act of 1997, Pub. L. No. 104-208, 110 Stat. 3009-597 (1996));

(e) A non-citizen paroled into the United States under section 212(d)(5) of the INA (8 U.S.C. 1182(d)(5)) for a period of at least one year;

(f) A non-citizen granted conditional entry pursuant to section 203(a)(7) of the INA (8 U.S.C. 1153(a)(7)) as in effect prior to April 1, 1980;

(g) A non-citizen who is a Cuban and Haitian entrant (as defined in section 501(3) of the Refugee Education Assistance Act of 1980);

(h) An Afghan or Iraqi alien granted Special Immigration Status (SIV) under section 101(a)(27) of the INA; or

(i) A battered spouse or dependent child who meets the requirements of 8 U.S.C. 1641(c) and is in the United States on a conditional resident status, as determined by the U.S. Citizenship and Immigration Services.

(69) "Reasonable opportunity period":

(a) May be used to obtain necessary verification or resolve discrepancy regarding US citizenship or non-citizen status or discrepancies between self-attested information and electronic data match.

(b) Begins on and must extend 90 days from the date on which notice is received by the individual. The date on which the notice is received is considered to be five days after the date on the notice, unless the individual shows that he or she did not receive the notice within the five-day period.

(c) May be extended beyond 90 days if the individual is making a good faith effort to resolve any inconsistencies or obtain any necessary documentation or the Agency needs more time to complete the verification process.

(70) "Redetermination" means a review of eligibility outside of regularly scheduled renewals. Redeterminations that result in the assignment of a new renewal date or a change in program are considered renewals.

(71) "Renewal" means a regularly scheduled periodic review of eligibility resulting in a renewal or change of program benefits, including the assignment of a new renewal date or a change in eligibility status.

(72) "Required documentation" means:

(a) Facts to support the Agency's decision on the application; and

(b) Either:

(A) A finding of eligibility or ineligibility; or

(B) An entry in the case record that the applicant voluntarily withdrew the application, and the Agency sent a notice confirming the decision, that the applicant has died or that the applicant cannot be located.

(73) "Secure electronic interface" means an interface which allows for the exchange of data between Medicaid or CHIP and other insurance affordability programs and adheres to the requirements in 42 CFR part 433, subpart C.

(74) "Shared eligibility service" means a common or shared eligibility system or service used by a state to determine individuals' eligibility for insurance affordability programs.

(75) "Sibling" means natural or biological, adopted or half or step sibling.

(76) "Spouse" means an individual who is legally married to another individual under:

(a) The statutes of the state where the marriage occurred;

(b) The common law of the state in which two individuals previously resided while meeting the requirements for common law marriage in that state; or

(c) The laws of a country in which two individuals previously resided while meeting the requirements for legal marriage in that country.

(77) "SSA" means Social Security Administration.

(78) "Tax dependent" has meaning given the term "dependent" under section 152 of the Internal Revenue Code, as an individual for whom another individual claims a deduction for a personal exemption under section 151 of the Internal Revenue Code for a taxable year.

(79) "Title IV-E" means Title IV-E of the Social Security Act (42 U.S.C. §§ 671-679b).

Stat. Auth.: ORS 411.095, 411.402, 411.404, 413.038, 414.025, 414.534

Stats. Implemented: ORS 411.095, 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440, 414.534, 414.536, 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

410-200-0100

Coordinated Eligibility and Enrollment Process with the Department of Human Services and Cover Oregon

(1) This rule describes Oregon Health Authority's (Authority) coordination of eligibility and enrollment with the Department of Human Services (Department) and Cover Oregon (Exchange). The Authority shall:

(a) Minimize the burden on individuals seeking to obtain or renew eligibility or to appeal a determination of eligibility for insurance affordability programs;

(b) Ensure determinations of eligibility and enrollment in the appropriate program without undue delay, consistent with timeliness standards described in OAR 410-200-0110 based on the application date;

ADMINISTRATIVE RULES

(c) Provide coordinated content for those household members whose eligibility status is not yet determined; and

(d) Screen every applicant or beneficiary who submits an application or renewal form, or whose eligibility is being renewed under a change in circumstance, for criteria that identify individuals for whom MAGI-based income methods do not apply.

(2) For individuals undergoing eligibility determination based on MAGI-based methodology and standards, the Authority, consistent with the timeliness standards described in OAR 410-200-0110, must:

(a) Determine eligibility for MAGI Medicaid/CHIP on the basis of having household income at or below the applicable MAGI-based standard, or

(b) If ineligible under section (a) or if eligible for CAWEM-level benefits only, screen for APTC and refer to Cover Oregon.

(3) If ineligible for MAGI Medicaid/CHIP for individuals undergoing a Medicaid eligibility determination on a basis other than MAGI-based standards, the Authority must, consistent with the timeliness standards described in OAR 410-200-0110:

(a) Screen for eligibility for Medicaid on a basis other than MAGI-based standards, as indicated by information provided on the application or renewal form.

(b) Transfer via secure electronic interface the individual's electronic account information to the Department, as appropriate, and provide timely notice to the Department that the individual is not eligible for OCCS medical programs but that a final determination of Medicaid eligibility on other bases is still pending.

(c) Provide notice to the individual that:

(A) The Authority has determined the individual ineligible for OCCS medical programs;

(B) The Department is continuing to evaluate Medicaid eligibility on one or more other bases, including a plain language explanation of the other bases being considered.

(C) The notice must include coordinated content relating to the transfer of the individual's electronic account to the Department, as appropriate; and

(D) There is a right to a hearing to challenge the eligibility decision.

(d) Provide or assure that the Department has provided the individual with notice of the final determination of eligibility on one or more other bases.

(4) For beneficiaries found ineligible for ongoing OCCS medical program benefits, the Authority shall maintain OCCS medical program benefits while eligibility is being determined by the Department or Cover Oregon and may not take action to close benefits until determination of eligibility for other insurance affordability programs is complete.

(5) Coordination among agencies:

(a) The Authority shall maintain a secure electronic interface through which the Authority can receive an individual's electronic account, including any information provided by the individual as part of an appeal to any Agency, from the Department and Cover Oregon;

(b) The Authority may not request information or documentation from the individual included in the individual's electronic account or provided to the Agency; and

(c) If information is available through electronic data match and is useful and related to eligibility for OCCS Medical Programs, the Authority must obtain the information through electronic data match.

(6) Cover Oregon may perform any obligation of the Authority under these rules pertaining to MAGI Medicaid/CHIP except for hospital presumptive eligibility. Each Agency must either complete the processing of any application or redetermination for medical benefits or transfer the application to another Agency for completion.

Stat. Auth.: ORS 411.402, 411.404, 413.042 & 414.534

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032,

413.038, 414.025, 414.231, 414.440, 414.534, 414.536 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f.

& cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

410-200-0105

Hospital Presumptive Eligibility

This rule sets out when an individual is presumptively eligible for MAGI Medicaid/CHIP, BCCTP, and Former Foster Care Youth Medical (OAR 413-100-0457) based on the determination of a qualified hospital.

(1) The qualified hospital will determine Hospital Presumptive Eligibility for MAGI Medicaid/CHIP, BCCTP, or Former Foster Care Youth Medical based on the following information declared by the individual:

(a) Family size;

(b) Household income;

(c) Receipt of other health coverage;

(d) US citizenship, US national or non-citizen status.

(2) To be eligible via Hospital Presumptive Eligibility, an individual must be a US citizen, US National or meet the citizenship and alien status requirements found in 410-200-0215 and one of the following:

(a) A child under the age of 19 with income at or below 300 percent of the federal poverty level;

(b) A parent or caretaker relative of a dependent child with income at or below the MAGI Parent or Other Caretaker Relative income standard for the appropriate family size in OAR 410-200-0315;

(c) A pregnant woman with income at or below 185 percent of the federal poverty level;

(d) A non-pregnant adult between the ages of 19 through 64 with income at or below 133 percent of the federal poverty level; or

(e) A woman under the age of 65 who has been determined eligible for the Breast and Cervical Cancer Treatment Program (OAR 410-200-0400).

(f) An individual under the age of 26 who was in Oregon foster care on their 18th birthday.

(3) To be eligible via Hospital Presumptive Eligibility, an individual must not:

(a) Be receiving SSI benefits;

(b) Be a Medicaid/CHIP beneficiary;

(c) Be age 65 or above; or

(d) Have received Hospital Presumptive Eligibility for any portion of the full year (365 days) preceding a new Hospital Presumptive Eligibility period.

(4) In addition to the requirements outlined in sections (2) and (3) above, the following requirements also apply:

(a) To receive MAGI Adult benefits via Hospital Presumptive Eligibility, an individual may not be entitled to or enrolled in Medicare benefits under part A or B of Title XVIII of the Act.

(b) To receive MAGI CHIP benefits via Hospital Presumptive Eligibility, an individual may not be covered by any minimum essential coverage that is accessible. See OAR 410-200-0410(2)(c).

(c) To receive BCCTP benefits via Hospital Presumptive Eligibility, an individual may not be covered by any minimum essential coverage.

(5) The Hospital Presumptive Eligibility period begins on the earlier of:

(a) The date the qualified hospital determines the individual is eligible; or

(b) The date that the individual received a covered medical service from the qualified hospital, if the hospital determines the individual is eligible and submits the decision to the Authority within five calendar days following the date of service.

(6) The Hospital Presumptive Eligibility period ends:

(a) For individuals on whose behalf a Medicaid/CHIP application has been filed by the last day of the month following the month in which the hospital presumptive eligibility period begins, the day on which the state makes an eligibility determination for MAGI Medicaid/CHIP and sends basic decision notice; or

(b) If subsection (a) is not completed, the last day of the month following the month in which the hospital presumptive eligibility period begins.

(7) A Hospital Presumptive Eligibility decision does not qualify a beneficiary for continuous eligibility (OAR 410-200-0135).

(8) A baby born to a woman receiving benefits during a Hospital Presumptive Eligibility period is not assumed eligible (OAR 410-200-0135).

Stat. Auth.: ORS 411.402, 411.404, 413.042 & 414.534

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032,

413.038, 414.025, 414.231, 414.440, 414.534, 414.536 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f.

& cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

410-200-0110

Application and Renewal Processing and Timeliness Standards

(1) General information as it relates to application processing is as follows:

(a) An individual may apply for one or more medical programs administered by the Authority, the Department, or Cover Oregon using a single streamlined application. An application may be submitted via the Internet, by telephone, via mail, in person, or through other commonly available electronic means. An application and any required verification may be submitted by the applicant, an adult who is in the applicant's household or family, the applicant's authorized representative or, if the applicant is a minor or incapacitated, someone acting on behalf of the applicant.

ADMINISTRATIVE RULES

(b) The Agency must ensure that an application form is readily available to anyone requesting one and that community partners or Agency staff are available to assist applicants to complete the application form or to gather information necessary to verify eligibility.

(c) If the Agency requires additional information to determine eligibility, the Agency must send the applicant or beneficiary written notice that includes a statement of the specific information needed to determine eligibility and the date by which the applicant or beneficiary must provide the required information in accordance with section (6) of this rule.

(d) If an application is filed containing the applicant or beneficiary's name and address, the Agency must send the applicant or beneficiary a decision notice within the time frame established in section (6) of this rule.

(e) An application is complete if all of the following requirements are met:

(A) All information necessary to determine the individual's eligibility and benefit amount is provided on the application for each individual in the household group.

(B) The applicant, even if homeless, provides an address where they can receive postal mail.

(C) The application is signed in accordance with section (5) of this rule.

(D) The application is received by the Agency.

(f) To complete the application process, the applicant must:

(A) With the exception of sections (4) and (5) of this rule, complete and sign an application; and

(B) Provide necessary information to the Agency within the time frame established in section (6) of this rule.

(2) General information as it relates to renewal and redetermination processing is as follows:

(a) The Authority must redetermine eligibility at assigned intervals and whenever a beneficiary's eligibility becomes questionable.

(b) When renewing or redetermining medical benefits, the Agency must, to the extent feasible, determine eligibility using information found in the beneficiary's electronic account and electronic data accessible to the Agency.

(c) If the Agency is unable to determine a beneficiary's eligibility using information found in the beneficiary's electronic account and electronic data accessible to the Agency, then the Agency must provide a pre-populated renewal form to the beneficiary containing information known to the Agency, a statement of the additional information needed to renew eligibility, and the date by which the beneficiary must provide the required information in accordance with section (6) of this rule.

(d) The Agency must assist applicants seeking assistance to complete the pre-populated renewal form or gather information necessary to renew eligibility.

(e) The pre-populated renewal form is complete if it meets the requirements identified in section (1)(e) of this rule.

(f) If the Agency provides the individual with a pre-populated renewal form to complete the renewal process, the individual must:

(A) Complete and sign the form in accordance with section (5) of this rule.

(B) Submit the form via the Internet, by telephone, via mail, in person, and through other commonly available electronic means, and

(C) Provide necessary information to the Agency within the time frame established in section (6) of this rule.

(g) A beneficiary may withdraw a pre-populated renewal form at any time.

(3) A new application is required when:

(a) An individual requests medical benefits and no member of the household group currently receives medical benefits.

(b) A child turns age 19 and is no longer claimed as a tax dependent and wishes to retain medical benefits.

(4) A new application is not required when:

(a) The Agency determines an applicant is ineligible in the month of application and is determining if the applicant is eligible the following month.

(b) The Agency determines a new applicant is ineligible for medical in the months of October, November, or December 2013 for a reason other than failure to complete the application requirements as identified in sections (1) and (5) of this rule, and the Agency is redetermining the applicant's eligibility for the new medical programs effective January 1, 2014.

(c) Eligibility for OCCS medical programs is determined using the individual's Supplemental Nutrition Assistance Program (SNAP) eligibility pursuant to OAR 410-200-0505.

(d) Benefits are closed and reopened during the same calendar month.

(e) A beneficiary's medical benefits are suspended because the beneficiary is an inmate who lives in a public institution and who meets the requirements of OAR 410-200-0140.

(f) An assumed eligible newborn (AEN) is added to a household group receiving medical program benefits.

(g) An individual not receiving medical program benefits is added to an ongoing household group receiving medical program benefits, and eligibility can be determined using information found in the individual or beneficiary's electronic account and electronic data available to the Agency.

(h) Redetermining or renewing eligibility for beneficiaries and the Agency has sufficient evidence to redetermine or renew eligibility for the same or new program.

(i) At renewal, the beneficiary fails to submit additional information requested by the Agency within 30 days, but provides the requested information within 90 days after the date medical benefits were terminated.

(5) Signature requirements are as follows:

(a) The applicant must sign an application, except as follows:

(A) At least one caretaker relative or parent in the household group, or the primary person when there is no parent in the household group, or an authorized representative must sign the initial application for benefits.

(B) An individual required but unable to sign the application may sign with a mark, witnessed by an Agency employee, community partner, insurance broker, or insurance agent.

(C) When renewing eligibility, the Agency successfully determines eligibility using information found in the beneficiary's electronic account and electronic data accessible to the Agency.

(D) When the Agency successfully renews eligibility using information found in the beneficiary's electronic account and electronic data accessible to the Agency, sends an approval notice to the beneficiary on the basis of eligibility, and the beneficiary contacts the Agency providing information that differs from the information used to renew eligibility.

(E) When the application is one for presumptive eligibility only (see OAR 410-200-0105), as determined by a qualified hospital.

(b) When renewing eligibility, if the Agency is unable to determine eligibility using information found in the beneficiary's electronic account and electronic data accessible to the Agency, a signature is required on the pre-populated renewal form sent to the beneficiary for additional information.

(c) Signatures may be submitted and must be accepted by the Agency via internet, mail, telephone, in person, or other electronic means.

(d) An electronic application must be submitted to and received by the Authority with an electronic signature.

(6) Application and renewal processing timeliness standards are as follows:

(a) At initial eligibility determination, the Agency shall inform the individual of timeliness standards and determine eligibility and send a decision notice not later than the 45th calendar day after the Date of Request if:

(A) All information necessary to determine eligibility is present; or

(B) The application is not completed by the applicant within 45 days after the Date of Request.

(b) At initial eligibility determination, the Agency may extend the 45-day period described in section (a) if there is an administrative or other emergency beyond the control of the Agency. The Agency must document the emergency.

(c) Except for periodic renewals of eligibility described in section (d), the Agency provides the reasonable opportunity period to verify information after eligibility has been determined.

(d) At periodic renewal of eligibility, if additional information beyond data available to the Agency on the beneficiary's electronic account or electronic data is required, the Authority must provide the beneficiary at least 45 days from the date of the renewal form to respond and provide necessary information.

(7) Medical program eligibility for October, November, and December 2013 budget months shall be determined in the following order:

(a) For a child applicant, the order is as follows:

(A) Assumed eligibility for OCCS medical programs (see OAR 410-200-0135)

(B) MAA;

(C) EXT;

(D) Oregon Health Plan program categories in the following order:

(i) OHP-OPP;

(ii) OHP-OPC;

(iii) OHP-OP6;

ADMINISTRATIVE RULES

(E) Substitute Care when the child is in Behavioral Rehabilitation Services (BRS) or in Psychiatric Residential Treatment Facility (PRTF) as identified in OAR 410-200-0405;

(F) BCCTP as identified in 410-200-0400;

(G) Continuous Eligibility as identified in OAR 410-200-0135;

(H) MAGI CHIP;

(b) For an adult applicant, the order is as follows:

(A) Assumed eligibility for OCCS medical programs (see OAR 410-200-0135);

(B) MAA;

(C) EXT;

(D) OHP-OPP;

(E) Substitute Care;

(F) BCCTP

(G) OHP-OPU

(8) Medical program eligibility for January 2014 budget month and later is determined in the following order:

(a) For a child applicant, the order is as follows:

(A) Assumed eligibility for OCCS medical programs (see OAR 410-200-0135);

(B) Substitute Care, when the child is in Behavioral Rehabilitation Services (BRS) or in Psychiatric Residential Treatment Facility (PRTF) as identified in OAR 410-200-0405;

(C) MAGI Parent or Other Caretaker Relative Program as identified in OAR 410-200-0420;

(D) Pregnant Woman program as identified in OAR 410-200-0425;

(E) MAGI Child program as identified in OAR 410-200-0415;

(F) EXT as identified in 410-200-0440;

(G) Continuous Eligibility as identified in OAR 410-200-0135;

(H) MAGI CHIP as identified in OAR 410-200-0410;

(I) BCCTP as identified in 410-200-0400.

(b) For an adult applicant, the order is as follows:

(A) Assumed eligibility for OCCS medical programs (see OAR 410-200-0135);

(B) Substitute Care as identified 410-200-0405;

(C) MAGI Parent or Other Caretaker Relative Program as identified in OAR 410-200-0420;

(D) EXT;

(E) MAGI Pregnant Woman Program as identified in OAR 410-200-0425

(F) MAGI Adult Program as identified in OAR 410-200-0435;

(G) BCCTP as identified in OAR 410-200-0400.

Stat. Auth.: ORS 411.402, 411.404, 413.042 & 414.534

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440, 414.534, 414.536 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

410-200-0111

Authorized Representatives

(1) The following individuals may designate an authorized representative:

(a) A caretaker;

(b) The primary person when there is no caretaker in the household group;

(c) An adult in the household group; or

(d) The Agency, if an authorized representative is needed but has not been designated by the individual.

(2) The Agency may accept an applicant or beneficiary's designation of an authorized representative via any of the following methods and must include either a handwritten or electronic signature of both the applicant or beneficiary and designated authorized representative:

(a) The Internet;

(b) E-mail;

(c) Mail;

(d) Telephonic recording;

(e) In person; or

(f) Other electronic means.

(3) Applicants and beneficiaries may authorize their authorized representative to:

(a) Sign an application on the applicant's behalf;

(b) Complete and submit a renewal form;

(c) Receive copies of the applicant or beneficiary's notices and other communications from the Agency; or

(d) Act on behalf of the applicant or beneficiary in any or all other matters with the Agency.

(4) The authorized representative must:

(a) Fulfill all responsibilities encompassed within the scope of the authorized representation as identified in section (3) to the same extent as the individual represented; and

(b) Maintain the confidentiality of any information regarding the applicant or beneficiary provided by the Authority.

(5) In addition to authorized representatives as designated in sections (1) through (4) above, an individual is treated as an authorized representative if the individual has been given authority under state law. Such authority includes but is not limited to:

(a) A court order establishing legal guardianship;

(b) A health care representative, when the individual is unable to make their own decisions; or

(c) A court order establishing power of attorney.

(6) As a condition of serving as an authorized representative, a provider or staff member or volunteer of an organization with a service-providing relationship to the beneficiary must affirm that he or she will adhere to the regulations in 45 CFR 431, subpart F and at 45 CFR 155.260(f) and at 45 CFR 447.10 as well as other relevant state and federal laws concerning conflicts of interest and confidentiality of information.

(7) The power to act as an authorized representative is valid until the Agency is notified via any of the methods described in section (2) of any of the following:

(a) The applicant or beneficiary modifies the authorization or notifies the Agency that the representative is no longer authorized to act on his or her behalf;

(b) The authorized representative informs the Agency that he or she no longer is acting in such capacity; or

(c) There is a change in the legal authority upon which the individual or organization's authority was based.

Stat. Auth.: ORS 411.402, 411.404, 413.042 & 414.534

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440, 414.534, 414.536 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

410-200-0115

OCCS Medical Programs—Effective Dates

(1) Date of Request:

(a) For all OCCS medical programs the applicant or an individual authorized to act on behalf of the applicant must contact the Oregon Health Authority (Authority), the Department of Human Services (Department), or Cover Oregon (Exchange) to request medical benefits. The request may be via the internet, by telephone through a call center, by an Authority contracted outreach worker or community partner, by regular mail, by electronic communication or in person;

(b) The Date of Request is the earlier of the following:

(A) The date the request for medical benefits is received; or

(B) The date the applicant received a medical service, if the request for medical benefits is received by midnight of the following business day.

(c) For current beneficiaries of OCCS medical programs, the Date of Request is one of the following:

(A) The date the beneficiary reports a change requiring a redetermination of eligibility; or

(B) The date the Agency initiates a review, except that the automatic mailing of an application does not constitute a Date of Request.

(d) The Date of Request starts the application processing time frame.

(e) If the application is required under OAR 410-200-0110 and is not received within 45 days after the Date of Request, or within the extended time that the Authority has allowed under OAR 410-200-0110 (Application Processing), the new Date of Request is the date the application is submitted to the Agency.

(2) For EXT, the effective date is determined according to OAR 410-200-0440.

(3) Except for CEM, CEC and EXT, the effective date of medical benefits for new applicants for OCCS medical programs is whichever comes first:

(a) The Date of Request, if the applicant is found eligible as of that date; or

(b) If ineligible on the Date of Request, the first day following the Date of Request on which the client is determined to be eligible within the month of the Date of Request or the following month.

(c) January 1, 2014 if not eligible based on budget month income from the months of October through December 2013, but the budget month income is below the income standard for January 1, 2014.

(4) The effective date for retroactive medical benefits (see OAR 410-200-0130) for MAGI Medicaid/CHIP and BCCTP is the earliest date of eligibility during the three months preceding the Date of Request. The

ADMINISTRATIVE RULES

Authority reviews each month individually for retroactive medical eligibility.

(5) Establishing a renewal date:

(a) Except for CEM, CEC, EXT and as provided in subsection (b) for all OCCS Medical Programs, eligibility must be renewed every 12 months. The renewal date is the last day of the month, determined as follows:

(A) For initial eligibility, the renewal date is determined by counting 12 full months following the initial month of eligibility.

(B) For renewals that are regularly scheduled, the new renewal date is determined by counting 12 full months following the current renewal month.

(C) For redeterminations that are the result of a reported change, the new renewal date is determined by counting 12 full months following the month the change occurred.

(b) Except for OHP-OP6, OHP-OPP and individuals who are 18 turning 19 years of age, all OCCS Medical Program beneficiaries who have renewal dates between October 1, 2013 and March 31, 2014, the renewal date shall be extended as follows:

(A) Renewal dates that fall in October 2013 shall be extended to July 2014.

(B) Renewal dates that fall in November 2013 shall be extended to August 2014.

(C) Renewal dates that fall in December 2013 shall be extended to September 2014.

(D) Renewal dates that fall in January 2014 shall be extended to July 2014.

(E) Renewal dates that fall in February 2014 shall be extended to August 2014.

(F) Renewal dates that fall in March 2014 shall be extended to September 2014.

(6) Acting on Reported Changes (also see Changes That Must Be Reported OAR 410-200-0235):

(a) When the beneficiary reports a change in circumstances at any time other than the renewal month, eligibility must be redetermined for all household group members.

(b) Except for OHP-OPP and MAGI Pregnant Woman, based on the reported change, if the beneficiary is determined to be eligible for another OCCS Medical Program, the effective date for the change is the first of the month following the month in which the determination was made.

(c) For OHP-OPP and MAGI Pregnant Woman, the effective date is the Date of Request.

(d) For OCCS Medical program beneficiaries who were found eligible for OCCS Medical program benefits using non-MAGI-based methods with a benefit start date of December 31, 2013 or earlier, who report changes that may affect eligibility, the following apply:

(A) Eligibility shall be redetermined using the budgeting policies outlined in OARs 410-200-0310 and 410-200-0315; and

(B) If ineligible for Medicaid/CHIP benefits as a result of the redetermination, the effective date of the change shall be delayed until April 1, 2014, the end of the month following timely notice or the next scheduled renewal, whichever is later.

(C) OCCS medical program benefits shall be maintained during the period of time between the loss of eligibility and the APTC or closure effective date of April 1, 2014.

(7) Assumed eligibility:

(a) A pregnant woman eligible for and receiving Medicaid benefits the day the pregnancy ends or who was eligible for and receiving medical under any Medicaid program and becomes ineligible while pregnant is assumed eligible for continuous eligibility through the end of the calendar month in which the 60th day following the last day of the pregnancy falls unless:

(A) She is no longer an Oregon resident; or

(B) She requests medical benefits to be closed.

(b) A child born to a mother eligible for and receiving Medicaid, OHP-CHP or MAGI CHIP benefits is an assumed eligible newborn (AEN) for medical benefits until the end of the month the child turns one year of age, unless:

(A) The child dies;

(B) The child is no longer an Oregon resident; or

(C) The child's representative requests a voluntary termination of the child's eligibility.

(8) Twelve-Month Continuous Eligibility:

(a) A child determined eligible for MAGI Medicaid/CHIP or BCCTP at initial eligibility or at the renewal period shall have a 12-month continuous enrollment period. The 12-month continuous enrollment period begins

on the Date of Request or date the child is initially found eligible, whichever is later, and continues for the following 12 full months.

(b) For a child transitioning from another Medicaid program, the 12-month continuous enrollment period begins the first month following the month in which the other Medicaid program ends.

(9) Suspending or Closing Medical Benefits:

(a) The effective date for closing all OCCS medical program benefits is the earliest of:

(A) The date of a beneficiary's death;

(B) The last day of the month in which the beneficiary becomes ineligible and a timely continuing benefit decision notice is sent;

(C) The day prior to the start date for Office of Child Welfare Programs or OSIPM for beneficiaries transitioning from an OCCS medical program;

(D) The date the program ends; or

(E) The last day of the month in which a timely continuing benefit decision notice is sent if ongoing eligibility cannot be determined because the beneficiary does not provide required information within 30 days.

(b) Prior to closing medical benefits, the Agency must determine eligibility for all other insurance affordability programs.

(c) For suspension of OCCS Medical Program eligibility of beneficiaries who become incarcerated, see 461-200-0140.

(10) Denial of Benefits. The effective date for denying OCCS Medical Program benefits is the earlier of the following:

(a) The date the decision is made that the applicant is not eligible and notice is sent; or

(b) The end of the application processing time frame, unless the time period has been extended to allow the applicant more time to provide required verification.

(11) Eligibility Following Closure:

(a) The Authority must reconsider in a timely manner (see OAR 410-200-0110 Application Processing) the eligibility of an individual who:

(A) Lost OCCS Medical Program eligibility because they did not return necessary required information or pursue an available asset; and

(B) Within 90 days of the medical closure date, submits the information necessary for the eligibility determination.

(b) If the individual is found to meet OCCS Medical Program eligibility based on the completed redetermination, eligibility shall be restored back to the day after medical benefits ended.

Stat. Auth.: ORS, 411.402, 411.404, 413.042 & 414.534

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440, 414.534, 414.536 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

410-200-0120

Notices

(1) Except as provided in this rule, the Authority shall send:

(a) A basic decision notice whenever an application for OCCS Medical Program benefits is approved or denied;

(b) A timely continuing benefit decision notice whenever OCCS Medical Program benefits are reduced or closed.

(2) For a beneficiary who is placed in a public institution or a correctional facility, the Authority shall send a basic decision notice to close, reduce or suspend OCCS Medical Program benefits.

(3) For a beneficiary who has been placed in skilled nursing care, intermediate care, or long-term hospitalization, the Authority shall send a basic decision notice to close, suspend or reduce OCCS Medical Program benefits.

(4) The Authority shall send a basic decision notice to close OCCS Medical Program benefits for a beneficiary who has received them for less than 30 days and who is ineligible for any insurance affordability program.

(5) When returned mail is received without a forwarding address and the beneficiary's whereabouts are unknown, the Authority shall send a basic decision notice to end benefits if the mail was sent by regular mail. If the returned mail was sent electronically, the Authority shall resend by regular mail within three business days. The date on the notice shall be the date the notice is sent by regular mail.

(6) The Authority shall send one of the following notices when a beneficiary ceases to be an Oregon Resident:

(a) A timely continuing benefit notice; or

(b) A basic decision notice if the beneficiary is eligible for benefits in the other state.

(7) Except as provided in section (9) of this rule, to close medical program benefits based on a request made by the beneficiary, another adult member of the household group or the authorized representative, the Authority shall send the following decisions notices:

ADMINISTRATIVE RULES

(a) A timely continuing benefit decision notice when an oral request is made to close benefits;

(b) A basic decision notice when a signed, written request to withdraw, end or reduce benefits is made;

(c) A basic decision notice when an oral request to withdraw an application for benefits is made.

(8) No other notice is required when an individual completes a voluntary agreement if all of the following are met:

(a) The Authority provides the individual with a copy of the completed agreement; and

(b) The Authority acts on the request by the date indicated on the form.

(9) No decision notice is required in the following situations:

(a) The only individual in the household group dies;

(b) A hearing was requested after a notice was received and either the hearing request is dismissed or a final order is issued.

(10) Decision notices must be written in plain language and be accessible to individuals who are limited English proficient and individuals with disabilities. In addition:

(a) All decision notices must include:

(A) A statement of the action taken.

(B) A clear statement listing the specific reasons why the decision was made and the effective date of the decision;

(C) Rules supporting the action;

(D) Information about the individual's right to request a hearing and the method and deadline to request a hearing;

(E) Details about medical programs for which eligibility is not MAGI-based and information regarding how to request a determination for such programs;

(F) A statement indicating under what circumstances a default order may be taken;

(G) Information about the right to counsel at a hearing and the availability of free legal services.

(b) A decision notice approving OCCS Medical Program benefits including retroactive medical, must include:

(A) The level of benefits and services approved;

(B) If applicable, information relating to premiums, enrollment fees and cost sharing; and

(C) The changes that must be reported and the process for reporting changes.

(c) A decision notice reducing, denying or closing OCCS Medical Program benefits must include information about a beneficiary's right to continue receiving benefits.

(11) The Authority may amend:

(a) A decision notice with another decision notice; or

(b) A contested case notice.

(12) Except as the notice is amended, or when a delay results from the client's request for a hearing, a notice to reduce or close benefits becomes void if the reduction or closure is not made effective on the date stated on the notice.

(13) The Authority must provide individuals with a choice to receive decision notices and information referenced in this rule in an electronic format or by regular mail. If an individual chooses to receive notices and information electronically and has established an online account with Cover Oregon, the Authority must:

(a) Send confirmation of this decision by regular mail;

(b) Post notices to the individual's electronic account within one business day of the date on the notice;

(c) Send an email or other electronic communication alerting the individual that a notice has been posted to their electronic account;

(d) At the request of the individual, send by regular mail any notice or information delivered electronically;

(e) Inform the individual of the right to stop receiving electronic notices and information and begin receiving these through regular mail; and

(f) If any electronic communication referenced above is undeliverable, send the notice by regular mail within three business days of the failed communication.

Stat. Auth.: ORS 411.402, 411.404, 413.042 & 414.534

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440, 414.534, 414.536 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

410-200-0125

Acting on Reported Changes

(1) Redeterminations:

(a) When an OCCS Medical Program beneficiary or authorized representative makes a timely report of a change in circumstances at any time between regular renewals of eligibility that may affect the beneficiary's eligibility, the Authority must promptly redetermine eligibility before reducing or ending medical benefits;

(b) The Authority must limit requests for information from the individual to information related to the reported change;

(c) If the Authority has enough information to determine eligibility, a new 12-month renewal period must be given after a redetermination;

(d) If the Authority has information about anticipated changes in a beneficiary's circumstances that may affect eligibility, it must redetermine eligibility at the appropriate time based on the changes.

(2) For beneficiaries whose eligibility was determined prior to October 2013, changes reported in October, November or December 2013 may result in loss of eligibility for the OCCS Medical Program using the policies outlined in OAR 410-200-0310. For these beneficiaries:

(a) Information used for the October, November or December 2013 redetermination shall be used to determine eligibility for January 1, 2014 in the MAGI Child, MAGI Parent or Other Caretaker Relative, MAGI Pregnant Woman, or MAGI Adult programs. If eligible, the effective date of eligibility for the program is January 1, 2014;

(b) If ineligible for MAGI Child, MAGI Parent or Other Caretaker Relative, MAGI Pregnant Woman, or MAGI Adult programs using information from the October, November or December 2013 redetermination, the applicant shall be referred to the appropriate Agency in accordance with OAR 410-200-0100;

(c) OCCS Medical Program benefits may not be maintained during the period of time between the loss of eligibility and the January 1, 2014, effective date, or the effective date determined by another Agency.

(3) For beneficiaries who were determined eligible for OCCS Medical Program benefits prior to January 1, 2014 without using MAGI-based methodology who report changes that may affect eligibility in January, February or March, 2014:

(a) Eligibility shall be redetermined using the budgeting policies outlined in OAR 410-200-0310;

(b) If eligible for MAGI Medicaid/CHIP, CEC, CEM, EXT or BCCTP, a new 12-month eligibility period shall be applied;

(c) If ineligible for MAGI Medicaid/CHIP, CEC, CEM, EXT or BCCTP, using information gained during the January, February or March 2014 redetermination:

(A) Eligibility shall be maintained until April 1, 2014 or the end of the timely continuing benefits notice period, whichever is later; and

(B) The beneficiary shall be referred to the appropriate Agency in accordance with OAR 410-200-0100.

Stat. Auth.: ORS 411.402, 411.404, 413.042 & 414.534

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440, 414.534, 414.536 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

410-200-0130

Retroactive Medical

(1) Effective 10/01/13: The Authority may evaluate the following for retroactive medical eligibility:

(a) Applicants requesting OCCS medical programs may be evaluated for retroactive medical benefits if they have unpaid medical bills or received donated medical services in Oregon in the three months preceding the Date of Request which would have been covered by Medicaid/CHIP benefits;

(b) Deceased individuals who would have been eligible for Medicaid covered services had they, or someone acting on their behalf, applied.

(2) If eligible for retroactive medical, the individual's eligibility may not start earlier than the date indicated by OAR 410-200-0115 Effective Dates.

(3) The Authority reviews each month individually for retroactive medical eligibility.

(4) The Authority shall evaluate requests for retroactive medical benefits submitted prior to Jan 1, 2014 using 2013 Medicaid/CHIP eligibility requirements as outlined in OAR 410-200-0510.

(5) Retroactive Medical eligibility shall not be determined on the basis of Hospital Presumptive Eligibility (OAR 410-200-0105).

Stat. Auth.: ORS 411.402, 411.404 & 414.534

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 413.032, 414.025, 414.231, 414.534, 414.536 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

ADMINISTRATIVE RULES

410-200-0135

Assumed Eligibility and Continuous Eligibility for Children and Pregnant Women

This rule sets out when an individual is eligible for OCCS Medicaid/CHIP based Continuous Eligibility or being assumed eligible as of January 1, 2014.

(1) Assumed Eligibility. A child born to a mother eligible for and receiving Medicaid benefits is assumed eligible for the MAGI Child program until the end of the month in which the child turns one year of age, unless:

- (a) The child dies;
- (b) The child is no longer a resident of Oregon; or
- (c) The child's representative requests a voluntary termination of the child's eligibility.

(2) Continuous Eligibility

(a) Children under age 19 eligible for and receiving medical assistance under any Medicaid or CHIP program who lose eligibility for the medical program prior to the 12-month renewal date shall remain eligible until the end of the renewal month, regardless of any change in circumstances, except for the following:

- (A) No longer an Oregon resident;
- (B) Death;
- (C) Turning age 19;
- (D) For children in the CHIP program, receipt of minimum essential coverage; or

(E) When any adult in the household group requests the medical benefits are closed.

(b) Pregnant women eligible for and receiving medical assistance under any Medicaid program who lose eligibility for the medical program are eligible for continuous eligibility through the end of the calendar month in which the 60th day following the last day of the pregnancy falls, except in the following circumstances:

- (A) She is no longer an Oregon resident;
- (B) Death; or
- (C) She requests medical benefits are closed.

Stat. Auth.: ORS 411.095, 411.402, 411.404, 413.038, 414.025 & 414.534

Stats. Implemented: ORS 411.095, 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440, 414.534, 414.536 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

410-200-0140

Eligibility for Inmates

(1) An inmate of a public institution is not eligible for OCCS Medical Programs, Effective 10/01/13.

(2) If an OCCS Medical Program beneficiary becomes an inmate of a public institution with an expected stay of no more than 12 months, medical benefits shall be suspended for up to 12 full calendar months during the incarceration period.

(3) Suspended benefits shall be restored to the first day the individual is no longer an inmate without the need for a new application, when:

(a) The individual reports their release to the Agency within 10 days of the release date;

(b) The individual reports their release to the Agency more than 10 days from the release date, and there is good cause for the late reporting; or

(c) The inmate is released to a medical facility and begins receiving treatment as an inpatient, providing the facility is not associated with the institution where the individual was an inmate.

(4) Benefits may be restored pursuant to section (3) if:

(a) The individual is still within their 12-month eligibility period, then the eligibility renewal date shall be retained; or

(b) The individual is no longer within their 12-month eligibility period, then the date that the individual reports their release shall be treated as the Date of Request for redetermination of eligibility.

Stat. Auth.:

Stats. Implemented: ORS, 411.070, 411.404, 411.439, 411.443, 411.445, 411.816, 412.014, 412.049 & 414.426

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

410-200-0145

Contested Case Appeals

(1) For the purposes of this rule, timely means within 90 days of the date the notice of adverse action is received.

(2) This rule applies to contested case appeals for programs described in OAR chapter 410 division 200. Contested case appeals are conducted in accordance with the Attorney General's model rules at OAR 137-003-0501

and following and ORS Ch. 183 except to the extent that Authority rules provide for different procedures.

(3) The Authority's contested case appeals governed by this rule are not open to the public and are closed to nonparticipants, except nonparticipants may attend subject to the parties' consent and applicable confidentiality laws.

(4) A claimant may request a contested case appeal upon the timely completion of an appeal request in medical assistance programs in the following situations:

(a) The Authority has not approved or denied an application within 45 days of the Date of Request for benefits or the extended time the Authority has allowed for processing;

(b) The Authority acts to deny, reduce, close or suspend medical assistance, including the denial of continued benefits pending the outcome of a contested case appeal;

(c) The Authority claims that an earlier medical assistance payment was an overpayment;

(d) A claimant claims that the Authority previously under issued medical assistance;

(e) A claimant disputes the current level of benefits.

(5) The claimant has the burden of proof.

(6) An officer or employee of the Authority or the Department of Human Services may appear on behalf of the Authority in medical assistance appeals described in this rule. The Authority's lay representative may not make legal argument on behalf of the Authority.

(7) The Authority representative is subject to the Code of Conduct for Non-Attorney Representatives at Administrative Hearings, which is maintained by the Oregon Department of Justice and available on its website at <http://www.doj.state.or.us>. An Authority representative appearing under this rule must read and be familiar with it.

(8) When an Authority representative is used, requests for admission and written interrogatories are not permitted.

(9) The Authority representative and the claimant may have an informal conference in order to:

(a) Provide an opportunity to settle the matter;

(b) Review the basis for the eligibility determination, including reviewing the rules and facts that serve as the basis or the decision;

(c) Exchange additional information that may correct any misunderstandings of the facts relevant to the eligibility determination; or

(d) Consider any other matters that may expedite the orderly disposition of the appeal.

(10) A client who is receiving medical assistance benefits and who is entitled to a continuing benefit decision notice may, at the option of the client, receive continuing benefits in the same manner and amount until a final order resolves the contested case. In order to receive continuing benefits, a client must request an appeal not later than the later of:

(a) The tenth day following the date the notice is received; and

(b) The effective date of the action proposed in the notice.

(11) The continuing benefits are subject to modification based on additional changes affecting the client's eligibility or level of benefits.

(12) When a claimant contests the denial of continuing benefits, the claimant shall receive an expedited appeal.

(13) In computing timeliness under sections (1) and (10) of this rule:

(a) Delay caused by circumstances meeting the good cause criteria described in OAR 137-003-0501(7) shall not be counted; and

(b) The notice is considered to be received on the fifth day after the notice is sent unless the claimant shows the notice was received later or was not received.

Stat. Auth.: ORS 411.404, 411.816, 412.014, 412.049 & 413.042

Stats. Implemented: ORS 183.452, 411.060, 411.404, 411.816, 412.014 & 412.049

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

410-200-0146

Final Orders, Dismissals and Withdrawals

(1) When the Authority refers a contested case under chapter 410 division 200 to the Office of Administrative Hearings (OAH), the Authority must indicate on the referral:

(a) Whether the Authority is authorizing a proposed order, a proposed and final order or a final order; and

(b) If the Authority establishes an earlier deadline for written exceptions and argument because the contested case is being referred for an expedited appeal.

(2) When the Authority authorizes either a proposed order or a proposed and final order:

ADMINISTRATIVE RULES

(a) The claimant may file written exceptions and written argument to be considered by the Authority. The exceptions and argument must be received at the location indicated in the OAH order not later than the 20th day after service of the proposed order or proposed and final order, unless subsection (1)(b) of this rule applies;

(b) Proposed Orders. After OAH issues a proposed order, the Authority shall issue the final order, unless the Authority requests that OAH issue the final order pursuant to OAR 137-003-0655;

(c) Proposed and Final Orders. If the claimant does not submit timely exceptions or arguments following a proposed and final order, the proposed and final order becomes a final order on the 21st day after service of the proposed and final order unless:

(A) The Authority has issued a revised order; or

(B) Has notified the claimant and OAH that the Authority shall issue the final order.

(d) When the Authority receives timely exceptions or argument, the Authority shall issue the final order, unless the Authority requests that OAH issue the final order.

(3) In a contested case appeal if the OAH is authorized to issue a final order on behalf of the Authority, the Authority may issue the final order in the case of default.

(4) A petition by a claimant for reconsideration or rehearing must be filed with the individual who signed the final order, unless stated otherwise on the final order.

(5) A final order is effective immediately upon being signed or as otherwise provided in the order. Delay due to a postponement or continuance granted at the claimant's request shall not be counted in computing time limits for a final order. A final order shall be issued or the case otherwise resolved no later than:

(a) Ninety (90) days following the date of the appeal for the standard appeal time frame.

(b) Three (3) working days after the date the OAH hears an expedited appeal.

(6) In the event a request for appeal is not timely or the claimant has no right to a contested case appeal on an issue, and there are no factual disputes about whether this division of rules provides a right to an appeal, the Authority may issue an order accordingly. The Authority may refer an untimely request to the OAH for an appeal on timeliness or on the question of whether the claimant has the right to a contested case appeal.

(7) When the Authority receives an appeal request that is not filed within 90 days of the date of the decision notice but is filed within 75 days after a decision notice has become a final order:

(a) The Authority may refer the appeal request to the OAH for a contested case appeal on the merits of the Authority's action described in the notice:

(A) If the Authority finds that the claimant and claimant's representative did not receive the decision notice and did not have actual knowledge of the notice; or

(B) If the Authority finds that the claimant did not meet the timeframe required by OAR 410-200-0145(5) due to excusable mistake or neglect, which may be due to significant cognitive or health issues, reasonable reliance on the statement of an Agency employee relating to procedural requirements or due to misrepresentation or other misconduct of the Agency.

(b) The Authority may dismiss an appeal request if it is untimely and if the claimant does not qualify for an appeal under subsection (7)(a).

(c) The Authority may refer an appeal request to the OAH on the issue of a factual dispute about timely receipt of a notice or a factual dispute about whether a late request was caused by circumstances meeting the good cause criteria described in OAR 137-003-0501(7).

(8) When the Authority receives an appeal request more than 75 days after a decision notice became a final order:

(a) For an overpayment notice:

(A) The Authority shall verify whether its records indicate the liable adult requesting the appeal was sent the overpayment notice to the address known to the Agency;

(B) If no overpayment notice was sent to the liable adult, the overpayment appeal request is timely. The Authority shall send the claimant a decision notice or a contested case notice;

(C) If the Authority determines that an overpayment notice was sent to the liable adult at the last address known to the Agency, there is no appeal right based on the issue of whether or not the appeal request was received timely.

(b) Any appeal request is treated as timely when required under the Servicemembers Civil Relief Act.

(c) The Authority may dismiss an appeal request as untimely if the claimant does not qualify for an appeal under subsections 8(a) and (b).

(9) A claimant may withdraw an appeal request at any time before a final order has been issued on the contested case. When a claimant withdraws an appeal request:

(a) The Authority shall send an order confirming the withdrawal to the claimant's last known address.

(b) The claimant may cancel the withdrawal in writing. The withdrawal must be received by the Authority hearing representative no later than the tenth working day following the date the Authority sent the order confirming the withdrawal.

(10) An appeal request is dismissed by order by default when neither the claimant nor the claimant's representative appears at the time and place specified for the appeal. The order is effective on the date scheduled for the appeal. The Authority shall cancel the dismissal order on request of the claimant on a showing that the claimant was unable to attend the appeal and unable to request a postponement due to circumstances meeting the good cause criteria described in OAR 137-003-0501(7).

Stat. Auth.: ORS 183.341, 413.042, 411.060, 411.404, 411.408, 411.816, 412.014 & 412.049
Stats. Implemented: ORS 183.341, 411.060, 411.404, 411.408, 411.816, 412.014 & 412.049
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

410-200-0200

Residency Requirements

(1) To be eligible for OCCS Medical Programs, an individual must be a resident of Oregon.

(2) An individual is a resident of Oregon if the individual lives in Oregon except:

(a) An individual 21 years of age or older who is placed in a medical facility in Oregon by another state is considered to be a resident of the state that makes the placement if:

(A) The individual is capable of indicating intent to reside; or

(B) The individual became incapable of indicating intent to reside after attaining 21 years of age (see section (6)).

(b) For an individual less than 21 years of age who is incapable of indicating intent to reside or an individual of any age who became incapable of indicating that intent before attaining 21 years of age, the state of residence is one of the following:

(A) The state of residence of the individual's parent or legal guardian at the time of application;

(B) The state of residence of the party who applies for benefits on the individual's behalf if there is no living parent or the location of the parent is unknown, and there is no legal guardian;

(C) Oregon, if the individual has been receiving medical assistance in Oregon continuously since November 1, 1981, or is from a state with which Oregon has an interstate agreement that waives the residency requirement;

(D) When a state agency of another state places the individual, the individual is considered to be a resident of the state that makes the placement.

(3) There is no minimum amount of time an individual must live in Oregon to be a resident. The individual is a resident of Oregon if:

(a) The individual intends to remain in Oregon; or

(b) The individual entered Oregon with a job commitment or is looking for work.

(4) An individual is not a resident if the individual is in Oregon solely for a vacation.

(5) An individual continues to be a resident of Oregon during a temporary period of absence if he or she intends to return when the purpose of the absence is completed.

(6) An individual is presumed to be incapable of indicating intent to reside if the individual falls under one or more of the following:

(a) The individual is assessed with an IQ of 49 or less based on a test acceptable to the Authority;

(b) The individual has a mental age of seven years or less based on tests acceptable to the Authority;

(c) The individual is judged legally incompetent by a court of competent jurisdiction;

(d) The individual is found incapable of indicating intent to reside based on documentation provided by a physician, psychologist or other professional licensed by the State of Oregon in the field of intellectual disabilities.

Stat. Auth.: ORS 411.402, 411.404, 413.042 & 414.534
Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440, 414.534, 414.536 & 414.706
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

ADMINISTRATIVE RULES

410-200-0205

Concurrent and Duplicate Program Benefits

(1) An individual receiving OCCS Medical Program benefits may not receive the following medical benefits at the same time:

- (a) Any other OCCS Medical Program;
- (b) Office of Child Welfare Medical;
- (c) Oregon Youth Authority Medical;
- (d) Oregon Supplemental Income Program-Medical (OSIPM); or
- (e) Refugee Medical Assistance (REFM);

(f) A subsidy through the Family Health Insurance Assistance Program (FHIAP) established by ORS 735.720 to 735.740 or receiving a subsidy through the Office of Private Health Partnerships (OPHP) in accordance with ORS 414.826, 414.831, and 414.839.

(2) An individual may not receive OCCS Medical Program benefits and medical benefits from another state unless the individual's provider refuses to submit a bill to the Medicaid/CHIP agency of the other state and the individual would not otherwise receive medical care.

Stat. Auth.: ORS 411.402, 411.404, 413.042 & 414.534

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440, 414.534, 414.536 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

410-200-0210

Requirement to Provide Social Security Number

(1) The Agency may collect a Social Security Number (SSN) for the following purposes:

(a) The determination of eligibility for benefits. The SSN is used to verify income and other assets and to match with other state and federal records such as the Internal Revenue Service (IRS), Medicaid, child support, Social Security benefits and unemployment benefits;

(b) The preparation of aggregate information and reports requested by funding sources for the program providing benefits;

(c) The operation of the program applied for or providing benefits;

(d) Conducting quality assessment and improvement activities;

(e) Verifying the correct amount of payments, recovering overpaid benefits and identifying any individual receiving benefits in more than one household.

(2) As a condition of eligibility, except as provided in section (5) below, each applicant (including children) requesting medical benefits must:

(a) Provide a valid SSN; or

(b) Apply for an SSN if the individual does not have one and provide the SSN when it is received.

(3) The agency may not deny or delay services to an otherwise eligible individual pending issuance or verification of the individual's SSN or if the individual meets one of the exceptions identified in section (6).

(4) Except as provided in section (6) below, if an applicant does not recall their SSN or has not been issued an SSN and the SSN is not available to the Agency, the Agency must:

(a) Obtain required evidence under SSA regulations to establish the age, the citizenship or alien status and the true identity of the applicant; and

(b) Either assist the applicant in completing an application for an SSN or, if there is evidence that the applicant has previously been issued an SSN, request SSA to furnish the number.

(5) The Agency may request that non-applicants or individuals determined eligible for CAWEM or CAWEM Prenatal provide an SSN on a voluntary basis. The Agency shall use the SSN for the purposes outlined in section (1).

(6) An applicant is not required to apply for or provide an SSN if the individual:

(a) Is determined eligible for CAWEM or CAWEM Prenatal medical;

(b) Does not have an SSN and the SSN may be issued only for a valid-non-work reason;

(c) Is not eligible to receive an SSN;

(d) Is a member of a religious sect or division of a religious sect that has continuously existed since December 31, 1950 and the individual adheres to its tenets or teachings that prohibit applying for or using an SSN; or

(e) Is a newborn that is assumed eligible based on the eligibility of the mother of the newborn and who is under one year of age.

Stat. Auth.: ORS 411.402, 411.404, 413.042 & 414.534

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 413.032, 413.038, 414.025, 414.231, 414.534, 414.536 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

410-200-0215

Citizenship and Alien Status Requirements

(1) Except as provided in section (2) of this rule, to be a beneficiary of a medical program an individual must be:

(a) A citizen of the United States;

(b) A non-citizen who meets the alien status requirements in section (4) of this rule;

(c) A citizen of Puerto Rico, Guam, the Virgin Islands or Saipan, Tinian, Rota or Pagan of the Northern Mariana Islands; or

(d) A national from American Samoa or Swains Islands.

(2) To be eligible for CAWEM benefits, an individual must be ineligible for a Medicaid program solely because he or she does not meet citizenship or alien status requirements set forth in this rule.

(3) An individual is a qualified non-citizen if the individual is any of the following:

(a) A non-citizen lawfully admitted for permanent residence under the INA (8 U.S.C. 1101 et seq);

(b) A refugee admitted to the United States as a refugee under section 207 of the INA (8 U.S.C. 1157);

(c) A non-citizen granted asylum under section 208 of the INA (8 U.S.C. 1158);

(d) A non-citizen whose deportation is being withheld under section 243(h) of the INA (8 U.S.C. 1253(h)) (as in effect immediately before April 1, 1997) or section 241(b)(3) of the INA (8 U.S.C. 1231(b)(3)) (as amended by section 305(a) of division C of the Omnibus Consolidated Appropriations Act of 1997, Pub. L. No. 104-208, 110 Stat. 3009-597 (1996));

(e) A non-citizen paroled into the United States under section 212(d)(5) of the INA (8 U.S.C. 1182(d)(5)) for a period of at least one year;

(f) A non-citizen granted conditional entry pursuant to section 203(a)(7) of the INA (8 U.S.C. 1153(a)(7)) as in effect prior to April 1, 1980;

(g) A non-citizen who is a Cuban and Haitian entrant (as defined in section 501(3) of the Refugee Education Assistance Act of 1980);

(h) An Afghan or Iraqi alien granted Special Immigration Status (SIV) under section 101(a)(27) of the INA; or

(i) A battered spouse or child who meets the requirements of 8 U.S.C. 1641(c) and is in the United States on a conditional resident status, as determined by the U.S. Citizenship and Immigration Services.

(4) A non-citizen meets the alien status requirements if the individual is:

(a) An American Indian born in Canada to whom the provisions of section 289 of the Immigration and Nationality Act (INA) (8 U.S.C. 1359) apply;

(b) A member of an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Act (25 U.S.C. 450b(e));

(c) A veteran of the United States Armed Forces who was honorably discharged for reasons other than alien status and who fulfilled the minimum active-duty service requirements described in 38 U.S.C. 5303A(d);

(d) A member of the United States Armed Forces on active duty (other than active duty for training);

(e) The spouse or a child of an individual described in subsection (c) or (d) of this section.

(f) A qualified non-citizen and meets one of the following criteria:

(A) Effective October 1, 2009 is an individual under 19 years of age;

(B) Was a qualified non-citizen before August 22, 1996;

(C) Physically entered the United States before August 22, 1996, and was continuously present in the United States between August 22, 1996, and the date qualified non-citizen status was obtained. An individual is not continuously present in the United States if the individual is absent from the United States for more than 30 consecutive days or a total of more than 90 days between August 22, 1996 and the date qualified non-citizen status was obtained.;

(D) Has been granted any of the following alien statuses:

(i) Refugee under section 207 of the INA;

(ii) Asylum under section 208 of the INA;

(iii) Deportation being withheld under section 243(h) of the INA;

(iv) Cubans and Haitians who are either public interest or humanitarian parolees;

(v) An individual granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988;

(vi) A "victim of a severe form of trafficking in persons" certified under the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7101 to 7112);

ADMINISTRATIVE RULES

(vii) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003 (22 U.S.C. 7101 to 7112);

(viii) An Iraqi or Afghan alien granted special immigrant status (SIV) under section 101(a)(27) of the INA.

(g) Under the age of 19 and is one of the following:

(A) A citizen of a Compact of Free Association State (i.e., Federated States of Micronesia, Republic of the Marshall Islands, and the Republic of Palau) who has been admitted to the U.S. as a non-immigrant and is permitted by the Department of Homeland Security to reside permanently or indefinitely in the U.S.;

(B) An individual described in 8 CFR section 103.12(a)(4) who belongs to one of the following classes of aliens permitted to remain in the United States because the Attorney General has decided for humanitarian or other public policy reasons not to initiate deportation or exclusion proceedings or enforce departure:

(i) An alien currently in temporary resident status pursuant to section 210 or 245A of the INA (8 USC 1160 and 1255a);

(ii) An alien currently under Temporary Protected Status (TPS) pursuant to section 244 of the INA (8 USC 1229b);

(iii) Cuban-Haitian entrants, as defined in section 202(b) Pub. L. 99-603 (8 USC 1255a), as amended;

(iv) Family Unity beneficiaries pursuant to section 301 of Pub. L. 101-649 (8 USC 1255a), as amended;

(v) An alien currently under Deferred Enforced Departure (DED) pursuant to a decision made by the President;

(vi) An alien currently in deferred action status pursuant to Department of Homeland Security Operating Instruction OI 242.1(a)(22); or

(vii) An alien who is the spouse or child of a United States citizen whose visa petition has been approved and who has a pending application for adjustment of status.

(C) An individual in non-immigrant classifications under the INA who is permitted to remain in the U.S. for an indefinite period, including those individuals as specified in section 101(a)(15) of the INA (8 USC 1101).

(D) An alien in nonimmigrant status who has not violated the terms of the status under which he or she was admitted or to which he or she has changed after admission;

(E) Aliens who have been granted employment authorization under 8 CFR 274a.12(c)(9), (10), (16), (18), (20), (22), or (24);

(F) A pending applicant for asylum under section 208(a) of the INA (8 U.S.C. § 1158) or for withholding of removal under section 241(b)(3) of the INA (8 U.S.C. § 1231) or under the Convention Against Torture who has been granted employment authorization, and such an applicant under the age of 14 who has had an application pending for at least 180 days;

(G) An alien who has been granted withholding of removal under the Convention Against Torture;

(H) A child who has a pending application for Special Immigrant Juvenile status as described in section 101(a)(27)(J) of the INA (8 U.S.C. § 1101(a)(27)(J));

(I) An alien who is lawfully present in the Commonwealth of the Northern Mariana Islands under 48 U.S.C. § 1806(e); or

(J) An alien who is lawfully present in American Samoa under the immigration laws of American Samoa.

(5) Individuals described in sections (3)(a), (3)(e), (3)(f), and (3)(i) of this rule who entered the United States or were given qualified non-citizen status on or after August 22, 1996 meet the alien status requirement five years following the date the non-citizen received the qualified non-citizen status.

(6) Individuals described in sections (3)(a) through (g), (3)(i), (4)(g)(B)(ii), (4)(g)(B)(iv), (4)(g)(B)(v), (4)(g)(B)(vii), and (4)(g)(D) through (J) with deferred action under Deferred Action for Childhood Arrivals (DACA) process do not meet the non-citizen requirement for OCCS medical programs.

Stat. Auth.: ORS 411.402, 411.404, 413.042 & 414.534

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 413.032, 414.025, 414.231, 414.534, 414.536 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

410-200-0220

Requirement to Pursue Assets

(1) As a condition of ongoing eligibility an applicant or beneficiary must make a good faith effort to obtain an asset to which they have a legal right or claim, except an applicant or beneficiary is not required to:

(a) Apply for Supplemental Security Income (SSI) from the Social Security Administration;

(b) Borrow money;

(c) Make a good faith effort to obtain such asset if the individual can show good cause for not doing so (see section (4)).

(2) Pursuable assets include but are not limited to:

(a) Claims related to an injury;

(b) Disability benefits;

(c) Healthcare coverage;

(d) Retirement benefits;

(e) Survivorship benefits;

(f) Unemployment compensation; and

(g) Veteran's compensation and pensions.

(3) Except for beneficiaries in the OHP-CHP or MAGI CHIP programs, caretakers must obtain available health insurance coverage and cash medical support for household group members receiving medical assistance:

(a) Each caretaker in the household group must assist the Agency and the Division of Child Support (DCS) in establishing paternity for each child receiving medical assistance and in obtaining an order directing the non-custodial parent of a child receiving benefits to provide cash medical support and health care coverage for that child;

(b) A parent receiving medical assistance who fails to meet the requirements of section (3) (a) is applied the penalty identified in section (3) (e) or section (3) (f) after providing the beneficiary with notice and opportunity to show the provisions of section (4) of this rule apply;

(c) Each applicant, including a parent for their child, must make a good faith effort to obtain available coverage under Medicare. The Authority may not penalize children for non-cooperation;

(d) With the exception of OHP-CHP, MAGI CHIP and OHP-OPU, caretakers who are OCCS Medical Program beneficiaries must apply for, accept and maintain cost-effective employer-sponsored health insurance as set forth in OAR 461-155-0360 unless they have good cause;

(e) For MAA, MAF, EXT, CEM and SAC medical programs, a parent who fails to meet the requirements of section (3) is excluded from the family size;

(f) With the exception of OHP-CHP, MAGI-CHIP and CEC, a parent of a child receiving OCCS Medical Program benefits who fails to meet the requirements of section (3) is ineligible for assistance.

(4) Section (3) of this rule does not apply to individuals when:

(a) The individual's compliance would result in emotional or physical harm to the dependent child or to the caretaker. The statement of the caretaker serves as prima facie evidence that harm would result;

(b) The child was conceived as a result of incest or rape and efforts to obtain support would be detrimental to the dependent child. The statement of the caretaker serves as prima facie evidence on the issues of conception and detrimental effect to the dependent child;

(c) Legal proceedings are pending for adoption of the child;

(d) The parent is being helped by a public or licensed private social agency to resolve the issue of whether to release the child for adoption;

(e) The individual is pregnant; or

(f) Other good cause reasons exist for noncooperation.

(5) An individual involved in a personal injury must pursue a claim for the personal injury. If the claim or action to enforce such claim was initiated prior to the application for medical assistance, the individual must notify the Agency during the eligibility verification process (see OAR 410-200-0230 Verification). The following information is required:

(a) The names and addresses of all parties against whom the action is brought or claim is made;

(b) A copy of each claim demand; and

(c) If an action is brought, the case number and the county where the action is filed.

(6) Unless specified otherwise in this rule, an individual who fails to comply with the requirements of this rule is ineligible for benefits until the individual meets the requirements of this rule.

Stat. Auth.: ORS 411.402, 411.404 & 413.0042

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 413.032, 414.025, 414.231 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

410-200-0225

Assignment of Rights

(1) The signature of the applicant or authorized representative on the application for assistance signifies the applicant's agreement to assign the rights to reimbursement for medical care costs to the Agency.

(2) As a condition of eligibility, each applicant must:

ADMINISTRATIVE RULES

(a) Assign to the Agency any rights of each household group member receiving benefits to reimbursement for medical care costs to the Agency including any third party payments for medical care and any medical care support available under an order of a court or an administrative agency;

(b) Assign to the Agency any rights to payment for medical care from any third party and, once they receive assistance, to assist the Agency in pursuing any third party who may be liable for medical care or services paid by the Agency, including health services paid for pursuant to ORS 414.706 to 414.750 as set forth in OAR 410-200-0220, 461-195-0303 and 461-195-0310;

(c) Unless good cause exists as established in OAR 410-200-0220 (Requirement to Pursue Assets), failure to assign the right to reimbursement for medical care costs to the Agency shall result in ineligibility for the household group until the requirements of this rule are met.

(3) Except for the OHP-OPU, OHP-CHP and MAGI CHIP programs:

(a) An applicant must assign to the state the right of any Medicaid-eligible individual in the household group to receive any cash medical support that accrues while the individual receives assistance, not to exceed the total amount of assistance paid; and

(b) Cash medical support received by the Agency shall be retained as necessary to reimburse the Agency for medical assistance payments made on behalf of an individual with respect to whom such assignment was executed.

Stat. Auth.: ORS 411.402, 411.404 & 413.042

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 413.032, , 414.025, 414.231 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

410-200-0230

Verification

(1) Except as described in section (6) of this rule, applicants, beneficiaries or individuals of applicant or beneficiary's choosing must attest to the following information:

- (a) Age and date of birth;
- (b) Application for other benefits;
- (c) Caretaker relative status;
- (d) Household composition;
- (e) Legal name;
- (f) Medicare;
- (g) Pregnancy;
- (h) Residency;
- (i) Social Security number; and
- (j) American Indian/Alaska Native status.

(2) Applicants and beneficiaries who attest to US citizenship or US national status:

(a) Applicants, beneficiaries or individuals of applicant or beneficiary's choosing must make a declaration of US citizenship or US national status.

(b) Self-attested information shall be used to determine eligibility and verified post-eligibility via the federal data services hub or by electronic data match available to the Agency.

(c) In the event additional verification is needed, the Authority shall provide a reasonable opportunity period to verify US citizen or US national status.

(3) Applicants and beneficiaries who attest to being a non-citizen:

(a) Applicants, beneficiaries or individuals of applicant or beneficiary's choosing must make a declaration of non-citizen status.

(A) If an individual attests to being a non-citizen but does not provide information regarding their status, information must be obtained by the Agency prior to making an eligibility determination.

(B) Self attested information shall be used to approve OCCS Medicaid/CHIP as long as the information provided is considered satisfactory immigration status:

(i) The application is not considered incomplete even if the information provided does not include all the immigration information necessary to verify that the applicant meets Medicaid/CHIP non-citizen requirements; and

(ii) The information provided does not indicate that the applicant would be ineligible for full benefits.

(C) If information provided indicates the individual does not meet the Medicaid/CHIP non-citizen requirements, an otherwise eligible applicant shall be found eligible for CAWEM (OAR 410-200-0240).

(b) In the event additional verification is needed, the Authority shall provide a reasonable opportunity period to verify non-citizen status.

(c) The following are exempt from the requirement to verify non-citizen status:

(A) Individuals who are assumed eligible (see OAR 410-200-0135);

(B) Individuals who are enrolled in Medicare;

(C) Individuals who are presumptively eligible for the BCCTP Program through the BCCTP screening program or through the Hospital Presumptive Eligibility process (see OAR 420-200-0400 and 410-200-0105);

(D) Individuals receiving Social Security Disability Income (SSDI); or

(E) Individuals whose citizen status was previously documented by the Agency. The Agency may not re-verify or require an individual to re-verify citizenship at a renewal of eligibility or subsequent application following a break in coverage.

(d) Non-citizen status must be reviewed and verified at the following times:

(A) Initial determination of eligibility;

(B) Each redetermination of eligibility; or

(C) When a report of change of non-citizen status is received by the Agency.

(3) Applicants, beneficiaries, or individuals of the applicant or beneficiary's choosing must make a declaration of income:

(a) For individuals whose request for benefits is able to be processed using the federal data services hub, self-attested information shall be used to approve MAGI-based Medicaid/CHIP, and:

(A) Verified by documentary evidence through a match with available electronic data; or

(B) In the event that additional verification is needed, the Authority shall provide a post-eligibility pend period to verify income information.

(b) Individuals whose request for benefits is not able to be processed using the federal data services hub must have their income information verified prior to eligibility determination:

(A) Using electronic data match available to the Agency; or

(B) By providing verification of information to the Agency.

(c) In the event that verification is not available via the federal data services hub, electronic data match available to the Agency, or by any other method, the attested information will be accepted to determine eligibility.

(d) In the event that income verification via the federal data services hub or electronic data match available to the Agency is inconsistent with attested information:

(A) If the individual attests to income below the applicable standard and the data source indicates income above the applicable standard, verification or reasonable explanation will be requested from the individual.

(B) If both the data source and attested information are below the applicable standard, the applicant is eligible for MAGI-based Medicaid/CHIP.

(C) If the individual's attested information is above the applicable standard but the data source verification is below the standard, the Agency will accept the attested information, deny MAGI-based Medicaid/CHIP and screen for potential APTC eligibility.

(4) Additional income verifications for MAGI-based Medicaid/CHIP program approvals will occur during a 90-day look-back process that will review income information used to determine eligibility using income data sources available to the Agency. After the 90-day look-back analysis, the results of a quarterly match against Employment Department wage data will be reviewed as it becomes available. If necessary, documentation may be required per section (6).

(5) Applicants, beneficiaries or individuals of the applicant or beneficiary's choosing must make a declaration of receipt of private health insurance:

(a) For individuals whose request for benefits is able to be processed using the federal data services hub:

(A) Self-attested information shall be used to determine eligibility for MAGI-based Medicaid/CHIP if:

(i) Information obtained through a match with available electronic data does not conflict with self-attested information;

(ii) Information obtained through match with available electronic data conflicts with self-attested information but does not affect eligibility; or

(iii) Verification is not available via match with available electronic data or by any other method at the time of application processing.

(B) In the event that information obtained through a match with available electronic data conflicts with self-attested information and may affect eligibility, private health insurance information must be verified prior to eligibility determination.

(b) Individuals whose request for benefits is not able to be processed using the federal data services hub, who attest to private health insurance

ADMINISTRATIVE RULES

information that may affect eligibility, must have their private health insurance information verified prior to eligibility determination:

- (A) Using electronic data match available to the Agency; or
- (B) By providing verification of information to the Agency.
- (6) The Authority may request that applicants and beneficiaries of medical assistance provide additional information, including documentation, to verify most eligibility criteria if data obtained electronically is not reasonably compatible with attested information.

Stat. Auth.: ORS 411.402, 411.404, 413.042 & 414.534
Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440, 414.534, 414.536 & 414.706
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

410-200-0235

Changes That Must Be Reported

(1) Individuals must report the following changes in circumstances affecting eligibility for beneficiaries within 30 calendar days of its occurrence:

- (a) The receipt or loss of health care coverage;
- (b) A change in mailing address or residence;
- (c) A change in legal name;
- (d) A change in pregnancy status of a household group member;
- (e) A claim for a personal injury. The following information must be reported :

(A) The names and addresses of all parties against whom the action is brought or claim is made;

(B) A copy of each claim demand; and

(C) If an action is brought, identification of the case number and the county where the action is filed.

(f) In addition to section (1) (a) – (e), in the EXT program, when a household group member receiving medical assistance is no longer a dependent child;

(g) In addition to section (1) (a) – (e), in the OHP, and MAGI CHIP programs, a change in availability of employer-sponsored health insurance;

(h) In addition to section (1) (a) – (e), adults in the MAA, MAF, SAC, EXT, BCCTP, MAGI Pregnant Woman, MAGI Parent or Other Caretaker Relative, and MAGI Adult programs:

(A) A change in source of income;

(B) A change in employment status;

(i) For a new job, the change occurs the first day of the new job;

(ii) For a job separation, the change occurs on the last day of employment.

(C) A change in earned income more than \$100. The change occurs upon the receipt by the beneficiary of the first paycheck from a new job or the first paycheck reflecting a new rate of pay;

(D) A change in unearned income more than \$50. The change occurs the day the beneficiary receives the new or changed payment;

(E) A change in membership of the household group;

(F) A change in availability of employer-sponsored health insurance;

(i) In addition to section (1) (a) – (e), beneficiaries of the MAGI Child program:

(A) A change in membership of the household group;

(B) A change in availability of employer-sponsored health insurance.

(2) Beneficiaries, adult members of the household group, or authorized representatives may report changes via the Internet, by telephone, via mail, in person, and through other commonly available electronic means.

(3) A change is considered reported on the date the beneficiary, adult member of the household group, or authorized representative reports the information to the Agency.

(4) A change reported by the beneficiary, adult member of the household group, or authorized representative for one program is considered reported for all programs administered by the Agency in which the beneficiary participates.

(5) Beneficiaries, adult members of the household group, or authorized representatives are not required to report any of the following changes:

(a) Periodic cost-of-living adjustments to the federal Black Lung Program, SSB, SSDI, SSI, and veterans assistance under Title 38 of the United States Code;

(b) Changes in eligibility criteria based on legislative or regulatory actions.

Stat. Auth.: ORS 411.402, 411.404, 413.042 & 414.534
Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 414.025, 414.231, 414.440, 414.534, 414.536 & 414.706
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

410-200-0240

Citizen/Alien Waived Emergent Medical

(1) To be eligible for CAWEM benefits, an individual must be ineligible for OCCS Medical Programs solely because he or she does not meet the citizen or alien status requirements. A child who is ineligible for OHP-CHP, MAGI CHIP, CEM or CEC solely because he or she does not meet the citizen or alien status requirements is not eligible for CAWEM benefits.

(2) To be eligible for the CAWEM Prenatal enhanced benefit package, a CAWEM recipient must be pregnant.

(3) The pregnant CAWEM client's enhanced medical benefits package ends when the pregnancy ends.

(4) The woman remains eligible for CAWEM emergent benefits through the end of the calendar month in which the 60th day following the last day of the pregnancy falls.

Stat. Auth.: ORS 411.402, 411.404, 413.042, 414.025 & 414.534
Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 414.025, 414.231, 414.440, 414.534, 414.536, 414.706 & 411.060
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

410-200-0305

Household Group — Modified Adjusted Gross Income (MAGI) based Medicaid and CHIP

When establishing eligibility for MAGI-based Medicaid or MAGI CHIP, each applicant or beneficiary must have their own countable household group determined individually based on the following household group rules:

(1) Tax payer's household group:

(a) For tax-payers who are not claimed as a tax dependent by another individual, the household group consists of the taxpayer and all individuals whom the tax payer intends to claim as tax dependents;

(b) For tax-payers who are married and living with their spouse, each spouse shall be included in the household group of the other spouse, whether they file taxes together or separately.

(2) Tax dependent's household group:

(a) In the case of an individual who expects to be claimed as a tax dependent by another individual, the household group is that of the individual claiming the tax dependent; or

(b) Household group is determined under section (3) of this rule, where the tax dependent:

(A) Is not the tax payer's spouse or child;

(B) Is a child living with both parents but the parents are not filing taxes jointly and one of the parents is claiming the child as a tax dependent; or

(C) Is a child claimed as a tax dependent by a non-custodial parent.

(3) The household group for a tax dependent who meets the criteria in section (2)(b) consists of the tax dependent and the following individuals, if living in the same household:

(a) The tax dependent's spouse;

(b) The tax dependent's children;

(c) If the tax dependent is a child, the child's parents and siblings.

(4) For individuals who do not file a tax return and are not claimed as a tax dependent, the individual's household group is determined in accordance with section (3).

(5) Notwithstanding the above sections, the household group for an inmate who becomes hospitalized as a patient consists of only the individual.

Stat. Auth.: ORS 411.402, 411.404 & 413.042
Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 414.025, 414.231, 414.440 & 414.706
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

410-200-0310

Eligibility and Budgeting; MAGI Medicaid/CHIP; Not BCCTP or EXT

(1) The budget month means the calendar month from which non-financial and financial information is used to determine eligibility for OCCS Medical Programs.

(2) The budget month is determined as follows:

(a) For a new applicant, the budget month is:

(A) The month in which medical assistance is requested; or

(B) If ineligible in the month in which medical assistance is requested, the budget month is the following month.

(b) For a current Medicaid/CHIP beneficiary, the budget month is:

(A) The final month of the twelve-month enrollment period;

(B) The month a change that affects eligibility is reported, if reported timely; or

ADMINISTRATIVE RULES

(C) The month the individual ages off a medical program or is no longer eligible for a medical assistance program.

(c) For retroactive medical, the budget month is the month in which the applicant received medical services for which they are requesting payment. Retroactive medical is determined on a month-by-month basis.

(3) Countable income anticipated or received in the budget month is determined as follows:

(a) Income is calculated by adding together the income of the household group already received in the budget month, and the income that is reasonably expected to be received in the remainder of the budget month;

(b) If ineligible in the budget month, countable income from the month following the budget month is considered;

(c) If ineligible under subsections (a) or (b) of this section because the countable income is over the income standard for OCCS Medical Programs, income shall be annualized using the requirements in 26 CFR §1.36 B-1(e) for the year in which medical has been requested and applied to the budget month. If the annualized income is below 100 percent FPL as identified in 26 CFR §1.36 B-1(e), eligibility shall be determined for the appropriate program pursuant to OAR 410-200-0315.

(4) The household group's budget month income is compared to the income standard for the appropriate family size to determine if an applicant may be eligible for an OCCS Medical Program.

Stat. Auth.: ORS 411.402, 411.404 & 413.042
Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 414.025, 414.231, 414.440 & 414.706
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

410-200-0315

Standards and Determining Income Eligibility

(1) MAGI-based income not specifically excluded is countable, and its value is used in determining the eligibility and benefit level of an applicant or beneficiary.

(2) MAGI-based income is considered available on the date it is received or the date a member of the household group has a legal right to the payment and the legal ability to make it available, whichever is earlier, except as follows:

(a) Income usually paid monthly or on some other regular payment schedule is considered available on the regular payment date if the date of payment is changed because of a holiday or weekend;

(b) Income withheld or diverted at the request of an individual is considered available on the date the income would have been paid without the withholding or diversion;

(c) An advance or draw of earned income is considered available on the date it is received.

(3) In determining financial eligibility for each applicant, the sum of the budget month MAGI-based income of all household group members is combined and compared to the applicable income standard for the family size. If the income is at or below the MAGI income standard, the individual meets the financial eligibility requirements. Except as provided in section (4)(a), if income exceeds the MAGI income standard, the individual is ineligible.

(4) This section is effective January 1, 2014:

(a) If an individual is ineligible for MAGI Medicaid based solely on income and would otherwise be eligible for MAGI CHIP or be referred to the Exchange for APTC, a disregard equivalent to five (5) percentage points of the federal poverty level for the applicable family size shall be applied the household group's income. If the resulting amount is below the income standard for the applicable program and family size, the individual meets the financial eligibility requirements in the following programs:

- (A) The MAGI Parent or Other Caretaker Relative Program;
- (B) The MAGI Child Program;
- (C) The MAGI Adult Program; and
- (D) The MAGI Pregnant Woman Program.

(b) If an individual is ineligible for MAGI CHIP based solely on income and would otherwise be referred to the Exchange for APTC, a disregard equivalent to five (5) percentage points of the federal poverty level for the applicable family size shall be applied to the household group's income. If the resulting amount is below the income standard for the applicable program and family size, the individual meets the financial eligibility requirements in the MAGI CHIP.

(c) The MAGI income standard for the MAGI Parent or Other Caretaker-Relative program is set as follows: [Table not included. See ED. NOTE.]

(d) The MAGI income standard for the MAGI Child Program and the MAGI Adult Program is set at 133 percent of the FPL as follows. If an individual's household group income exceeds the income standard for their

family size, the appropriate disregard for their family size described in section (4)(a) shall be applied: [Table not included. See ED. NOTE.]

(e) The MAGI income standard for the MAGI Pregnant Woman Program and for MAGI Child Program recipients under age one is set at 185 percent FPL. If an individual's household group income exceeds the income standard for their family size, the appropriate disregard for their family size described in section (4)(a) shall be applied: [Table not included. See ED. NOTE.]

(f) The MAGI income standard for the MAGI CHIP program is set through 300 percent of FPL as follows. If a child's household group income exceeds the income standard for their family size and the child would be otherwise ineligible for MAGI CHIP, the appropriate disregard for their family size described in section (5)(a)(B) shall be applied: [Table not included. See ED. NOTE.]

(5) Effective October 1, 2013 through December 31, 2013, the MAGI income standards listed in this section are used:

(a) Individuals who apply from October 1, 2013 through December 31, 2013 shall first be considered for the programs described in OAR 410-200-0510. Individuals found ineligible based on information from all budget months of October, November or December 2013 shall have their eligibility determined as follows:

(A) For individuals who would be eligible for programs based on eligibility and income standards found in section (4)(c) through (e) as of January 1, 2014, eligibility for the applicable program shall begin as of that date;

(B) For individuals who are ineligible for programs which begin on January 1, 2014 who would otherwise be eligible for MAGI CHIP or be referred to the Exchange for APTC as of January 1, 2014, a disregard equivalent to five (5) percentage points of the federal poverty level for the applicable family size will be applied the household group's income. If the resulting amount is below the January 1, 2014 income standard found in section (4)(c) through (e) for the applicable program and family size, the individual meets the financial eligibility requirements for MAGI Medicaid/CHIP.

(b) The MAGI-based income standard for the MAA and SAC programs is as follows. If a child's household group income exceeds the income standard for their family size and the child would be otherwise ineligible for Medicaid, the appropriate disregard for their family size described in section (5)(a)(B) shall be applied: [Table not included. See ED. NOTE.]

(c) The MAGI-based income standard for the OHP-OPU program is set at 100 percent of the federal poverty level: [Table not included. See ED. NOTE.]

(d) The MAGI-based income standard for the OHP-OPC program is set to 100 percent of the federal poverty level. If a child's household group income exceeds the income standard for their family size and the child would be otherwise ineligible for Medicaid, the appropriate disregard for their family size described in section (5)(a)(B) shall be applied: [Table not included. See ED. NOTE.]

(e) The MAGI-based income standard for the OHP-OP6 program is set at 133 percent of the federal poverty level. If a child's household group income exceeds the income standard for their family size, and the child would be otherwise ineligible for Medicaid, the appropriate disregard for their family size described in section (5)(a)(B) shall be applied: [Table not included. See ED. NOTE.]

(f) The MAGI-based income standard for the OHP-OPP program is set at 185 percent of the federal poverty level. If a child's household group income exceeds the income standard for their family size and the child would be otherwise ineligible for Medicaid, the appropriate disregard for their family size described in section (5)(a)(B) shall be applied: [Table not included. See ED. NOTE.]

(g) The MAGI income standard for the MAGI CHIP program is set through 300 percent of FPL as follows: [Table not included. See ED. NOTE.]

(h) In the MAGI CHIP and MAGI Child Program, when the Department uses a finding made during an ELE determination and the child meets all other MAGI CHIP or MAGI Child Program nonfinancial eligibility requirements, the standard for the number of eligibility group members determined by the ELA is used to determine eligibility regardless of the family size. The countable income of the household group is the same as the income amount determined by the ELA. A child is deemed eligible for MAGI CHIP, or MAGI Child Program as follows:

(A) If the MAGI-based income of the household group is below 163 percent of the federal poverty level as listed below, the Department deems

ADMINISTRATIVE RULES

the child eligible for the MAGI Child Program; [Table not included. See ED. NOTE.]

(B) If the MAGI-based income of the household group is at or above 163 percent of the FPL through 300 percent of the FPL as listed in section (5)(b)(E) of this rule, the Agency deems the child eligible for MAGI CHIP.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 411.402, 411.404 & 413.042

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 414.025, 414.231, 414.440 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

410-200-0400

Specific Requirements; Breast and Cervical Cancer Treatment Program (BCCTP)

This rule establishes eligibility criteria for medical assistance based on an individual's need of treatment for breast or cervical cancer, including pre-cancerous conditions (treatment). The Authority administers the Oregon Breast and Cervical Cancer Treatment Program (BCCTP) by entering into agreements with qualified entities as approved by the Authority to provide screening services for BCCTP funded by the Centers for Disease Control in support of the National Breast and Cervical Cancer Early Detection Program.

(1) To be eligible for BCCTP, an individual must:

(a) Be found to need treatment following screening services provided by a qualified entity;

(b) Be under the age of 65;

(c) Not be covered for treatment by minimum essential coverage; and

(d) Not be eligible for Medicaid through a Medicaid program listed in 42 U.S.C. §1396a(a)(10)(A)(i) (mandatory Medicaid eligibility groups).

(2) An individual is presumptively eligible for BCCTP beginning the day a qualified entity determines on the basis of preliminary information that she is likely to meet the requirements of section (1). A qualified entity that determines an individual presumptively eligible for BCCTP must:

(a) Notify the Authority of the determination within five working days; and

(b) Explain to the individual at the time the determination is made the circumstances under which an application for medical assistance must be submitted to the Authority and the deadline for the application (see section (3)).

(3) To remain eligible for benefits, an individual determined by a qualified entity to be presumptively eligible for BCCTP must apply for medical assistance no later than the last day of the month following the month in which the determination of presumptive eligibility is made. Presumptive eligibility for BCCTP ends on:

(a) The last day of the month following the month in which presumptive eligibility begins, if the individual does not file an application by that date;

(b) The day on which a determination is made for other Medicaid/CHIP program benefits.

(4) An individual found eligible for the BCCTP by the Authority becomes ineligible upon the first of the following to occur:

(a) The treating health professional determines the course of treatment is complete;

(b) Upon reaching age 65;

(c) When the individual becomes covered for treatment by minimum essential coverage;

(d) Upon becoming a resident of another state;

(e) When the Authority determines she does not meet the requirements for eligibility.

Stat. Auth.: ORS 411.402, 411.404, 413.042 & 414.534

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440, 414.534, 414.536, 414.540 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

410-200-0405

Specific Requirements; Substitute Care

In addition to eligibility requirements applicable to the Substitute Care program in other rules in chapter 410 division 200, this rule describes specific eligibility requirements for the Substitute Care program, Effective 10/01/13.

(1) To be eligible for Substitute Care, an individual must be under the age of 21 and live in an intermediate psychiatric care facility for which a public agency of Oregon is assuming at least partial financial responsibility, including those placed in an intermediate psychiatric care facility by the Oregon Youth Authority.

(2) While living in an intermediate psychiatric care facility, an individual's household group consists of the individual only.

(3) There is no income test for Substitute Care.

Stat. Auth.: ORS 411.402, 411.404 & 413.042

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 413.032, 413.038, 414.025, 414.231 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

410-200-0410

Specific Requirements; MAGI CHIP

In addition to eligibility requirements applicable to the MAGI CHIP program in other rules in chapter 410 division 200, this rule describes specific eligibility requirements for the MAGI CHIP program.

(1) Individuals may not be eligible for the MAGI CHIP program with an effective date prior to October 1, 2013.

(2) To be eligible for the MAGI CHIP program, an individual must be under 19 years of age and must:

(a) Not be eligible for MAGI Child, MAGI Pregnant Woman, MAGI Parent or Caretaker Relative or Substitute Care programs;

(b) Meet budgeting requirements of OAR 410-200-0315; and

(c) Not be covered by minimum essential coverage. For the purposes of this rule, a child is not considered to have minimum essential coverage if it is not accessible for one or more of the following reasons:

(A) The travel time or distance to available providers within the minimum essential coverage network exceeds:

(i) In urban areas: 30 miles, 30 minutes, or the community standard, whichever is greater; or

(ii) In rural areas: 60 miles, 60 minutes, or the community standard, whichever is greater;

(B) Accessing the minimum essential coverage would place a household group member at risk of harm.

(3) For the Authority to enroll a child in MAGI CHIP based on a determination made by an Express Lane Agency (ELA), the child's parent or guardian must give consent in writing, by telephone, orally, or through electronic signature.

Stat. Auth.: ORS 411.402, 411.404 & 413.042

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 413.032, 413.038, 414.025, 414.231 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

410-200-0415

Specific Requirements; MAGI Child

In addition to eligibility requirements applicable to the MAGI Child program in other rules in chapter 410 division 200, this rule describes specific eligibility requirements for the MAGI Child Program.

(1) Individuals may not be eligible for the MAGI Child program with an effective date prior to January 1, 2014.

(2) To be eligible for the MAGI Child Program, the child must be under the age of 19 with household income at or below:

(a) 133 percent of the federal poverty level (see OAR 410-200-0315) for the applicable family size for a child over the age of one but less than age 19; or

(b) 185 percent of the federal poverty level for the applicable family size for an infant under the age of one.

(3) To be eligible for the MAGI Child Program, an individual may not:

(a) Be receiving, or deemed to be receiving, SSI benefits;

(b) Be receiving Medicaid through another program.

(4) A child born to a mother eligible for and receiving Medicaid benefits is assumed eligible for medical benefits under this rule until the end of the month the child turns one year of age, unless:

(a) The child dies;

(b) The child is no longer a resident of Oregon; or

(c) The child's representative requests a termination of the child's eligibility.

(5) To enroll a child in the MAGI Child Program based on a determination made by an Express Lane Agency (ELA), the child's parent or guardian must give consent in writing, by telephone, orally, or through electronic signature.

(6) ELE qualifies a child for medical assistance benefits based on a finding from the Department, even when the Department's eligibility methodology differs from that used for OCCS Medical Programs.

Stat. Auth.: ORS 411.402, 411.404 & 413.042

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

ADMINISTRATIVE RULES

410-200-0420

Specific Requirements; MAGI Parent or Other Caretaker Relative

In addition to eligibility requirements applicable to the MAGI Parent and Other Caretaker Relative program in other rules in chapter 410 division 200, this rule describes specific eligibility requirements for the MAGI Parent or Other Caretaker Relative Program.

(1) Individuals may not be eligible for the MAGI Parent and Other Caretaker Relative Program with an effective date prior to January 1, 2014.

(2) To be eligible for the MAGI Parent or Other Caretaker Relative program, an individual must have household group income at or below income standard for the applicable family size as identified in OAR 410-200-0315;

(3) To be eligible for the MAGI Parent or Other Caretaker Relative program, an individual must have a dependent child in the home. However, a dependent child for who foster care payments are made for more than 30 days is not eligible while the payments are being made for the dependent child.

Stat. Auth.: ORS 411.402, 411.404 & 413.042

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 414.025, 414.231, 414.440 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

410-200-0425

Specific Requirements; MAGI Pregnant Woman

In addition to eligibility requirements applicable to the MAGI Pregnant Woman program in other rules in chapter 410 division 200, this rule describes specific eligibility requirements for the MAGI Pregnant Woman program.

(1) Individuals may not be eligible for the MAGI Pregnant Woman program with an effective date prior to January 1, 2014.

(2) To be eligible for the MAGI Pregnant Woman program, an individual must be pregnant, and:

(a) Have household income that is at or below 185 percent of the federal poverty level (see OAR 410-200-0315); or

(b) Be eligible for Continuous Eligibility according to the policy described in OAR 410-200-0135(2).

(3) Once a beneficiary is eligible and receiving Medicaid through the MAGI Pregnant Woman program, they are eligible through the end of the calendar month in which the 60th following the last day of the pregnancy falls (see OAR 410-200-0135).

Stat. Auth.: ORS 411.402, 411.404 & 413.042

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 414.025, 414.231, 414.440 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

410-200-0435

Specific Requirements; MAGI Adult

In addition to eligibility requirements applicable to the MAGI Adult program in other rules in chapter 410 division 200, this rule describes specific eligibility requirements for the MAGI Adult program.

(1) An individual may not be eligible for the MAGI Adult program with an effective date prior to January 1, 2014.

(2) The Agency may not allow retroactive enrollment into the MAGI Adult program for effective dates prior to January 1, 2014.

(3) To be eligible for the MAGI Adult program an individual must:

(a) Be 19 years of age or older and under age 65; and

(b) Have household income at or below 133 percent federal poverty level (see OAR 410-200-0315) for the applicable family size.

(4) To be eligible for the MAGI Adult program, an individual may not be:

(a) Pregnant;

(b) Entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act;

(c) Receiving SSI benefits; or

(d) A parent or other caretaker relative living with a dependent child who is not enrolled in minimum essential coverage.

Stat. Auth.: ORS 411.402, 411.404 & 413.042

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

410-200-0440

Specific Requirements; Extended Medical Assistance

(1) Effective 01/01/14 Individuals who are eligible for and receiving Medical Assistance Assumed (MAA), Medical Assistance to Families

(MAF), or MAGI Parent or Other Caretaker Relative benefits and lose eligibility:

(a) Due to the receipt or increase of earned income are eligible for 12 months of Extended Medical Assistance (EXT) benefits if eligibility is redetermined and the individual is not eligible for Medicaid/CHIP; or

(b) Due to the receipt or increase of spousal support are eligible for 4 months of EXT benefits if:

(A) Eligibility is redetermined and the individual is not eligible for Medicaid/CHIP; and

(B) They were eligible for and receiving benefits for three of six months preceding the receipt or increase of spousal support.

(2) To be eligible for EXT, the Household Group of individuals who lose eligibility for MAGI Parent or Other Caretaker Relative benefits must contain a dependent child who has minimum essential coverage.

(3) The EXT beneficiary must be a resident of Oregon.

(4) Individuals who lose EXT eligibility because they leave the household during the EXT eligibility period may regain eligibility if they return to the household.

(5) The effective date of EXT is the first of the month following the month in which MAA, MAF, or MAGI Parent or Other Caretaker Relative program eligibility ends.

(6) If an individual receives MAA, MAF, or MAGI Parent or Other Caretaker Relative benefits during months when they were eligible for EXT:

(a) Such months are not an overpayment.

(b) Any month in which an individual receives MAA, MAF, or MAGI Parent or Other Caretaker Relative benefits when they were eligible for EXT is counted as a month of the EXT eligibility period.

(7) If a beneficiary of MAA, MAF, or MAGI Parent or Other Caretaker Relative benefits experiences another change in conjunction with the receipt or increase of earned income or spousal support, and the other change, by itself, makes the Household Group ineligible for the current program, the beneficiary is not eligible for EXT.

Stat. Auth.: ORS 411.095, 411.402, 411.404, 413.038 & 414.025

Stats. Implemented: ORS 411.095, 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

410-200-0500

Transitioning Benefits — 2013 Programs

(1) For individuals who apply for OCCS Medical Programs on or after October 1, 2013, eligibility and budgeting shall be determined according to this section of rules.

(2) Individuals who apply from October 1, 2013 through December 31, 2013 shall first be considered for the programs described in OAR 410-200-0510. If an individual is eligible for one of those programs, eligibility shall continue according to section (3) of this rule. Individuals found ineligible based on information from all budget months of October, November, or December 2013 shall have their eligibility determined as follows:

(a) Individuals who would be eligible for new programs based on eligibility and income standards which begin January 1, 2014, shall become eligible for applicable programs as of that date;

(b) Individuals who are ineligible for new programs which begin on January 1, 2014 shall be referred to the Exchange.

(3) Individuals who are eligible and receiving OCCS Medical Program benefits described in OAR 410-200-0510 on December 31, 2013, shall be treated as follows effective January 1, 2014:

(a) Individuals receiving OHP-OPU program benefits shall be converted to the MAGI Adult program.

(b) Individuals receiving HKC program benefits shall be converted to the MAGI CHIP program.

(c) Individuals receiving OHP-CHP whose household income is below 133 percent of FPL shall be converted to the MAGI Child program.

(d) All others shall maintain their current program benefits until:

(A) A change occurs that impacts their eligibility; or

(B) Their next scheduled renewal occurs according to OAR 410-200-0115.

Stat. Auth.: ORS 411.402, 411.404 & 413.042

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 414.025, 414.231, 414.440 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

ADMINISTRATIVE RULES

410-200-0505

Specific Requirements; SNAP-Based Eligibility for MAA, OHP-OPP, or MAGI Medicaid

In SNAP-based eligibility, the Agency relies on a determination made for SNAP program benefits. A SNAP recipient adult may be found eligible for these medical programs based on findings from the Department, even if the Department's eligibility methodology differs from that used by the Agency to determine eligibility for OCCS Medical Programs.

(1) For SNAP-based eligibility, the adult must have SNAP income that is at or below the applicable income standards for MAA, OHP-OPP, or MAGI Medicaid.

(2) A new application is not required for SNAP-based eligibility.

(3) For SNAP-based eligibility, the adult in the household group must:

- (a) Not be eligible for or receiving Supplemental Security Income;
- (b) Indicate they wish to pursue medical assistance;
- (c) Agree to cooperate with the Division of Child Support; and
- (d) Meet the specific program requirements for the applicable program.

(4) If the individual requests SNAP-based eligibility and is not eligible, the Authority must review the individual's eligibility for OCCS Medical Programs based on a full determination without requiring a new application. The Date of Request is the date the Authority received consent for SNAP-based eligibility.

Stat. Auth.: ORS 411.402, 411.404, 413.042 & 413.038

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 413.032, 413.038, 414.025, 414.231 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

410-200-0510

Specific Program Requirements; BCCM, CEC, CEM, EXT, MAA, MAF, OHP, and SAC

(1) This rule describes OCCS Medical Programs for which individuals may be determined eligible through December 31, 2013. See OAR 410-200-0500 for information regarding the treatment of those beneficiaries as of January 1, 2014.

(2) To be eligible for a program listed in this rule, an individual must meet the following:

(a) The eligibility factors set forth in OAR 410-200-0200 through 410-200-0240;

(b) The budgeting and income standard requirements set forth in OAR 410-200-0300 through 410-200-0315; and

(c) The individual must have established a Date of Request prior to January 1, 2014.

(3) For purposes of this rule, private major medical health insurance means a comprehensive major medical insurance plan that, at a minimum, provides physician services; inpatient and outpatient hospitalization; outpatient lab, x-ray, immunizations; and prescription drug coverage. This term does not include coverage under the Kaiser Child Health Program or Kaiser Transition Program but does include policies that are purchased privately or are employer-sponsored.

(4) For the purposes of this rule, the receipt of private major medical health insurance does not affect OCCS Medical Program eligibility if it is not accessible. Private major medical health insurance is not considered accessible if:

(a) The travel time or distance to available providers exceeds:

(A) In urban areas: 30 miles, 30 minutes, or the community standard, whichever is greater;

(B) In rural areas: 60 miles, 60 minutes, or the community standard, whichever is greater.

(b) Accessing the private major medical health insurance would place a filing group member at risk of harm.

(5) To be eligible for Chafee medical, the individual must be a child who was receiving foster care in Oregon, 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 of the Act;

(6) CEM provides eligibility for the balance of the 12-month eligibility period for non-CAWEM children who were receiving Child Welfare (CW) medical, EXT, MAA, MAF, OHP, OSIPM, or SAC program benefits and lost eligibility for reasons other than moving out of state or turning 19 years old. CEM benefits end when:

(a) The child becomes eligible for CW medical, EXT, MAA, MAF, OHP, OSIPM, or SAC program benefits;

(b) The child turns 19 years of age;

(c) The child moves out of state; or

(d) Benefits are closed voluntarily.

(7) CEC provides eligibility for the OHP-CHP program for non-CAWEM pregnant children who were receiving OHP-CHP and would have otherwise lost eligibility for reasons other than moving out of state or becoming a recipient of private major medical health insurance. CEC eligibility for OHP-CHP ends the day following the end of the month in which the earliest of the following occur:

(a) The pregnancy ends;

(b) The individual moves out of state;

(c) The individual begins receiving private major medical health insurance;

(d) Benefits are closed voluntarily; or

(e) The individual becomes eligible for CW medical, EXT, MAA, MAF, OHP, OSIPM, or SAC program benefits.

(8) For the Authority to enroll a child in the program based on a determination made by an ELA, the child's parent or guardian must give consent in writing, by telephone, orally, or through electronic signature.

(9) To be eligible for EXT, an individual must have been eligible for and receiving MAA or MAF and became ineligible due to a caretaker relative's increased earned income or due to increased spousal support (see OAR 410-200-0440).

(10) To be eligible for MAA or MAF, an individual must be one of the following:

(a) A dependent child who lives with a caretaker relative. However, a dependent child for whom foster care payments are made for more than 30 days is not eligible while the payments are being made;

(b) A caretaker relative of an eligible dependent child. However, a caretaker relative to whom foster care payments are made for more than 30 days is not eligible while the payments are being made;

(c) A caretaker relative of a dependent child, when the dependent child is ineligible for MAA or MAF for one of the following reasons:

(A) The child is receiving SSI;

(B) The child is in foster care, but is expected to return home within 30 days; or

(C) The child's citizenship has not been documented.

(d) An essential person. An essential person is a member of the household group who:

(A) Is not required to be in the filing group;

(B) Provides a service necessary to the health or protection of a member of the household group who has a mental or physical disability; and

(C) Is less expensive to include in the benefit group than the cost of purchasing this service from another source.

(e) A parent of an unborn as follows:

(A) For the MAA program:

(i) Any parent whose only child is an unborn child, once the mother's pregnancy has reached the calendar month preceding the month in which the due date falls;

(ii) The father of an unborn child who does not meet the criteria described in subsection (e)(A)(i) of this part may be eligible if there is another dependent child in the household group.

(B) For the MAF program, a mother whose only child is an unborn child, once the mother's pregnancy has reached the calendar month preceding the month in which the due date falls.

(11) To be eligible for any OHP program in sections (12) through (15), an individual may not be:

(a) Receiving SSI benefits;

(b) Eligible for Medicare, except that this requirement does not apply to the OHP-OPP program;

(c) Receiving Medicaid through any other program concurrently.

(12) To be eligible for the OHP-OPC program, an individual must be less than 19 years of age.

(13) To be eligible for the OHP-OP6 program, a child must be less than six years of age and not eligible for OHP-OPC.

(14) To be eligible for the OHP-OPP program, an individual must:

(a) Be pregnant;

(b) Be within the time period through the end of the calendar month in which the 60th following the last day of the pregnancy falls; or

(c) Be an infant under age one.

(15) To be eligible for the OHP-CHP program, an individual must be under 19 years of age and must:

(a) Not be eligible for the OHP-OPC, OHP-OPP, or OHP-OP6 programs; and

(b) Not be covered by any private major medical health insurance. An individual may be eligible for OHP-CHP if the private major medical health insurance is not accessible as outlined in section (4).

ADMINISTRATIVE RULES

(16) Effective July 1, 2004, the OHP-OPU program is closed to new applicants. Except as provided in subsections (a) and (b) of this section, a new applicant may not be found eligible for the OHP-OPU program.

(a) An individual is not a new applicant if the Department determines that the individual is continuously eligible for medical assistance as follows:

(A) The individual is eligible for and receiving benefits under the OHP-OPU program on June 30, 2004, and the Department determines that the individual continues after that date to meet the eligibility requirements for the OHP-OPU program;

(B) The individual is eligible for and receiving benefits under the CAWEM program on June 30, 2004, and is eligible for the CAWEM program based on the OHP-OPU program, and the Department determines that the individual continues to meet the eligibility requirements for the OHP-OPU program except for citizenship or alien status requirements;

(C) The eligibility of the individual ends under the BCCM, CEC, CEM, EXT, GAM, HKC, MAA, MAF, OHP-CHP, OHP-OPC, OHP-OPP, OSIPM, REFM, or SAC program, or the related CAWEM program; or because the individual has left the custody of the Oregon Youth Authority (OYA); and at that time the Department determines that the individual meets the eligibility requirements for the OHP-OPU program;

(D) The individual is a child in the custody of the Department whose eligibility for Medicaid ends because of the child's age and at that time the Department determines that the individual meets the eligibility requirements for the OHP-OPU program;

(E) The Department determines that the individual was continuously eligible for the OHP-OPU program on or after June 30, 2004 under paragraphs (A) to (D) of this section.

(b) An individual who is not continuously eligible under subsection (a) is not a new applicant if the individual:

(A) Has eligibility end under the BCCM, CEC, CEM, EXT, HKC, MAA, MAF, OHP-CHP, OHP-OPP, OHP-OPU, OSIPM, REFM, or SAC program, or the related CAWEM program; because the individual has left the custody of the OYA; or is a child in the custody of the Department whose eligibility for Medicaid ends due to the child's age;

(B) Established a Date of Request prior to the eligibility ending date in paragraph (A) of this section; and

(C) Meets the eligibility requirements for the OHP-OPU program or the related CAWEM program within either the month of the Date of Request or, if ineligible in the month of the Date of Request, the following month.

(17) To be eligible for the OHP-OPU program, an individual must meet the requirements listed in section (16), and be 19 years of age or older and may not be pregnant. Additionally, and individual must meet the following requirements:

(a) Must be currently receiving Medicaid or CHIP benefits when determined eligible for OHP-OPU;

(b) Must not be covered by any private major medical health insurance. An individual may be eligible for OHP-CHP if the private major medical health insurance is not accessible as outlined in section (4).

(c) May not have been covered by private major medical health insurance during the six months preceding the effective date for starting medical benefits. The six-month waiting period is waived if:

(A) Any of the criteria in section (4) are met;

(B) The individual has a condition that, without treatment, would be life-threatening or would cause permanent loss of function or disability;

(C) The individual's health insurance premium was reimbursed because the individual was receiving Medicaid, and the Department or the Authority found the premium was cost-effective;

(D) The individual's health insurance was subsidized through FHIAP or the Office of Private Health Partnerships in accordance with ORS 414.231, 414.826, 414.831, and 414.839; or

(E) A member of the individual's household group was a victim of domestic violence.

(18) To be eligible for the Substitute Care program, an individual must meet the specific eligibility requirements for Substitute Care found in OAR 410-200-0405.

(19) Except for OHP-CHP and CEC, a pregnant woman who is eligible for and receiving benefits through any program listed in this rule remains eligible through the end of the calendar month in which the 60th following the last day of the pregnancy falls.

(20) A child who becomes ineligible for the OHP program because of age while receiving in-patient medical services remains eligible until the end of the month in which he or she no longer receives those services if he

or she is receiving in-patient medical services on the last day of the month in which the age requirement is no longer met.

Stat. Auth.: ORS 411.402, 411.404, 413.042 & 414.534

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 414.440, 414.534, 414.536 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14

Rule Caption: Allow for CCOs to Pay for Outpatient and Physician Administered Medications

Adm. Order No.: DMAP 21-2014(Temp)

Filed with Sec. of State: 4-1-2014

Certified to be Effective: 4-1-14 thru 9-28-14

Notice Publication Date:

Rules Amended: 410-141-3070

Subject: The Division needs to amend these rules to modify the allowance for Coordinated Care Organizations (CCO) to pay for outpatient and physician administered drugs produced by manufacturers that have valid rebate agreements with the Centers for Medicare and Medicaid (CMS). This change will align with federal regulations as stated in the State Medicaid Director Letter that allows CCOs flexibility with pharmacy payments.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-141-3070

Pharmaceutical Drug List Requirements

(1) Prescription drugs are a covered service based on the funded Condition/Treatment Pairs. CCOs shall pay for prescription drugs except:

(a) As otherwise provided, mental health drugs that are in Class 7 & 11 (based on the National Drug Code (NDC)) as submitted by the manufacturer to First Data Bank);

(b) Depakote, Lamictal, and those drugs that the Authority specifically carved out from capitation according to sections (8) and (9) of this rule;

(c) Any applicable co-payments;

(d) For drugs covered under Medicare Part D when the client is fully dual eligible.

(2) CCOs may use the statewide Practitioner-Managed Prescription Drug Plan under ORS 414.330 to 414.337. CCOs may use a restrictive drug list as long as it allows access to other drug products not on the drug list through some process such as prior authorization (PA). The drug list shall:

(a) Include Federal Drug Administration (FDA) approved drug products for each therapeutic class sufficient to ensure the availability of covered drugs with minimal prior approval intervention by the provider of pharmaceutical services;

(b) Include at least one item in each therapeutic class of over-the-counter medications; and

(c) Be revised periodically to assure compliance with this requirement.

(3) CCOs shall provide their participating providers and their pharmacy subcontractor with:

(a) Their drug list and information about how to make non-drug listed requests;

(b) Updates made to their drug list within 30 days of a change that may include but are not limited to:

(A) Addition of a new drug;

(B) Removal of a previously listed drug; and

(C) Generic substitution.

(4) If a drug cannot be approved within the 72-hour time requirement for prior authorization and the medical need for the drug is immediate, CCOs must provide, within 24 hours of receipt of the drug prior authorization request, for the dispensing of at least a 72-hour supply of a drug that requires prior authorization.

(5) CCOs shall authorize the provision of a drug requested by the Primary Care Provider or referring provider if the approved prescriber certifies medical necessity for the drug such as:

(a) The equivalent of the drug listed has been ineffective in treatment; or

(b) The drug listed causes or is reasonably expected to cause adverse or harmful reactions to the member.

(6) Prescriptions for Physician Assisted Suicide under the Oregon Death with Dignity Act are excluded. Payment is governed by OAR 410-121-0150.

(7) CCOs may not authorize payment for any Drug Efficacy Study Implementation (DESI) Less Than Effective (LTE) drugs which have reached the FDA Notice of Opportunity for Hearing (NOOH) stage, as

ADMINISTRATIVE RULES

specified in OAR 410-121-0420 (DESI)(LTE) Drug List. The DESI LTE drug list is available at: http://www.cms.hhs.gov/MedicaidDrugRebateProgram/12_LTEIRSDrugs.asp.

(8) A CCO may seek to add drugs to the list contained in section (1) of this rule by submitting a request to the Authority no later than March 1 of any contract year. The request must contain all of the following information:

- (a) The drug name;
- (b) The FDA approved indications that identifies the drug may be used to treat a severe mental health condition; and
- (c) The reason that the Authority should consider this drug for carve out.

(9) If a CCO requests that a drug not be paid within the global budget, the Authority shall exclude the drug from the global budget for the following January contract cycle if the Authority determines that the drug has an approved FDA indication for the treatment of a severe mental health condition such as major depressive, bi-polar, or schizophrenic disorders.

(10) The Authority shall pay for a drug that is not included in the global budget pursuant to the Pharmaceutical Services Program rules (chapter 410, division 121). A CCO may not reimburse providers for carved-out drugs.

(11) CCOs shall submit quarterly utilization data within 60 days of the date of service as part of the CMS Medicaid Drug Rebate Program requirements pursuant to Section 2501 of the Affordable Care Act.

(12) CCOs are encouraged to provide payment only for outpatient and physician administered drugs produced by manufacturers that have valid rebate agreements in place with the CMS as part of the Medicaid Drug Rebate Program. CCOs may continue to have some flexibility in maintaining formularies of drugs regardless of whether the manufacturers of those drugs participate in the Medicaid Drug Rebate Program.

Stat. Auth.: ORS 413.042, 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 21-2014(Temp), f. & cert. ef. 4-1-14 thru 9-28-14

.....

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

Adm. Order No.: DMAP 22-2014

Filed with Sec. of State: 4-2-2014

Certified to be Effective: 4-2-14

Notice Publication Date: 3-1-2014

Rules Amended: 410-129-0020, 410-129-0065, 410-129-0070

Subject: 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—(503) 945-6430

410-129-0020

Therapy Plan of Care, Goals/Outcomes and Record Requirements

(1) Therapy shall be based on a prescribing practitioner's written order and therapy treatment plan with goals and objectives developed from an evaluation or re-evaluation.

(2) The therapy regimen shall be taught to individuals, including the patient, family members, foster parents, and caregivers who can assist in the achievement of the goals and objectives. The Division of Medical Assistance Programs (Division) shall not authorize extra treatments for teaching.

(3) All speech-language pathology (SLP) treatment services require a therapy plan of care that is required for prior authorization (PA) for payment.

(4) The SLP therapy plan of care shall include:

- (a) Client's name and diagnosis;
 - (b) The type, amount, frequency and duration of the proposed therapy;
 - (c) Individualized, measurably objective, short-term and long-term functional goals;
 - (d) Dated signature of the therapist or the prescribing practitioner establishing the therapy plan of care; and
 - (e) Evidence of certification of the therapy plan of care by the prescribing practitioner.
- (5) SLP therapy records shall include:

- (a) Documentation of each session;
- (b) Therapy provided;
- (c) Duration of therapy; and
- (d) Signature of the Speech-Language-Pathologist.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.060

Hist.: HR 5-1991, f. 1-18-91, cert. ef. 2-1-91; HR 27-1993, f. & cert. ef. 10-1-93; HR 36-1994, f. 12-30-94, cert. ef. 1-1-95; OMAP 36-1999, f. & cert. ef. 10-1-99; DMAP 22-2014, f. & cert. ef. 4-2-14

410-129-0065

Licensing Requirements

(1) The Division enrolls only the following types of providers as performing providers under the Speech-Language Pathology, Audiology and Hearing Aid Services program:

(a) A person licensed by the relevant state licensing authority to practice speech-language pathology (SLP);

(b) A person licensed by the relevant state licensing authority to practice audiology; and

(c) A person licensed by the relevant state licensing authority for "dealing in hearing aids" as defined in Oregon Revised Statute 694.015.

(2) The Oregon Board of Examiners for SLP and Audiology licenses (and the Division recognizes services provided by):

(a) Conditional Speech-Language Pathologists; and

(b) SLP Assistants.

(3) Services of graduate SLP students, furnished under a Conditional SLP License:

(a) Shall be provided in compliance with supervision requirements of the state licensing board and the American Speech-Language-Hearing Association;

(b) Shall be compliant with applicable record and documentation requirements (see also Oregon Administrative Rules in chapter 335, division 010); and

(c) Are reimbursed to the licensed supervising Speech-Language Pathologist.

(4) The Division shall not reimburse for services of a licensed Speech-Language Pathologist while the pathologist is teaching or supervising students in SLP.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.025, 414.065

Hist.: HR 27-1993, f. & cert. ef. 10-1-93; OMAP 36-1999, f. & cert. ef. 10-1-99; OMAP 59-2003, f. 9-5-03, cert. ef. 10-1-03; DMAP 22-2014, f. & cert. ef. 4-2-14

410-129-0070

Limitations

(1) Speech-Language pathology (SLP) services:

(a) Shall be provided by a practitioner as described in OAR 410-129-0065(1);

(b) Therapy treatment:

(A) May not exceed one hour per day, either group or individual;

(B) Shall be either group or individual and cannot be combined in the authorization period; and

(C) Requires prior authorization.

(c) The following SLP services do not require payment authorization but are limited to:

(A) Two SLP evaluations in a 12-month period;

(B) Two evaluations for dysphagia in a 12-month period;

(C) Up to four re-evaluations in a 12-month period;

(D) One evaluation for speech-generating/augmentative communication system or device shall be reimbursed per recipient in a 12-month period;

(E) One evaluation for voice prosthesis or artificial larynx shall be reimbursed in a 12-month period;

(F) Purchase, repair or modification of electrolarynx;

(G) Supplies for speech therapy shall be reimbursed up to two times in a 12-month period, not to exceed \$5.00 each;

(d) The purchase, rental, repair or modification of a speech-generating/augmentative communication system or device requires prior authorization. Rental of a speech-generating/ augmentative communication system or device is limited to one month. All rental fees shall be applied to the purchase price. See OAR 410-129-0220.

(2) Audiology and hearing aid services:

(a) All hearing services must be performed by a licensed physician, audiologist or hearing aid specialist;

(b) Reimbursement is limited to one (monaural) hearing aid every five years for adults (age 21 and older) who meet the following criteria: Loss of 45 decibel (dB) hearing level or greater in two or more of the following three frequencies: 1000, 2000, and 3000 Hertz (Hz) in the better ear;

ADMINISTRATIVE RULES

(c) Adults who meet the criteria above and, in addition, have vision correctable to no better than 20/200 in the better eye, may be authorized for two hearing aids for safety purposes. A vision evaluation shall be submitted with the prior authorization request;

(d) Two (binaural) hearing aids shall be reimbursed no more frequently than every three years for children (birth through age 20), who meet the following criteria:

(A) Pure tone average of 25dB for the frequencies of 500Hz, 1000Hz and 2000Hz; or

(B) High frequency average of 35dB for the frequencies of 3000Hz, 4000Hz and 6000Hz;

(e) An assistive listening device may be authorized for individuals aged 21 or over who are unable to wear, or who cannot benefit from, a hearing aid. An assistive listening device is defined as a simple amplification device designed to help the individual hear in a particular listening situation. It is restricted to a hand-held amplifier and headphones;

(f) Services that do not require payment authorization:

(A) One basic audiologic assessment in a 12-month period;

(B) One basic comprehensive audiometry (audiologic evaluation) in a 12-month period;

(C) One hearing aid examination and selection in a 12-month period;

(D) One pure tone audiometry (threshold) test; air and bone in a 12-month period;

(E) One electroacoustic evaluation for hearing aid; monaural in a 12-month period;

(F) One electroacoustic evaluation for hearing aid; binaural in a 12-month period;

(G) Hearing aid batteries — maximum of 60 individual batteries in a 12-month period. Clients shall meet the criteria for a hearing aid;

(g) Services that require payment authorization:

(A) Hearing aids;

(B) Repair of hearing aids, including ear mold replacement;

(C) Hearing aid dispensing and fitting fees;

(D) Assistive listening devices;

(E) Cochlear implant batteries.

(h) Services not covered:

(A) FM systems — vibro-tactile aids;

(B) Earplugs;

(C) Adjustment of hearing aids is included in the fitting and dispensing fee and is not reimbursable separately;

(D) Aural rehabilitation therapy is included in the fitting and dispensing fee and is not reimbursable separately;

(E) Tinnitus masker(s).

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.065

Hist.: HR 27-1993, f. & cert. ef. 10-1-93; HR 36-1994, f. 12-30-94, cert. ef. 1-1-95; OMAP 36-1999, f. & cert. ef. 10-1-99; OMAP 38-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 39-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 14-2005, f. 3-11-05, cert. ef. 4-1-05; DMAP 17-2007, f. 12-5-07, cert. ef. 1-1-08; DMAP 22-2014, f. & cert. ef. 4-2-14

.....

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

Adm. Order No.: DMAP 23-2014

Filed with Sec. of State: 4-4-2014

Certified to be Effective: 4-4-14

Notice Publication Date: 3-1-2014

Rules Amended: 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

Rules Repealed: 410-120-0030(T), 410-120-1210(T), 410-120-1230(T), 410-125-0020(T), 410-125-0080(T), 410-125-0085(T), 410-130-0240(T), 410-131-0120(T), 410-138-0007(T), 410-138-0009(T), 410-141-0860(T), 410-142-0040(T), 410-127-0055, 410-122-0055, 410-123-1670, 410-125-0047, 410-129-0195, 410-130-0163, 410-132-0055, 410-146-0022, 410-146-0380, 410-147-0125, 410-148-0090

Subject: 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 copay-

ments; 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 — (503) 945-6430

410-120-0030

Children's Health Insurance Program

(1) The Children's Health Insurance Program (CHIP) is a federal non-entitlement program. The Oregon Health Authority (Authority), Division of Medical Assistance Program (Division) administers two programs funded under CHIP in accordance with the Oregon Health Plan (OHP) waiver and the CHIP state plan:

(a) CHIP: Provides health coverage for uninsured, low-income children who are ineligible for Medicaid;

(b) CHIP Pre-natal care expansion program.

(2) The General Rules Program (OAR 410-120-0000 et. seq.) and the OHP Program rules (OAR 410-141-0000 et. seq.) applicable to the Medicaid program are also applicable to the Authority's CHIP program.

(3) Children under 19 years of age who meet the income limits, citizenship requirements and eligibility criteria for medical assistance established in OAR chapter 410 through the program acronym OHP-CHIP receive the OHP benefit package. (For benefits refer to OAR 410-120-1210.)

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.025 & 414.065

Hist.: DMAP 7-2008(Temp), f. 3-17-08 & cert. ef. 4-1-08 thru 9-15-08; DMAP 14-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 29-2009(Temp), f. 9-15-09, cert. ef. 10-1-09 thru 3-25-10; DMAP 37-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 18-2010, f. 6-23-10, cert. ef. 7-1-10; DMAP 23-2010, f. & cert. ef. 9-1-10; DMAP 39-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 11-2011, f. 6-29-11, cert. ef. 7-1-11; DMAP 19-2012, f. 3-30-12, cert. ef. 4-1-12; DMAP 49-2012, f. 10-31-12, cert. ef. 11-1-12; DMAP 67-2013, f. & cert. ef. 12-3-13; DMAP 75-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 23-2014, f. & cert. ef. 4-4-14

410-120-1210

Medical Assistance Benefit Packages and Delivery System

(1) The services clients are eligible to receive are based on their benefit package. Not all packages receive the same benefits.

(2) The Division of Medical Assistance Programs (Division) benefit package description, codes, eligibility criteria, coverage, limitations and exclusions are identified in these rules.

(3) The limitations and exclusions listed here are in addition to those described in OAR 410-120-1200 and in any chapter 410 OARs.

(4) Benefit package descriptions:

(a) Oregon Health Plan (OHP) Plus:

(A) Benefit package identifier: BMH;

(B) Eligibility criteria: As defined in federal regulations and in the 1115 OHP waiver demonstration, a client is categorically eligible for medical assistance if he or she is eligible under a federally defined mandatory, selected, optional Medicaid program or the Children's Health Insurance Program (CHIP) and also meets Oregon Health Authority (Authority) adopted income and other eligibility criteria;

(C) Coverage includes:

(i) Services above the funding line on the Health Evidence Review Commission (HERC) Prioritized List of Health Services (Prioritized List), (OAR 410-141-0480 through 410-141-0520);

(ii) Ancillary services, (OAR 410-141-0480);

(iii) Substance use disorder treatment and recovery services provided through local substance use disorder treatment and recovery providers;

(iv) Mental health services based on the Prioritized List to be provided through Community Mental Health Programs or their subcontractors;

(v) Hospice;

(vi) Post-hospital extended care benefit up to a 20-day stay in a nursing facility for non-Medicare Division clients who meet Medicare criteria for a post-hospital skilled nursing placement. This benefit requires prior authorization by pre-admission screening (OAR 411-070-0043) or by the Fully Capitated Health Plan (FCHP) for clients enrolled in an FCHP;

(vii) Cost sharing (e.g., copayments) may apply to some covered services.

(D) Limitations: The following services have limited coverage for non-pregnant adults age 21 and older. (Refer to the cited OAR chapters and divisions for details):

(i) Selected dental (OAR chapter 410, division 123);

(ii) Vision services such as frames, lenses, contacts corrective devices and eye exams for the purpose of prescribing glasses or contacts (OAR chapter 410, division 140).

ADMINISTRATIVE RULES

(b) OHP with Limited Drug;
(A) Benefit Package identifier: BMM, BMD;
(B) Eligibility criteria: Eligible clients are eligible for Medicare and Medicaid benefits;
(C) Coverage includes: Services covered by Medicare and OHP Plus as described in this rule;
(D) Limitations:
(i) The same as OHP Plus, as described in this rule;
(ii) Drugs excluded from Medicare Part D coverage that are also covered under the medical assistance programs, subject to applicable limitations for covered prescription drugs (Refer to OAR chapter 410, division 121 for specific limitations). These drugs include but are not limited to:
(I) Over-the-counter (OTC) drugs;
(II) Barbiturates (except for dual eligible individuals when used in the treatment of epilepsy, cancer or a chronic mental health disorder as Part D will cover those indications).
(E) Exclusions: Drugs or classes of drugs covered by Medicare Part D Prescription Drug;
(F) Payment for services is limited to the Medicaid-allowed payment less the Medicare payment up to the amount of co-insurance and deductible;
(G) Cost sharing may apply to some covered services; however, cost sharing related to Medicare Part D is not covered since drugs covered by Part D are excluded from the benefit package.
(c) Qualified Medicare Beneficiary (QMB)-Only:
(A) Benefit Package identifier code MED;
(B) Eligibility criteria: Eligible clients are Medicare Part A and B beneficiaries who have limited income but do not meet the income standard for full medical assistance coverage;
(C) Coverage: Is limited to the co-insurance or deductible for the Medicare service. Payment is based on the Medicaid-allowed payment less the Medicare payment up to the amount of co-insurance and deductible but no more than the Medicare allowable;
(D) Providers may not bill QMB-only clients for the deductible and coinsurance amounts due for services that are covered by Medicare.
(d) Citizen/Alien-Waived Emergency Medical (CAWEM):
(A) Benefit Package identifier CWM;
(B) Eligibility criteria: Eligible clients are non-qualified aliens that are not eligible for other Medicaid programs pursuant to Oregon Administrative Rules (OAR) 461-135-1070;
(C) Coverage is limited to:
(i) Emergency medical services as defined by 42 CFR 440.255. Sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in: placing the patient's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part (the "prudent layperson standard" does not apply to the CAWEM emergency definition);
(ii) Labor and Delivery.
(D) Exclusions: The following services are not covered even if they are sought as emergency services:
(i) Prenatal or postpartum care;
(ii) Sterilization;
(iii) Family Planning;
(iv) Preventive care;
(v) Organ transplants and transplant-related services;
(vi) Chemotherapy;
(vii) Hospice;
(viii) Home health;
(ix) Private duty nursing;
(x) Dialysis;
(xi) Dental services provided outside of an emergency department hospital setting;
(xii) Outpatient drugs or over-the-counter products;
(xiii) Non-emergency medical transportation;
(xiv) Therapy services;
(xv) Durable medical equipment and medical supplies;
(xvi) Rehabilitation services.
(e) CAWEM Plus:
(A) Benefit Package identifier code CWX;
(B) Eligibility criteria: As defined in federal regulations and in the Children's Health Insurance Program (CHIP) state plan eligible clients are CAWEM pregnant women not eligible for Medicaid at or below 185 percent of the Federal Poverty Level (FPL);

(C) Coverage includes: Services covered by OHP Plus as described above;
(D) Exclusions: The following services are not covered for this program:
(i) Postpartum care (except when provided and billed as part of a global obstetric package code that includes the delivery procedure);
(ii) Sterilization;
(iii) Abortion;
(iv) Death with dignity services;
(v) Hospice.
(E) The day after pregnancy ends, eligibility for medical services shall be based on eligibility categories established in OAR chapter 461.
(5) Division clients are enrolled for covered health services to be delivered through one of the following means:
(a) Coordinated Care Organization (CCO):
(A) These clients are enrolled in a CCO that provides integrated and coordinated health care;
(B) CCO services are obtained from the CCO or by referral from the CCO that is responsible for the provision and reimbursement for physical health, substance use disorder treatment and recovery, mental health services or dental care.
(b) Prepaid Health Plan (PHP):
(A) These clients are enrolled in a PHP for their medical, dental or mental health care;
(B) Most non-emergency services are obtained from the PHP or require a referral from the PHP that is responsible for the provision and reimbursement for the medical, dental or mental health service;
(c) Physician Care Organization (PCO):
(A) These clients are enrolled in a PCO for their medical care;
(B) Inpatient hospital services are not the responsibility of the PCO and are governed by the Division's Hospital Services Program rule (OAR chapter 410, division 125).
(d) Fee-for-service (FFS):
(A) These clients are not enrolled in a CCO, PHP or PCO;
(B) Subject to limitations and restrictions in the Division's individual program rules, the client can receive health care from any Division-enrolled provider that accepts FFS clients. The provider shall bill the Division directly for any covered service and shall receive a fee for the service provided.

Stat. Auth.: ORS 413.042

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

Hist.: OMAP 46-2003(Temp), f. & cert. ef. 7-1-03 thru 12-15-03; OMAP 56-2003, f. 8-28-03, cert. ef. 9-1-03; OMAP 49-2004, f. 7-28-04 cert. ef. 8-1-04; OMAP 39-2005, f. 9-2-05, cert. ef. 10-1-05; OMAP 65-2005, f. 11-30-05, cert. ef. 1-1-06; OMAP 15-2006, f. 6-12-06, cert. ef. 7-1-06; DMAP 38-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 36-2011, f. 12-13-11, cert. ef. 1-1-12; DMAP 49-2012, f. 10-31-12, cert. ef. 11-1-12; DMAP 63-2012(Temp), f. 12-27-12, cert. ef. 1-1-13 thru 6-29-13; DMAP 31-2013, f. & cert. ef. 6-27-13; DMAP 37-2013(Temp), f. 6-27-13, cert. ef. 7-1-13 thru 12-24-13; DMAP 71-2013, f. & cert. ef. 12-27-13; DMAP 75-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 23-2014, f. & cert. ef. 4-4-14

410-120-1230

Client Co-payment

(1) Oregon Health Plan (OHP) Plus clients shall be responsible for paying a co-payment for some services. This co-payment shall be paid directly to the provider. A co-payment applies regardless of location of services rendered, i.e., provider's office or client's residence.
(2) The following services are exempt from co-payment:
(a) Emergency medical services, as defined in OAR 410-120-0000;
(b) Family planning services and supplies;
(c) Prescription drug products for nicotine replacement therapy (NRT);
(d) Prescription drugs ordered through the Division of Medical Assistance Programs' (Division's) Mail Order (a.k.a., Home-Delivery) Pharmacy program;
(e) Services to treat "health care-acquired conditions" (HCAC) and "other provider preventable conditions" (OPPC) services as defined in OAR 410-125-0450.
(3) The following clients are exempt from co-payments:
(a) Pregnant women;
(b) Children under age 19;
(c) Young adults in Substitute Care and in the Former Foster Care Youth Medical Program;
(d) Clients receiving services under the home and community based waiver and developmental disability waiver;
(e) Inpatients in a hospital, nursing facility, or Intermediate Care Facility for Intellectually or Developmentally Disabled (ICF/IDD);

ADMINISTRATIVE RULES

1-09; DMAP 75-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 23-2014, f. & cert. ef. 4-4-14

(f) American Indian/Alaska Native (AI/AN) clients who are members of a federally recognized Indian tribe or receive services through Indian Health Services (IHS), tribal organization or services provided at an Urban Tribal Health Clinic as provided under Public Law 93-638;

(g) Individuals receiving hospice care;

(h) Individuals eligible for the Breast and Cervical Cancer Program.

(4) Co-payment for services is due and payable at the time the service is provided unless exempted in sections (2) and (3) above. Services to a client may not be denied solely because of an inability to pay an applicable co-payment. This does not relieve the client of the responsibility to pay the applicable co-payment, nor does it prevent the provider from attempting to collect any applicable co-payments from the client; the co-payment is a legal debt and is due and payable to the provider of service.

(5) Except for prescription drugs, one co-payment is assessed per provider/ per visit/ per day unless otherwise specified in other Divisions' program administrative rules.

(6) Fee-for-service co-payment requirements:

(a) The provider may not deduct the co-payment amount from the usual and customary billed amount submitted on the claim. Except as provided in section (2) and (3) of this rule, the Division shall deduct the co-payment from the amount the Division pays to the provider (whether or not provider collects the co-payment from the client);

(b) If the Division's payment is less than the required co-payment, then the co-payment amount is equal to the Division's lesser required payment, unless the client or services are exempt according to exclusions listed in section (2) and (3) above. The client's co-payment shall constitute payment-in-full;

(c) Unless specified otherwise in individual program rules, and to the extent permitted under 42 CFR 1001.951-1001.952, the Division does not require providers to bill or collect a co-payment from the Medicaid client. The provider may choose not to bill or collect a co-payment from a Medicaid client; however, the Division shall still deduct the co-payment amount from the Medicaid reimbursement made to the provider.

(7) CCO, PHP or PCO co-payment requirements:

(a) Unless specified otherwise in individual program rules, and to the extent permitted under 42 CFR 447.58 and 447.60, the Division does not require CCOs, PHP or PCOs to bill or collect a co-payment from the Medicaid client. The CCO, PHP or PCO may choose not to bill or collect a co-payment from a Medicaid client; however, the Division shall still deduct the co-payment amount from the Medicaid reimbursement made to the CCO, PHP or PCO;

(b) When a CCO, PHP or PCO is operating within the scope of the safe harbor regulation outlined in 42 CFR 1001.952(l), a CCO, PHP or PCO may elect to assess a co-payment on some of the services outlined in table 120-1230-1 but not all. The CCO, PHP or PCO must assure they are working within the provisions of 42 CFR 1003.102(b) (13). [Table not included. See ED. NOTE.]

(8) Services that require co-payments are listed in Table 120-1230-1. [Table not included. See ED. NOTE.]

(9) Table 120-1230-1. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 413.042

Stat. Implemented: ORS 414.025, 414.065

Hist.: OMAP 73-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 73-2003, f. & cert. ef. 10-1-03; OMAP 39-2004(Temp), f. 6-14-04 cert. ef. 6-19-04 thru 11-30-04; OMAP 49-2004, f. 7-28-04 cert. ef. 8-1-04; OMAP 39-2005, f. 9-2-05, cert. ef. 10-1-05; OMAP 15-2006, f. 6-12-06, cert. ef. 7-1-06; DMAP 5-2008, f. 2-28-08, cert. ef. 3-1-08; DMAP 38-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 39-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 49-2012, f. 10-31-12, cert. ef. 11-1-12; DMAP 75-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 23-2014, f. & cert. ef. 4-4-14

410-125-0020

Retroactive Eligibility

(1) The Division of Medical Assistance Programs (Division) may pay for services provided to an individual who does not have Medicaid coverage at the time services are provided if the individual is made retroactively eligible for medical assistance and eligibility is extended back to the date services were provided. Contact the local branch concerning possible retroactive eligibility. In some cases, the date of branch contact may be considered the date of application for eligibility.

(2) Authorization for payment may be given after the service is provided under limited circumstances. For prior authorization information see OAR 410-125-0124 (Hospital Services Program).

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.065

Hist.: AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-90; HR 21-1990, f. & cert. ef. 7-9-90, Renumbered from 461-015-0160, 461-015-0230 & 461-015-0370; HR 42-1991, f. & cert. ef. 10-1-91, Renumbered from 410-125-0160 & 410-125-0440; OMAP 70-2004, f. 9-15-04, cert. ef. 10-1-04; DMAP 39-2008, f. 12-11-08, cert. ef. 1-

410-125-0080

Inpatient Services

(1) Elective (not urgent or emergent) hospital admission:

(a) Coordinated Care Organization (CCO), Fully-Capitated Health Plan (FCHP), and Mental Health Organization (MHO) clients: Contact the client's CCO, FCHP, or MHO. The health plan may have different prior authorization (PA) requirements than the Division of Medical Assistance Programs (Division);

(b) Medicare clients: The Division does not require PA for inpatient services provided to clients with Medicare Part A or B coverage;

(c) Division clients: Oregon Health Plan (OHP) clients covered by the OHP Plus Benefit Package:

(A) For a list of medical and surgical procedures that require PA, see the Division's Medical-Surgical Services Program, rules OAR chapter 410, division 130, specifically OAR 410-130-0200, table 130-0200-1, unless they are urgent or emergent defined in OAR 410-125-0401;

(B) For PA, contact the Division unless otherwise indicated in the Medical-Surgical Service Program rules, specifically OAR 410-130-0200, Table 130-0200-1.

(2) Transplant services:

(a) Complete rules for transplant services are in the Division's Transplant Services Program rules, OAR chapter 410, division 124;

(b) Clients are eligible for transplants covered by the Oregon Health Evidence Review Commission's Prioritized List of Health Services (Prioritized List). See the Transplant Services Program administrative rules for criteria. For clients enrolled in a FCHP, contact the plan for authorization. Clients not enrolled in a FCHP, contact the Division's Medical Director's office.

(3) Out-of-State non-contiguous hospitals:

(a) All non-emergent and non-urgent services provided by hospitals more than 75 miles from the Oregon border require PA;

(b) Contact the Division's Medical Director's office for authorization for clients not enrolled in a Prepaid Health Plan (PHP). For clients enrolled in a PHP, contact the plan.

(4) Out-of-State contiguous hospitals: The Division prior authorizes services provided by contiguous-area hospitals, less than 75 miles from the Oregon border, following the same rules and procedures governing in-State providers.

(5) Transfers to another hospital:

(a) Transfers for the purpose of providing a service listed in the Medical-Surgical Service Program rules, specifically OAR 410-130-0200, Table 130-0200-1, e.g., inpatient physical rehabilitation care, require PA. Contact the Division-contracted Quality Improvement Organization (QIO);

(b) For transfers to a long-term, acute-care hospital, skilled nursing facility, intermediate care facility or swing bed, contact Aging and People with Disabilities (APD). APD reimburses nursing facilities and swing beds through contracts with the facilities. For CCO and FCHP clients, transfers require authorization and payment (for first 20 days) from the CCO or FCHP;

(c) For transfers for the same or lesser level inpatient care to a general acute-care hospital, the Division shall cover transfers, including back transfers that are primarily for the purpose of locating the patient closer to home and family, when the transfer is expected to result in significant social or psychological benefit to the patient:

(A) The assessment of significant benefit shall be based on the amount of continued care the patient is expected to need (at least seven days) and the extent to which the transfer locates the patient closer to familial support;

(B) Payment for transfers not meeting these guidelines may be denied on the basis of post-payment review.

(d) Exceptions:

(A) Emergency transfers do not require PA;

(B) In-State or contiguous non-emergency transfers for the purpose of providing care that is unavailable in the transferring hospital do not require PA unless the planned service is listed in the Medical-Surgical Service Program rules, specifically OAR 410-130-0200, Table 130-0200-1;

(C) All non-urgent transfers to out-of-State, non-contiguous hospitals require PA.

(6) Dental procedures provided in a hospital setting:

(a) For prior authorization requirements, see the Division's Dental Services Program rules; specifically OAR 410-123-1260 and 410-123-1490;

(b) Emergency dental services do not require PA;

ADMINISTRATIVE RULES

(c) For prior authorization for fee-for-service clients, contact the Division's Dental Services Program analyst. (See the Division's Dental Services Program Supplemental information, <http://www.dhs.state.or.us/policy/healthplan/guides/hospital/main.html>;

(d) For clients enrolled in a CCO or FCHP, contact the client's health plan.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065
Hist.: AFS 14-1980, f. 3-27-80, ef. 4-1-80; AFS 30-1982, f. 4-26-82 & AFS 51-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the AFS branch offices located in North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 11-1983, f. 3-8-83, ef. 4-1-83; AFS 37-1983(Temp), f. & ef. 7-15-83; AFS 1-1984, f. & ef. 1-9-84; AFS 6-1984(Temp), f. 2-28-84, ef. 3-1-84; AFS 36-1984, f. & ef. 8-20-84; AFS 22-1985, f. 4-23-85, ef. 6-1-85; AFS 38-1986, f. 4-29-86, ef. 6-1-86; AFS 46-1987, f. & ef. 10-1-87; AFS 7-1989(Temp), f. 2-17-89, cert. ef. 3-1-89; AFS 36-1989(Temp), f. & cert. ef. 6-30-89; AFS 45-1989, f. & cert. ef. 8-21-89; HR 9-1990(Temp), f. 3-30-90, cert. ef. 4-1-90; HR 21-1990, f. & cert. ef. 7-9-90, Renumbered from 461-015-0190; HR 31-1990(Temp), f. & cert. ef. 9-11-90; HR 2-1991, f. & cert. ef. 1-4-91; HR 15-1991(Temp), f. & cert. ef. 4-8-91; HR 42-1991, f. & cert. ef. 10-1-91; HR 39-1992, f. 12-31-92, cert. ef. 1-1-93; HR 36-1993, f. & cert. ef. 12-1-93; HR 5-1994, f. & cert. ef. 2-1-94; HR 4-1995, f. & cert. ef. 3-1-95; OMAP 34-1999, f. & cert. ef. 10-1-99; OMAP 7-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 28-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 35-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 9-2002, f. & cert. ef. 4-1-02; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 11-2004, f. 3-11-04, cert. ef. 4-1-04; OMAP 49-2004, f. 7-28-04 cert. ef. 8-1-04; OMAP 50-2005, f. 9-30-05, cert. ef. 10-1-05; DMAP 27-2007(Temp), f. & cert. ef. 12-20-07 thru 5-15-08; DMAP 12-2008, f. 4-29-08, cert. ef. 5-1-08; DMAP 19-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 39-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 17-2009 f. 6-12-09, cert. ef. 7-1-09; DMAP 32-2010, f. 12-15-10, cert. ef. 1-1-11; DMAP 37-2011, f. 12-13-11, cert. ef. 1-1-12; DMAP 75-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 23-2014, f. & cert. ef. 4-4-14

410-125-0085

Outpatient Services

(1) Outpatient services that may require prior authorization (PA) include (see the individual program in the Division of Medical Assistance Programs (Division), Oregon administrative rules (OARs or rules):

- (a) Physical Therapy (chapter 410, division 131);
- (b) Occupational Therapy (chapter 410, division 131);
- (c) Speech Therapy (chapter 410, division 129);
- (d) Audiology (chapter 410, division 129);
- (e) Hearing Aids (chapter 410, division 129);
- (f) Dental Procedures (chapter 410, division 123);
- (g) Drugs (chapter 410, division 121);
- (h) Apnea monitors, services, and supplies (chapter 410, division 131);
- (i) Home Parenteral/Enteral Therapy (chapter 410, division 148);
- (j) Durable Medical Equipment and Medical supplies (chapter 410, division 122);
- (k) Certain hospital services.

(2) The National Drug Code (NDC) must be included on the electronic (837I) and paper (UB 04) claims for physician administered drug codes required by the Deficit Reduction Act of 2005.

(3) Outpatient surgical procedures:

(a) Coordinated Care Organization (CCO) and Fully-Capitated Health Plan (FCHP) clients: Contact the client's health plan. The health plan may have different PA requirements than the Division. Some services are not covered under FCHP contracts and require PA from the Division, or the Division's Dental Program analyst;

(b) Medicare clients enrolled in a CCO or an FCHP: These services must be authorized by the plan even if Medicare is the primary payer. Without this authorization, the provider shall not be paid beyond any Medicare payments (see also OAR 410-125-0103);

(c) For Division clients on the OHP Plus benefit package:

(A) Surgical procedures listed in OAR 410-125-0080 require PA when performed in an outpatient or day surgery setting, unless they are urgent or emergent;

(B) Contact the Division for PA (unless indicated otherwise in OAR 410-125-0080).

(d) Out-of-State services: Outpatient services provided by hospitals located less than 75 miles from the border of Oregon do not require prior authorization unless specified in the Division's Hospital Services Program rules. All non-urgent or non-emergent services provided by hospitals located more than 75 miles from the border of Oregon require PA. For clients enrolled in a CCO or an FCHP, contact the health plan for authorization. For clients not enrolled in a health plan, contact the Division's Medical Unit.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065
Hist.: HR 42-1991, f. & cert. ef. 10-1-91; HR 39-1992, f. 12-31-92, cert. ef. 1-1-93; HR 36-1993, f. & cert. ef. 12-1-93; HR 5-1994, f. & cert. ef. 2-1-94; HR 4-1995, f. & cert. ef. 3-1-95; OMAP 34-1999, f. & cert. ef. 10-1-99; OMAP 70-2004, f. 9-15-04, cert. ef. 10-1-04; DMAP 39-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 32-2010, f. 12-15-10, cert. ef. 1-1-11;

DMAP 37-2011, f. 12-13-11, cert. ef. 1-1-12; DMAP 75-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 23-2014, f. & cert. ef. 4-4-14

410-130-0240

Medical Services

(1) Coverage of medical and surgical services is subject to the Health Evidence Review Commission's (HERC) Prioritized List of Health Services (Prioritized List). Medical and surgical services requiring prior authorization (PA) are listed in Oregon administrative rule (OAR or rule) 410-130-0200, PA Table 130-0200-1, and medical and surgical services that are Not Covered/Bundle services are listed in OAR 410-130-0220, Table 130-0220-1.

(2) Coverage for acupuncture services by an enrolled acupuncture provider are subject to the HERC Prioritized List and the client's benefit plan.

(3) Coverage for chiropractic services provided by an enrolled chiropractor is subject to the HERC Prioritized List and benefit plan for:

- (a) Diagnostic visits, including evaluation and management services;
- (b) Chiropractic manipulative treatment;
- (c) Laboratory and radiology services.

(4) Maternity care and delivery:

(a) The Division may consider payment for delivery within a clinic, birthing center or home setting;

(b) Within the home setting the Division may consider payment for appropriate supplies in addition to delivery payment. The additional payment for supplies includes all supplies, equipment, staff assistance, newborn screening cards, and local or anesthetics;

(c) The Division may consider payment for physician-administered medications associated with delivery except for local or topical anesthetics;

(d) When labor management conducted by a LDEM does not result in a delivery and the client is appropriately transferred, the provider shall code for labor management only. Bill code 59899 and attach a report;

(e) For multiple births, use the appropriate CPT code for the first vaginal or cesarean delivery that includes antepartum and postpartum care, and the subsequent births under the respective delivery only code. For example, for total obstetrical care with cesarean delivery of twins, bill code 59510 for the first delivery and code 59514 for the second delivery.

(5) Neonatal Intensive Care Unit (NICU) procedures:

(a) Are reimbursed only to neonatologists and pediatric intensivists for services provided to infants when admitted to a Neonatal or Pediatric Intensive Care Unit (NICU/PICU). All other pediatricians must use other CPT codes when billing for services provided to neonates and infants;

(b) Neonatal intensive care codes are not payable for infants on Extracorporeal Membrane Oxygenation (ECMO). Use appropriate CPT ECMO codes.

(6) Neurology/Neuromuscular — Payment for polysomnograms and multiple sleep latency tests (MSLT) are each limited to two in a 12 month period.

(7) Oral health services provided by medical practitioners may include an oral assessment and application of topical fluoride varnish during a medical visit to children under the age of seven years. Refer to OAR 410-123-1260 Dental Services Program rule.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.025 & 414.065
Hist.: PWC 839(Temp), f. & ef. 4-28-77; PWC 849, f. 7-15-77, ef. 8-1-77; PWC 868, f. 12-30-77, ef. 2-1-78; AFS 14-1978(Temp), f. 4-14-78, ef. 4-15-78; AFS 31-1978, f. & ef. 8-1-78; AFS 26-1980, f. 5-21-80, ef. 6-1-80; AFS 56-1980(Temp), f. 8-29-80, ef. 9-1-80; AFS 2-1981, f. 1-9-81, ef. 2-1-81; AFS 36-1981, f. 6-29-81, ef. 7-1-81; AFS 27-1982, f. 4-22-82 & AFS 51-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the AFS branch offices located in North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 38-1983, f. & ef. 8-1-83; AFS 57-1983, f. 11-29-83, ef. 1-1-84; AFS 48-1984(Temp), f. 11-30-84, ef. 12-1-84; AFS 29-1985, f. 5-22-85, ef. 5-29-85; AFS 50-1986, f. 6-30-86, ef. 8-1-86; AFS 56-1987, f. 10-29-87, ef. 11-1-87; AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; AFS 48-1989, f. & cert. ef. 8-24-89, Renumbered from 461-014-0021 & 461-014-0056; HR 10-1990, f. 3-30-90, cert. ef. 4-1-90, Renumbered from 461-014-0650, 461-014-0690 & 461-014-0700; HR 14-1991(Temp), f. & cert. ef. 3-7-91; HR 18-1991(Temp), f. 4-12-91, cert. ef. 4-15-91; HR 19-1991, f. 4-12-91, cert. ef. 5-1-91; HR 24-1991, f. & cert. ef. 6-18-91; HR 2-1992, f. & cert. ef. 1-2-92; HR 8-1992, f. 2-28-92, cert. ef. 3-1-92; HR 18-1992, f. & cert. ef. 7-1-92; HR 36-1992, f. & cert. ef. 12-1-92; HR 40-1992, f. 12-31-92, cert. ef. 2-1-93; HR 16-1993, f. & cert. ef. 7-2-93; HR 6-1994, f. & cert. ef. 2-1-94, Renumbered from 410-130-0320, 410-130-0340, 410-130-0360 & 410-130-0740; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 10-1996, f. 5-31-96, cert. ef. 6-1-96; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 13-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 40-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03; OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03; OMAP 13-2004, f. 3-11-04, cert. ef. 4-1-04; OMAP 58-2004, f. 9-10-04, cert. ef. 10-1-04; OMAP 88-2004, f. 11-24-04, cert. ef. 12-1-04; OMAP 8-2005, f. 3-9-05, cert. ef. 4-1-05; OMAP 26-2006, f. 6-14-06, cert. ef. 7-1-06; DMAP 18-2009, f. 6-12-09, cert. ef. 7-1-09; DMAP 58-2012(Temp), f. 12-27-12, cert. ef. 12-28-12 thru 6-25-13; DMAP 27-2013, f. & cert. ef. 6-25-13; DMAP 75-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 23-2014, f. & cert. ef. 4-4-14

ADMINISTRATIVE RULES

410-131-0120

Limitations of Coverage and Payment

(1) Oregon Health Plan (OHP) Plus clients shall be responsible for paying a co-payment for some services. This co-payment shall be paid directly to the provider. See OAR 410-120-1230, Client Co-payment, and Table 120-1230-1 for specific details. [Table not included. See ED. NOTE.]

(2) The provision of PT/OT evaluations and therapy services require a prescribing practitioner referral, and services must be supported by a therapy plan of care signed and dated by the prescribing practitioner (see OAR 410-131-0080).

(3) PT/OT initial evaluations and re-evaluations do not require Prior Authorization (PA), but are limited to:

(a) Up to two initial evaluations in any 12-month period; and

(b) Up to four re-evaluation services in any 12-month period;

(4) Reimbursement is limited to the initial evaluation when both the initial evaluation and a re-evaluation are provided on the same day.

(5) All other occupational and physical therapy treatments require PA. See also OAR 410-131-0160 and Table 131-0160-1. [Table not included. See ED. NOTE.]

(6) A licensed occupational or physical therapist, or a licensed occupational or physical therapy assistant under the supervision of a therapist, must be in constant attendance while therapy treatments are performed:

(a) Duration — Therapy treatments may not exceed one hour per day each for occupational and physical therapy;

(b) Modalities:

(A) Require PA;

(B) Up to two modalities may be authorized per day of treatment;

(C) Need to be billed in conjunction with a therapeutic procedure code; and

(D) Each individual supervised modality code may be reported only once for each client encounter. See Table 131-0160-1. [Table not included. See ED. NOTE.]

(c) Massage therapy is limited to two units per day of treatment and shall only be authorized in conjunction with another therapeutic procedure or modality.

(7) Supplies and materials for the fabrication of splints must be billed at the acquisition cost, and reimbursement may not exceed the Division's maximum allowable in accordance with the physician fee schedule. Acquisition cost is purchase price plus shipping. Off-the-shelf splints, even when modified, are not included in this service.

(8) The following services are not covered:

(a) Services not medically appropriate;

(b) Services that are not paired with a funded diagnosis on the Health Evidence Review Commission's (HERC) Prioritized List of Health Services pursuant to OAR 410-141-0520;

(c) Work hardening;

(d) Back school/back education classes;

(e) Hippotherapy (e.g. horse or equine-assisted therapy);

(f) Services included in OAR 410-120-1200 Excluded Services Limitations;

(g) Durable medical equipment and medical supplies other than those splint supplies listed in Table 131-0120-1, OAR 410-131-0280 [Table not included. See ED. NOTE.]; and

(h) Maintenance therapy (see OAR 410-131-0100).

(9) Physical capacity examinations are not a part of the PT/OT program but may be reimbursed as administrative examinations when ordered by the local branch office. See the Division's OARs 410, division 150 for information on administrative examinations and report billing.

(10) Table 131-0120-1. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 688.135, 414.065

Hist.: HR 8-1991, f. 1-25-91, cert. ef. 2-1-91; HR 19-1992, f. & cert. ef. 7-1-92; HR 28-1993, f. & cert. ef. 10-1-93; HR 43-1994, f. 12-30-94, cert. ef. 1-1-95; HR 2-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 8-1998, f. & cert. ef. 3-2-98; OMAP 18-1999, f. & cert. ef. 4-1-99; OMAP 32-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 53-2002, f. & cert. ef. 10-1-02; OMAP 64-2003, f. 9-8-03, cert. ef. 10-1-03; OMAP 59-2004, f. 9-10-04, cert. ef. 10-1-04; OMAP 15-2005, f. 3-11-05, cert. ef. 4-1-05; DMAP 35-2011, f. 12-13-11, cert. ef. 1-1-12; DMAP 75-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 23-2014, f. & cert. ef. 4-4-14

410-138-0000

Targeted Case Management Definitions

The following definitions apply to OAR 410-138-0000 through 410-138-0420:

(1) Assessment means the act of gathering information and reviewing historical and existing records of an eligible client in a target group to determine the need for medical, educational, social, or other services. To perform a complete assessment, the case manager shall gather information

from family members, medical providers, social workers, and educators, if necessary.

(2) Care Plan means a Targeted Case Management (TCM) Care Plan that is a multidisciplinary plan that contains a set of goals and actions required to address the medical, social, educational, and other service needs of the eligible client based on the information collected through an assessment or periodic reassessment.

(3) Case Management means services furnished by a case manager to assist individuals eligible under the Medicaid State plan in gaining access to and effectively using needed medical, social, educational, and other services (such as housing or transportation) in accordance with 42 CFR 441.18. See also definition for Targeted Case Management.

(4) Centers for Medicare and Medicaid Services (CMS) means the federal agency under the U.S. Department of Health and Human Services that provides the federal funding for Medicaid and Children's Health Insurance Program (CHIP).

(5) Department means the Department of Human Services (Department).

(6) Division means the Division of Medical Assistance Programs.

(7) Duplicate payment means more than one payment made for the same services to meet the same need for the same client at the same point in time.

(8) Early intervention (EI) means services for preschool children with disabilities from birth until three years of age, including Indian children and children who are homeless and their families.

(9) Early childhood special education (ECSE) means free, specially designed instruction to meet the unique needs of a preschool child with a disability, three years of age until the age of eligibility for public school, including instruction in physical education, speech-language services, travel training, and orientation and mobility services. Instruction is provided in any of the following settings: home, hospitals, institutions, special schools, classrooms, and community childcare or preschool settings.

(10) Early Intervention/Early Childhood Special Education (EI/ECSE) services means services provided to a preschool child with disabilities, eligible under the Individuals with Disabilities Education Act (IDEA), from birth until they are eligible to attend public school, pursuant to the eligible child's Individualized Family Service Plan (IFSP).

(11) EI/ECSE Case manager (i.e., service coordinator) means an employee of the EI/ECSE contracting or subcontracting agency meeting the personnel standards requirements in OAR 581-015-2900. The EI/ECSE case manager serves as a single point-of-contact and is responsible for coordinating all services across agency lines for the purpose of assisting an eligible client to obtain needed medical, social, educational, developmental and other appropriate services (such as housing or transportation) identified in the eligible client's care plan in coordination with the client's IFSP.

(12) EI/ECSE TCM Program means a service under the State plan and includes case management services furnished to eligible EI/ECSE preschool children age 0-5 with disabilities, assisting them to gain access to needed medical, social, educational, developmental and other appropriate services (such as housing or transportation) in coordination with their IFSP. EI/ECSE TCM providers must meet the criteria for the provision of special education programs approved by the State Superintendent of Public Instruction qualifying such programs for State reimbursement under OAR 581-015-2710 EI/ECSE and must be contractors with the Oregon Department of Education in the provision of EI/ECSE services or be subcontractors with such a contractor. Medicaid reimbursement for EI/ECSE TCM services is available only to eligible clients in the target group and does not restrict an eligible client's free choice of providers.

(13) Eligible client means an individual who is found eligible for Medicaid or the Children's Health Insurance Program (CHIP) by the Oregon Health Authority (Authority) and eligible for case management services (including TCM services) as defined in the Medicaid State plan at the time the services are furnished.

(14) Federal Financial Participation (FFP) means the portion paid by the federal government to states for their share of expenditures for providing Medicaid services. FFP was created as part of the Title XIX, Social Security Act of 1965. There are two objectives that permit claims under FFP. They are:

(a) To assist individuals eligible for Medicaid to enroll in the Medicaid program; and

(b) To assist individuals on Medicaid to access Medicaid providers and services. The second objective involves TCM.

(15) Federal Medical Assistance Percentage (FMAP) means the percentage of federal matching dollars available to a state to provide Medicaid services. The FMAP is calculated annually based on a three-year average of

ADMINISTRATIVE RULES

state per capita personal income compared to the national average. The formula is designed to provide a higher federal matching rate to states with lower per capita income. No state receives less than 50 percent or more than 83 percent.

(16) Individualized Family Service Plan (IFSP) means a written plan of early childhood special education, related services, early intervention services, and other services developed in accordance with criteria established by the State Board of Education for each child eligible for services. (See OAR 581-015-2700 to 581-015-2910, Early Intervention and Early Childhood Special Education Programs.)

(17) Medical Assistance Program means a program administered by the Division that provides and pays for health services for eligible Oregonians. The Medical Assistance Program includes TCM services provided to clients eligible under the Oregon Health Plan (OHP) Title XIX, and the Children's Health Insurance Program (CHIP) Title XXI.

(18) Monitoring means ongoing face-to-face or other contact to conduct follow-up activities with the participating eligible client or the client's health care decision makers, family members, providers or other entities or individuals when the purpose of the contact is directly related to managing the eligible client's care to ensure the care plan is effectively implemented.

(19) Oregon Health Plan (OHP) means the Medicaid program in Oregon that is known as the OHP and governed by a series of laws passed by the Oregon Legislature with the intention of providing universal access to healthcare to Oregonians. OHP is also governed by many federal laws.

(20) Reassessment means periodically re-evaluating the eligible client to determine whether or not medical, social, educational, or other services continue to be adequate to meet the goals and objectives identified in the care plan. Reassessment decisions include those to continue, change, or terminate TCM services. A reassessment must be conducted at least annually or more frequently if changes occur in an eligible client's condition; or when resources are inadequate or the service delivery system is non-responsive to meet the client's identified service needs.

(21) Referral means performing activities such as scheduling appointments that link the eligible client with medical, social, or educational providers, or other programs and services, and follow-up and documentation of services obtained.

(22) Targeted Case Management (TCM) Services means case management services furnished to a specific target group of eligible clients under the Medicaid State plan to gain access to needed medical, social, educational, and other services (such as housing or transportation).

(23) Unit of Government means a city, a county, a special purpose district, or other governmental unit in the State.

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: HR 20-1992, f. & cert. ef. 7-1-92; OMAP 61-2004, f. 9-10-04, cert. ef. 10-1-04; DMAP 32-2008(Temp), f. & cert. ef. 10-2-08 thru 3-27-09; DMAP 43-2008, f. 12-17-08, cert. ef. 12-28-08; DMAP 22-2010, f. 6-30-10, cert. ef. 7-1-10; DMAP 41-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 75-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 23-2014, f. & cert. ef. 4-4-14

410-138-0007

Targeted Case Management — Covered Services

(1) Targeted case management (TCM) services shall be furnished only to assist individuals eligible under the Medicaid State plan in gaining access to and effectively using needed medical, social, educational, and other services (such as housing or transportation) in accordance with 42 CFR 441.18.

(2) TCM services billed to Medicaid must be for allowable activities and include one or more of the following components:

(a) Assessment of an eligible client in the target group to determine the need for medical, educational, social, or other services as follows:

(A) Taking client history;

(B) Identifying the needs of the client, and completing related documentation;

(C) Gathering information from other sources, such as family members, medical providers, social workers, and educators, if necessary, to form a complete assessment of the eligible client;

(D) Periodically reassessing a client to determine if the client's needs or preferences have changed. A reassessment must be conducted at least annually or more frequently if changes occur in an individual's condition;

(b) Development of a care plan based on the information collected through the assessment or periodic reassessment, specifying the goals and actions to address the medical, social, educational, and other services needed by the eligible client. This may include:

(A) Active participation of the eligible client in the target group; or

(B) Working with the eligible client or the eligible client's authorized health care decision maker and others to develop goals and identify a course of action to respond to the assessed needs of the eligible client;

(c) Referral, linking and coordination of services and related activities including but not limited to:

(A) Scheduling appointments for the eligible client in the target group to obtain needed services; and

(B) Activities that help link the eligible client with medical, social, or educational providers, or other programs and services (e.g., food vouchers, transportation, child care, or housing assistance) that address identified needs and achieve goals specified in the care plan. The case management referral activity is completed once the referral and linkage have been made;

(C) Reminding and motivating the client to adhere to the treatment and services schedules established by providers.

(d) Monitoring or ongoing face-to-face or other contact:

(A) Monitoring and follow-up activities include activities and contacts:

(i) To ensure the care plan is effectively implemented;

(ii) To help determine if the services are being furnished in accordance with the eligible client's care plan;

(iii) To determine whether the care plan adequately addresses the needs of the eligible client in the target group;

(iv) To adjust the care plan to meet changes in the needs or status of the eligible client.

(B) Monitoring activities may include contacts with:

(i) The participating eligible client in the target group;

(ii) The eligible client's healthcare decision makers, family members, providers, or other entities or individuals when the purpose of the contact is directly related to the management of the eligible client's care.

(3) TCM services billed to Medicaid must be documented in individual case records for all individuals receiving case management. The documentation must include:

(a) The name of the individual;

(b) The dates of the case management services;

(c) The name of the provider agency (if relevant) and the person providing the case management service;

(d) The nature, content, units of the case management services received and whether goals specified in the care plan have been achieved;

(e) Whether the individual has declined services in the care plan;

(f) The need for, and occurrences of, coordination with other case managers;

(g) A timeline for obtaining needed services;

(h) A timeline for reevaluation of the plan.

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: DMAP 32-2008(Temp), f. & cert. ef. 10-2-08 thru 3-27-09; DMAP 43-2008, f. 12-17-08, cert. ef. 12-28-08; DMAP 22-2010, f. 6-30-10, cert. ef. 7-1-10; DMAP 41-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 75-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 23-2014, f. & cert. ef. 4-4-14

410-138-0009

Targeted Case Management — Services Not Covered

Targeted Case Management (TCM) services do not cover:

(1) Direct delivery of an underlying medical, educational, social, or other service to which the eligible client has been referred;

(2) Providing transportation to a service to which an eligible client is referred;

(3) Escorting an eligible client to a service;

(4) Providing child care so that an eligible client may access a service;

(5) Contacts with individuals who are not categorically eligible for Medicaid or who are categorically eligible for Medicaid but not included in the eligible target population when those contacts relate directly to the identification and management of the non-eligible or non-targeted individual's needs and care;

(6) Assisting an individual who has not yet been determined eligible for Medicaid to apply for or obtain eligibility;

(7) TCM services provided to an individual if the services are case management services funded by Title IV-E or Title XX of the Social Security Act, or federal or State funded parole and probation, or juvenile justice programs;

(8) Activities for which third parties are liable to pay.

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: DMAP 32-2008(Temp), f. & cert. ef. 10-2-08 thru 3-27-09; DMAP 43-2008, f. 12-17-08, cert. ef. 12-28-08; DMAP 43-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 22-2010, f. 6-30-10, cert. ef. 7-1-10; DMAP 41-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 75-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 23-2014, f. & cert. ef. 4-4-14

ADMINISTRATIVE RULES

410-141-0860

Oregon Health Plan Primary Care Manager and Patient Centered Primary Care Home Provider Qualification and Enrollment

(1) Definitions:

(a) ACA-qualified conditions will be posted on the agency website. The types of conditions include a mental health condition, substance use disorders, asthma, diabetes, heart disease, BMI over 25 or for patients under the age of 20 (The equivalent measure would be BMI equal or greater than 85 percentile.), HIV/AIDS, hepatitis, chronic kidney disease and cancer;

(b) An ACA-qualified patient is a patient who meets the criteria described in these rules as authorized by Section 2703 of the Patient Protection and Affordable Care Act;

(c) ACA-qualified patients are individuals with:

(A) A serious mental health condition; or

(B) At least two chronic conditions proposed by the state and approved by CMS; or

(C) One chronic condition and at risk of another qualifying condition as described above:

(i) Providers and plans are to use information published by the US Preventive Services Task Force, Bright Futures, and HRSA Women's Preventive Services when making decisions about the particular risk factors for an additional chronic condition that may lead a patient with one chronic condition to meet the criteria of one chronic condition and at risk of another;

(ii) The conditions and risk factors shall be documented in the patient's medical record.

(d) Core services are defined as:

(A) Comprehensive Care Management is identifying patients with high risk environmental or medical factors, including patients with special health care needs who will benefit from additional care planning. Care management activities may include but are not limited to population panel management, defining and following self-management goals, developing goals for preventive and chronic illness care, developing action plans for exacerbations of chronic illnesses, and developing end-of-life care plans when appropriate;

(B) Care coordination is an integral part of the PCPCH. Care coordination functions will include the use of the person-centered plan to manage such referrals and monitor follow up as necessary. The Division shall assign clients to a provider, clinic, or team to increase continuity of care and ensure responsibility for individual client care coordination functions, including but not limited to:

(i) Tracking ordered tests and notifying all appropriate care-givers and clients of results;

(ii) Tracking referrals ordered by its clinicians including referral status and whether consultation results have been communicated to clients and clinicians; and

(iii) Directly collaborating or co-managing clients with specialty mental health and substance abuse and providers of services and supports to people with developmental disabilities and people receiving long-term care services and supports. (The Division strongly encourages co-location of behavioral health and primary care services.)

(C) Health promotion is demonstrated when a PCPCH provider supports continuity of care and good health through the development of a treatment relationship with the client, other primary care team members and community providers. The PCPCH provider shall promote the use of evidence-based, culturally sensitive wellness and prevention by linking the client with resources for smoking cessation, diabetes, asthma, self-help resources and other services based on individual needs and preferences. The PCPCH shall use health promotion activities to promote patient and family education and self-management of their ACA-qualifying conditions;

(D) Comprehensive transitional care is demonstrated when a PCPCH emphasizes transitional care with either a written agreement or procedures in place with its usual hospital providers, local practitioners, health facilities and community-based services to ensure notification and coordinated, safe transitions, as well as improve the percentage of patients seen or contacted within one (1) week of facility discharges;

(E) Individual and family support services are demonstrated when a PCPCH has processes in place for:

(i) Patient and family education;

(ii) Health promotion and prevention;

(iii) Self-management supports; and

(iv) Information and assistance to obtain available non-health care community resources, services and supports.

(F) Referral to community and social support services is demonstrated through the PCPCH's processes and capacity for referral to community and social support services, such as patient and family education, health promotion and prevention, and self-management support efforts, including available community resources.

(e) Patient Centered Primary Care Home (PCPCH) pursuant to OAR 409-055-0010(7) is defined as a health care team or clinic as defined in ORS 414.655, meets the standards pursuant to OAR 409-055-0040, and has been recognized through the process pursuant to 409-055-0040;

(f) A PCPCH "team" is interdisciplinary and inter-professional and must include non-physician health care professionals, such as a nurse care coordinator, nutritionist, social worker, behavioral health professional, community health workers, personal health navigators and peer wellness specialists authorized through State plan or waiver authorities. (Community health workers, personal health navigators and peer wellness specialists are individuals who meet criteria established by the Oregon Health Authority, have passed criminal history background check, and in the judgment of the Authority, hiring agency, and licensed health professional approving the patient centered plan, have the knowledge, skills, and abilities to safely and adequately provide the services authorized.) These PCPCH professionals may operate in a variety of ways, such as free standing, virtual, or based at any of the clinics and facilities;

(g) Person-centered plan is defined as the plan that shall be developed by the PCPCH and reflect the client and family/caregiver preferences for education, recovery and self-management as well as management of care coordination functions. Peer supports, support groups and self-care programs shall be utilized to increase the client and caregivers knowledge about the client's health and health-care needs. The person-centered plan shall be based on the needs and desires of the client including at least the following elements:

(A) Options for accessing care;

(B) Information on care planning and care coordination;

(C) Names of other primary care team members when applicable; and

(D) Information on ways the team member participates in this care coordination.

(h) Primary Care Managers (PCM) must be trained and certified or licensed, as applicable under Oregon statutes and administrative rules in one of the following disciplines:

(A) Doctors of medicine;

(B) Doctors of osteopathy;

(C) Naturopathic physicians;

(D) Nurse Practitioners;

(E) Physician assistant;

(F) Naturopaths who have a written agreement with a physician sufficient to support the provision of primary care, including prescription drugs, and the necessary referrals for hospital care.

(2) Enrollment requirements:

(a) To enroll as a PCM, all applicants must:

(A) Be enrolled as Oregon Division of Medical Assistance Programs (Division) providers;

(B) Make arrangements to ensure provision of the full range of PCM Managed Services, including prescription drugs and hospital admissions;

(C) Complete and sign the PCM Application (DMAP 3030 (7/11));

(D) If the Division determines that the PCM or an applicant for enrollment as a PCM does not comply with the OHP administrative rules pertaining to the PCM program or the Division's General Rules, or if the Division determines that the health or welfare of Division clients may be adversely affected or in jeopardy by the PCM, the Division may:

(i) Deny the application for enrollment as a PCM;

(ii) Close enrollment with an existing PCM; or

(iii) Transfer the care of those PCM clients enrolled with that PCM until such time as the Division determines that the PCM is in compliance.

(E) The Division may terminate their agreement without prejudice to any obligations or liabilities of either party already accrued prior to termination, except when the obligations or liabilities result from the PCM's failure to terminate care for those PCM members. The PCM shall be solely responsible for its obligations or liabilities after the termination date when the obligations or liabilities result from the PCM's failure to terminate care for those PCM members.

(b) To enroll as a PCPCH with the Division, all applicants must:

(A) Apply to and be "recognized" as a PCPCH by the Oregon Health Authority (Authority) as organized in accordance with relevant Oregon Office of Health Policy and Research (OHPR) administrative rules (OAR 409-055-0000 to 409-055-0090), the Division administrative rules (chapter 410, division 141), and OHPRs Oregon Patient Centered Primary Care

ADMINISTRATIVE RULES

Home Model, dated October 2011 and found at www.primarycarehome.oregon.gov. The Authority grants PCPCH recognition only when a practice, site, clinic or individual provider is successful in the application process with the Authority;

(i) The type of practice, site, clinic or individual provider that may apply to become a PCPCH includes physicians (family practice, general practice, pediatricians, gynecologists, obstetricians, Internal Medicine), Certified Nurse Practitioner and Physician Assistants, clinical practices or clinical group practices (FQHCs; RHCs; Tribal clinics; Community health centers; Community Mental Health Programs and Drug and Alcohol Treatment Programs with integrated Primary Care Providers);

(ii) PCPCH services will occur under the direction of licensed health professionals, physicians, physician assistants, nurse practitioners, nurses, social workers, or professional counselors.

(B) PCPCH providers must complete the enrollment process in order to receive reimbursement (OAR 410-120-1260), except as otherwise stated in OAR 410-120-1295. The Provider Enrollment Attachment (attachment to the Provider Enrollment Agreement) sets forth the relationship between the Division and the PCPCH site (recognized clinic or provider) to receive payment for providing PCPCH services under OHP OAR 410-141-0860;

(C) New PCPCH enrollment shall be effective on or after October 1, 2011 or the date established by the Division upon receipt of required information; (Note: PCPCH tier enrollment changes shall be effective the first of the next month or a date approved by the Division.)

(D) The PCPCH enrollment process requires the PCPCH submit a list of fee-for-service (FFS) clients to the Division in a format approved by the Division. The PCPCH must identify current OHP clients being treated within their practice. The PCPCH shall identify that patients are ACA qualified or not as defined in these rules;

(E) PCPCHs serving clients enrolled in a managed care organization (MCO, FCHP or PCO) must consult the MCO on the procedures for developing an OHP client list. The MCO shall submit the list of their identified clients to the Division. Identified client lists are submitted to the Division so that the Division can assign the appropriate clients to the PCPCH and begin making payments for services rendered, all in accordance with relevant OARs;

(F) Termination of PCPCH enrollment shall be the date established by the Authority. All providers shall comply with Provider Sanctions as outlined in OAR 410-120-1400.

(3) Payment: The Division shall make per member per month (PMPM) payments based on the PCPCH clinic's recognized tier and on the patient's ACA status.

(a) PCPCH payments are made as follows:

(A) For fee-for-service (FFS) ACA-qualified patients, the amount of the PMPM shall be based on the PCPCH tier:

- (i) \$10 for tier 1;
- (ii) \$15 for tier 2 and;
- (iii) \$24 for tier 3.

(B) For FFS non-ACA-qualified patients, the amount of the PMPM shall be based on the PCPCH tier:

- (i) \$2 for tier 1;
- (ii) \$4 for tier 2 and;
- (iii) \$6 for tier 3.

(b) For MCO enrolled ACA-qualified members, MCOs are responsible for payment to PCPCH providers assigned to the PCPCH. MCOs shall make payments to PCPCH clinics in accordance with OAR 409-055-0030. If an MCO retains any portion of the PCPCH payment, that portion shall be used to carry out functions related to PCPCH and is subject to approval and oversight by the Division;

(c) MCOs that wish to use PCPCH payment methodology and amount different from the Division must receive Division approval;

(d) The Division shall not provide additional PMPM payment to the MCOs for non-ACA-qualified members. For MCO enrolled non-ACA-qualified members, PCPCH payment responsibility will be integrated into MCOs capitation payments and covered services at the next opportunity to revise capitation rates expected on or near July 1, 2012;

(e) MCOs must use an alternative payment methodology that supports the Division's goal of improving the efficiency and quality of health services for primary care homes by decreasing the use of FFS reimbursement models. PMPM payment is an alternative methodology;

(f) It is the Division's intention that the PCPCH Program will not duplicate other similar services or programs such as PCM and medical case management, and the Authority shall not make PCPCH payments for patients who participate in these programs. The Division may review on a

program to program basis if care coordination programs are complimentary with PCPCH.

(4) Client Assignment:

(a) OHP clients' participation with PCPCH is voluntary. OHP clients can opt out at any time from a PCPCH;

(b) The Division will provide client notice of PCPCH assignment including information about benefits of PCPCH and how to notify the Division if they wish to opt out.

(c) The Division shall remove PCPCH assignment from clients who choose not to participate in a PCPCH Program.

(d) Upon completion of PCPCH enrollment process and approval from CMS, the Division will implement PMPM payments for non-ACA patients who are not enrolled in an FCHP or PCO. The Division will integrate this service into rate setting and managed care responsibilities at the first available opportunity. This provision only affects the start-up phase of the program and is acknowledgment of a more gradual implementation than was originally intended;

(e) Clients assigned must have full medical eligibility with either Oregon Health Plan (OHP) Plus (BMH, BMP, BMM or BMD) benefit plans. This excludes CAWEM Plus (CWX) and QMB (MED) only.

(5) Documentation Requirements:

(a) The PCPCH must coordinate the care of all assigned clients who do not choose to opt out of the PCPCH Program to ensure they have a "person-centered plan" that has been developed with the client or the client's caregiver. The PCPCH must provide an assigned client with at least one of the six "core" services as defined in Oregon State Medicaid Plan each quarter and document the service(s) in the medical record in order to be eligible for payment;

(b) PCPCHs shall assure that the patient's engagement, education and agreement to participate in the PCPCH program are documented within six months of initial participation;

(c) PCPCHs shall assure that for each patient, providers are working with the patient to develop a person-centered plan within six months of initial participation and revise as needed;

(d) For ACA-qualified patients, PCPCH clinics shall provide one of the six core services or an activity that is defined in the service definition at least quarterly. Documentation of the services provided must be kept in the patient's medical record;

(e) PCPCHs shall assure that they notify the Division when a patient moves out of the service area, terminates care, or no longer receives primary care from the PCPCH clinic as stated in OAR 410-141-0080 and 410-141-0120. Patient assignment shall be terminated at the end of the month for which PCPCH services terminated, unless a move to another PCPCH provider begins primary care before the end of the month. In this situation, the disenrollment and payment will be prorated;

(f) PCPCH clinics and MCOs must report to the Division a complete list of their Medicaid PCPCH patients, no less than quarterly. The Division will not make payments for patients that are not reported on these quarterly reports or for patients where documentation requirements are not met. PCPCH clinics and MCOs may provide the Division information on new member assignments or termination member assignments on a more frequent basis if they desire;

(g) PCPCH clinics must log on to the PCPCH provider portal, which will be available at www.primarycarehome.oregon.gov, no less than quarterly. In conjunction with submission of the quarterly patient list, logging on to the PCPCH provider portal serves as evidence that the clinic has complied with the service and documentation requirements. Clinics will have the opportunity to track quality measures through the portal and use this as a panel management tool;

(h) PCPCH clinics that have their own information technology system can use their own system as an alternative to the PCPCH provider portal. To do this, PCPCH clinics must:

(A) Be able to document quarterly usage of the system for panel management purposes; and

(B) Submit a request in writing to the Division to utilize their system as an alternative. The Division will respond to each request in writing.

(i) MCOs, no later than the 15th of January, April, July and October shall provide the Division with the following information for the preceding quarter:

- (A) Number of clinics or sites that meet PCPCH standards;
- (B) Number of Primary Care Providers in those service delivery sites;
- (C) Number of patients receiving primary care in those sites; and
- (D) Number of ACA-qualified patients receiving primary care at those sites.

ADMINISTRATIVE RULES

(j) PCPCH shall provide their Division PCPCH clinic number when referring a patient to another provider to ensure it is added to the claim as a referring provider. The PCPCH will also need to document the referral in the patient's medical record.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 413.042, 414.065;

Stats. Implemented: ORS 414.065

Hist.: HR 7-1994, f. & cert. ef. 2-1-94; OMAP 21-1998, f. & cert. ef. 7-1-98; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03; OMAP 23-2006, f. 6-12-06, cert. ef. 7-1-06; DMAP 28-2011, f. 9-30-11, cert. ef. 10-1-11; DMAP 14-2012, f. & cert. ef. 3-22-12; DMAP 75-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 23-2014, f. & cert. ef. 4-4-14

410-142-0040

Eligibility for the Hospice Services

(1) Hospice services are covered for clients who have:

(a) Been certified as terminally ill in accordance with OAR 410-142-0060; and

(b) Have Oregon Health Plan (OHP) Plus benefit package coverage.

(2) Providers must bill Medicare for hospice services for clients with Medicare Part A coverage. Medicare's payment is considered payment in full.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.065

Hist.: HR 9-1994, f. & cert. ef. 2-1-94; HR 16-1995, f. & cert. ef. 8-1-95; OMAP 43-2005, f. 9-2-05, cert. ef. 10-1-05; DMAP 40-2011, f. 12-15-11, cert. ef. 1-1-12; DMAP 75-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 23-2014, f. & cert. ef. 4-4-14

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

Adm. Order No.: DMAP 24-2014

Filed with Sec. of State: 4-4-2014

Certified to be Effective: 4-4-14

Notice Publication Date: 3-1-2014

Rules Amended: 410-120-1340

Rules Repealed: 410-120-1340(T)

Subject: 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—(503) 945-6430

410-120-1340

Payment

(1) The Division of Medical Assistance Programs (Division) shall make payment only to the enrolled provider (see OAR 410-120-1260) who actually performs the service or to the provider's enrolled billing provider for covered services rendered to eligible clients.

(2) Division reimbursement for services may be subject to review prior to reimbursement.

(3) The Division that is administering the program under which the billed services or items are provided sets fee-for-service (FFS) payment rates.

(4) The Division uses FFS payment rates in effect on the date of service that are the lesser of:

(a) The amount billed;

(b) The Division maximum allowable amount; or

(c) Reimbursement specified in the individual program provider rules.

(5) Amount billed may not exceed the provider's "usual charge" (see definitions).

(6) The Division's maximum allowable rate setting process uses the following methodology for:

(a) Relative Value Unit (RVU) weight-based rates: For all CPT/HCPCS codes assigned an RVU weight, the 2014 Total RVU weights published in the Federal Register, Vol. 78, December 10, 2013 to be effective for dates of services on or after January 1, 2014:

(A) For professional services not typically performed in a facility, the Non-Facility Total RVU weight;

(B) For professional services typically performed in a facility, the Facility Total RVU weight;

(C) The Division applies the following conversion factors:

(i) \$40.79 for labor and delivery codes (59400-59622);

(ii) \$36.0666 for Federally Qualified primary care codes billed by providers meeting the criteria in OAR 410-130-0005;

(iii) \$27.82 for other Oregon primary care providers and services not specified in (ii). A current list of primary care CPT, HCPCS and provider specialty codes is available at http://www.oregon.gov/OHA/healthplan/data_pubs/feeschedule/main.shtml

(iv) \$25.48 for all remaining RVU weight based CPT/HCPCS codes.

(D) Rate calculation: Effective January 1, 2014, the Division shall calculate rates for each RVU weight-based code using statewide Geographic Practice Cost Indices (GPCIs) as follows:

(i) (Work RVU) X (Work GPCI of .986) + (Practice Expense RVU) X (Practice GPCI of 0.972) + (Malpractice RVU) X (Malpractice GPCI of 0.667);

(ii) Sum in (D)(i) multiplied by the applicable conversion factor in section C.

(b) Non RVU based rates:

(A) \$20.78 is the base rate for anesthesia service codes 00100-01996. The rate is based on per unit of service;

(B) Clinical lab codes are priced at 70 percent of the 2014 Medicare clinical lab fee schedule;

(C) All approved Ambulatory Surgical Center (ASC) procedures are reimbursed at 80 percent of the 2013 Medicare fee schedule;

(D) Physician administered drugs, billed under a HCPCS code, are based on Medicare's Average Sale Price (ASP). When no ASP rate is listed, the rate shall be based upon the Wholesale Acquisition Price (WAC) plus 6.25 percent. If no WAC is available, then the rate shall be reimbursed at Acquisition Cost. Pricing information for WAC is provided by First Data Bank. These rates may change periodically based on drug costs;

(E) All procedures used for vision materials and supplies are based on contracted rates that include acquisition cost plus shipping and handling;

(F) Individual provider rules may specify reimbursement rates for particular services or items.

(7) The rates in (6) are updated periodically and posted on the Authority web site at http://www.oregon.gov/OHA/healthplan/data_pubs/feeschedule/main.shtml.

(8) The Division reimburses inpatient hospital service under the DRG methodology, unless specified otherwise in the Division's Hospital Services Program administrative rules (chapter 410, division 125). Reimbursement for services, including claims paid at DRG rates, may not exceed any upper limits established by federal regulation.

(9) The Division reimburses all out-of-state hospital services at Oregon DRG or FFS rates as published in the Hospital Services Program rules (OAR chapter 410, division 125) unless the hospital has a contract or service agreement with the Division to provide highly specialized services.

(10) Payment rates for in-home services provided through Department of Human Services (Department) Aged and Physically Disabled Division (APD) may not exceed the costs of nursing facility services unless the criteria in OAR 411-027-0020 have been met.

(11) The Division sets payment rates for out-of-state institutions and similar facilities, such as skilled nursing care facilities, psychiatric and rehabilitative care facilities at a rate that is:

(a) Consistent with similar services provided in the State of Oregon; and

(b) The lesser of the rate paid to the most similar facility licensed in the State of Oregon or the rate paid by the Medical Assistance Programs in that state for that service; or

(c) The rate established by APD for out-of-state nursing facilities.

(12) The Division may not make payment on claims that have been assigned, sold or otherwise transferred or when the billing provider, billing agent or billing service receives a percentage of the amount billed or collected or payment authorized. This includes, but is not limited to, transfer to a collection agency or individual who advances money to a provider for accounts receivable.

(13) The Division may not make a separate payment or copayment to a nursing facility or other provider for services included in the nursing facility's all-inclusive rate. The following services are not included in the all-inclusive rate (OAR 411-070-0085) and may be separately reimbursed:

(a) Legend drugs, biologicals and hyperalimentation drugs and supplies, and enteral nutritional formula as addressed in the Pharmaceutical Services Program administrative rules (chapter 410, division 121) and Home Enteral/Parenteral Nutrition and IV Services Program administrative rules (chapter 410, division 148);

(b) Physical therapy, speech therapy, and occupational therapy provided by a non-employee of the nursing facility within the appropriate program administrative rules (chapter 410, division 129 and 131);

(c) Continuous oxygen which exceeds 1,000 liters per day by lease of a concentrator or concentrators as addressed in the Durable Medical Equipment, Prosthetics, Orthotics and Supplies Program administrative rules (chapter 410, division 122);

(d) Influenza immunization serum as described in the Pharmaceutical Services Program administrative rules (chapter 410, division 121);

ADMINISTRATIVE RULES

(e) Podiatry services provided under the rules in the Medical-Surgical Services Program administrative rules (chapter 410, division 130);

(f) Medical services provided by a physician or other provider of medical services, such as radiology and laboratory, as outlined in the Medical-Surgical Services Program rules (chapter 410, division 130);

(g) Certain custom fitted or specialized equipment as specified in the Durable Medical Equipment, Prosthetics, Orthotics and Supplies Program administrative rules, (chapter 410, division 122).

(14) The Division reimburses hospice services based on CMS Core-Based Statistical Areas (CBSA's). A separate payment may not be made for services included in the core package of services as outlined in OAR chapter 410, division 142.

(15) Payment for Division clients with Medicare and full Medicaid:

(a) The Division limits payment to the Medicaid allowed amount, less the Medicare payment, up to the Medicare co-insurance and deductible, whichever is less. The Division's payment cannot exceed the co-insurance and deductible amounts due;

(b) The Division pays the Division allowable rate for Division covered services that are not covered by Medicare.

(16) For clients with third-party resources (TPR), the Division pays the Division allowed rate less the TPR payment but not to exceed the billed amount.

(17) The Division payments, including contracted PHP or CCO payments, unless in error, constitute payment in full, except in limited instances involving allowable spend-down or copayments. For the Division, such payment in full includes:

(a) Zero payments for claims where a third party or other resource has paid an amount equivalent to or exceeding Division allowable payment; and

(b) Denials of payment for failure to submit a claim in a timely manner, failure to obtain payment authorization in a timely and appropriate manner or failure to follow other required procedures identified in the individual provider rules.

(18) Payment by the Division does not restrict or limit the Authority or any state or federal oversight entity's right to review or audit a claim before or after the payment. Claim payment may be denied or subject to recovery if medical review, audit or other post-payment review determines the service was not provided in accordance with applicable rules or does not meet the criteria for quality of care or medical appropriateness of the care or payment.

Stat. Auth.: ORS 413.024

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

Hist.: PWC 683, f. 7-19-74, ef. 8-11-784; PWC 803(Temp), f. & ef. 7-1-76; PWC 812, f. & ef. 10-1-76; Renumbered from 461-013-0061; PWC 833, f. 3-18-77, ef. 4-1-77; Renumbered from 461-013-0061; AFS 5-1981, f. 1-23-81, ef. 3-1-81; Renumbered from 461-013-0060, AFS 47-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 117-1982, f. 12-30-82, ef. 1-1-83; AFS 24-1985, f. 4-24-85, ef. 6-1-85; AFS 50-1985, f. 8-16-85, ef. 9-1-85; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90, Renumbered from 461-013-0081, 461-013-0085, 461-013-0175 & 461-013-0180; HR 41-1991, f. & cert. ef. 10-1-91; HR 32-1993, f. & cert. ef. 11-1-93, Renumbered from 410-120-0040, 410-120-0220, 410-120-0200, 410-120-0240 & 410-120-0320; HR 2-1994, f. & cert. ef. 2-1-94; HR 5-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 10-1999, f. & cert. ef. 4-1-99; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 62-2003, f. 9-8-03, cert. ef. 10-1-03; OMAP 10-2004, f. 3-11-04, cert. ef. 4-1-04; OMAP 39-2005, f. 9-2-05, cert. ef. 10-1-05; OMAP 15-2006, f. 6-12-06, cert. ef. 7-1-06; OMAP 45-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 24-2007, f. 12-11-07, cert. ef. 1-1-08; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08; DMAP 35-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 38-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 39-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 22-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 1-25-12; DMAP 36-2011, f. 12-13-11, cert. ef. 1-1-12; DMAP 28-2012, f. 6-21-12, cert. ef. 7-1-12; DMAP 41-2012(Temp), f. 8-22-12, cert. ef. 9-1-12 thru 2-28-13; DMAP 49-2012, f. 10-31-12, cert. ef. 11-1-12; DMAP 14-2013(Temp), f. & cert. ef. 3-29-13 thru 9-25-13; DMAP 49-2013, f. & cert. ef. 9-25-13; DMAP 71-2013, f. & cert. ef. 12-27-13; DMAP 24-2014, f. & cert. ef. 4-4-14

Rule Caption: Income Eligibility Guidelines for OCCS Medical Programs

Adm. Order No.: DMAP 25-2014(Temp)

Filed with Sec. of State: 4-14-2014

Certified to be Effective: 4-14-14 thru 10-11-14

Notice Publication Date:

Rules Amended: 410-200-0315

Subject: Every year the Federal Poverty Levels (FPL) are adjusted and published to the Federal Register. A number of OCCS medical programs and income disregards are based on percentages of the FPL and must be updated now that the FPLs have been published and aligned with Cover Oregon's implementation timeline.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-200-0315

Standards and Determining Income Eligibility

(1) MAGI-based income not specifically excluded is countable, and its value is used in determining the eligibility and benefit level of an applicant or beneficiary.

(2) MAGI-based income is considered available on the date it is received or the date a member of the household group has a legal right to the payment and the legal ability to make it available, whichever is earlier, except as follows:

(a) Income usually paid monthly or on some other regular payment schedule is considered available on the regular payment date if the date of payment is changed because of a holiday or weekend.

(b) Income withheld or diverted at the request of an individual is considered available on the date the income would have been paid without the withholding or diversion.

(c) An advance or draw of earned income is considered available on the date it is received.

(3) In determining financial eligibility for each applicant, the sum of the budget month MAGI-based income of all household group members is combined and compared to the applicable income standard for the family size. If the income is at or below the MAGI income standard, the individual meets the financial eligibility requirements. Except as provided in section (4)(a), if income exceeds the MAGI income standard, the individual is ineligible.

(4) This section applies to MAGI Medicaid/CHIP programs that became effective January 1, 2014:

(a) If an individual is ineligible for MAGI Medicaid based solely on income and would otherwise be eligible for MAGI CHIP or be referred to the Exchange for APTC, a disregard equivalent to five percentage points of the federal poverty level for the applicable family size shall be applied to the household group's income. If the resulting amount is below the income standard for the applicable program and family size, the individual meets the financial eligibility requirements in the following programs:

(A) The MAGI Parent or Other Caretaker Relative Program;

(B) The MAGI Child Program;

(C) The MAGI Adult Program; and

(D) The MAGI Pregnant Woman Program.

(b) If an individual is ineligible for MAGI CHIP based solely on income and would otherwise be referred to the Exchange for APTC, a disregard equivalent to five percentage points of the federal poverty level for the applicable family size shall be applied to the household group's income. If the resulting amount is below the income standard for the applicable program and family size, the individual meets the financial eligibility requirements in the MAGI CHIP.

(c) Effective April 12, 2014, the MAGI income standard for the MAGI Parent or Other Caretaker-Relative program is set as follows: [Table not included. See ED. NOTE.]

(d) Effective April 12, 2014, the MAGI income standard for the MAGI Child Program and the MAGI Adult Program is set at 133 percent of the FPL as follows. If an individual's household group income exceeds the income standard for their family size, the appropriate disregard for their family size described in section (4)(a) shall be applied: [Table not included. See ED. NOTE.]

(e) Effective April 12, 2014, the MAGI income standard for the MAGI Pregnant Woman Program and for MAGI Child Program recipients under age one is set at 185 percent FPL. If an individual's household group income exceeds the income standard for their family size, the appropriate disregard for their family size described in section (4)(a) shall be applied: [Table not included. See ED. NOTE.]

(f) Effective April 12, 2014, the MAGI income standard for the MAGI CHIP program is set through 300 percent of FPL as follows. If a child's household group income exceeds the income standard for their family size, and the child would be otherwise ineligible for MAGI CHIP, the appropriate disregard for their family size described in section (5)(a)(B) shall be applied: [Table not included. See ED. NOTE.]

(g) When the Department makes an ELE determination and the child meets all MAGI CHIP or MAGI Child Program nonfinancial eligibility requirements, the household size determined by the Department is used to determine eligibility regardless of the family size. The countable income of the household is determined by the ELA. A child is deemed eligible for MAGI CHIP or MAGI Child Program as follows:

(A) Effective April 12, 2014, if the MAGI-based income of the household group is below 163 percent of the 2014 federal poverty level as listed below, the Department deems the child eligible for the MAGI Child Program. [Table not included. See ED. NOTE.]

ADMINISTRATIVE RULES

Oregon Health Authority, Public Health Division Chapter 333

(B) If the MAGI-based income of the household group is at or above 163 percent of the FPL through 300 percent of the FPL as listed in section (4)(f) of this rule, the Agency deems the child eligible for MAGI CHIP.

(5) For eligibility decisions effective October 1, 2013 through December 31, 2013, the MAGI income standards listed in this section are used.

(a) Individuals who apply from October 1, 2013 through December 31, 2013 shall first be considered for the programs described in OAR 410-200-0510. Individuals found ineligible based on information from all budget months of October, November, or December 2013 shall have their eligibility determined as follows:

(A) For individuals who would be eligible for programs based on eligibility and income standards found in section (4)(c) through (e) as of January 1, 2014, eligibility for the applicable program shall begin as of that date.

(B) For individuals who are ineligible for programs which begin on January 1, 2014 who would otherwise be eligible for MAGI CHIP or be referred to the Exchange for APTC as of January 1, 2014, a disregard equivalent to five percentage points of the federal poverty level for the applicable family size will be applied to the household group's income. If the resulting amount is below the January 1, 2014 income standard found in section (4)(c) through (e) for the applicable program and family size, the individual meets the financial eligibility requirements for MAGI Medicaid/CHIP.

(b) The 2013 MAGI-based income standard for the MAA and SAC programs is as follows. If a child's household group income exceeds the income standard for their family size, and the child would be otherwise ineligible for Medicaid, the appropriate disregard for their family size described in section (5)(a)(B) shall be applied: [Table not included. See ED. NOTE.]

(c) The 2013 MAGI-based income standard for the OHP-OPU program is set at 100 percent of the 2013 federal poverty level: [Table not included. See ED. NOTE.]

(d) The MAGI-based income standard for the OHP-OPC program is set to 100 percent of the 2013 federal poverty level. If a child's household group income exceeds the income standard for their family size, and the child would be otherwise ineligible for Medicaid, the appropriate disregard for their family size described in section (5)(a)(B) shall be applied: [Table not included. See ED. NOTE.]

(e) The 2013 MAGI-based income standard for the OHP-OP6 program is set at 133 percent of the 2013 federal poverty level. If a child's household group income exceeds the income standard for their family size, and the child would be otherwise ineligible for Medicaid, the appropriate disregard for their family size described in section (5)(a)(B) shall be applied: [Table not included. See ED. NOTE.]

(f) The 2013 MAGI-based income standard for the OHP-OPP program is set at 185 percent of the 2013 federal poverty level. If a child's household group income exceeds the income standard for their family size, and the child would be otherwise ineligible for Medicaid, the appropriate disregard for their family size described in section (5)(a)(B) shall be applied: [Table not included. See ED. NOTE.]

(g) The 2013 MAGI income standard for the MAGI CHIP program is set through 300 percent of the 2013 FPL as follows: [Table not included. See ED. NOTE.]

(h) When the Department makes an ELE determination and the child meets all MAGI CHIP or MAGI Child Program nonfinancial eligibility requirements, the household size determined by the Department is used to determine eligibility regardless of the family size. The countable income of the household is determined by the ELA. A child is deemed eligible for MAGI CHIP or MAGI Child Program as follows:

(A) If the MAGI-based income of the household group is below 163 percent of the 2013 federal poverty level as listed below, the Department deems the child eligible for the MAGI Child Program. [Table not included. See ED. NOTE.]

(B) If the MAGI-based income of the household group is at or above 163 percent of the 2013 FPL through 300 percent of the FPL as listed in section (5)(g) of this rule, the Agency deems the child eligible for MAGI CHIP.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 411.402, 411.404 & 413.042

Stats. Implemented: ORS 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 414.025, 414.231, 414.440 & 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14; DMAP 25-2014(Temp), f. & cert. ef. 4-14-14 thru 10-11-14

Rule Caption: Moratorium by local governments on medical marijuana facilities and defining products dispensed.

Adm. Order No.: PH 9-2014(Temp)

Filed with Sec. of State: 4-1-2014

Certified to be Effective: 4-1-14 thru 9-27-14

Notice Publication Date:

Rules Adopted: 333-008-1225, 333-008-1245, 333-008-1275, 333-008-1400

Rules Suspended: 333-008-1240(T), 333-008-1270(T)

Subject: The Oregon Health Authority, Public Health Division is temporarily adopting rules in chapter 333, division 8 pertaining to medical marijuana facilities.

The rules will implement the provisions of SB 1531, Oregon Laws 2014, Chapter 79.

The rules define the process for local governments to submit moratoriums by local government jurisdictions on medical marijuana facilities to the Oregon Health Authority; define child resistant packaging for the dispensing of medical marijuana; and define the manufacturing and packaging of marijuana in a manner that is attractive to minors.

Two temporary rules (333-008-1240, Transfers to a Patient or Designated Primary Caregiver; and 333-008-1270, Enforcement) are being suspended and readopted under new rule numbers (333-008-1245 and 333-008-1275 respectively) so they can be updated with added language pertaining to Oregon Laws 2014, Chapter 79 (SB 1531) while maintaining the same effective dates of the newly adopted rules (333-008-1225 and 333-008-1400) pertaining to the same legislation.

Rules Coordinator: Alayna Nest—(971) 673-1291

333-008-1225

Packaging

(1) For purposes of this rule:

(a) "Child-resistant safety packaging" means:

(A) Tamper-proof, child-proof containers designed and constructed to be significantly difficult for children under five years of age to open and not difficult for adults to use properly;

(B) Opaque so that the product cannot be seen from outside the packaging;

(C) Closable for any product intended for more than a single use or containing multiple servings; and

(D) Labeled in accordance with OAR 333-008-1220.

(b) "Container" means a sealed, hard or soft-bodied receptacle in which a tetrahydrocannabinol-infused product is placed prior to being transferred to a patient or caregiver.

(c) "Packaged in a manner not attractive to minors" means the tetrahydrocannabinol-infused product is not in a container that is brightly colored, depicts cartoons or images other than the logo of the facility, unless the logo of the facility depicts cartoons, in which case only the name of the facility is permitted.

(2) A registered facility may not transfer any tetrahydrocannabinol-infused product that is meant to be swallowed or inhaled, unless the product is:

(a) Packaged in child-resistant safety packaging; and

(b) Packaged in a manner that is not attractive to minors.

Stat. Auth.: ORS 475.314

Stats. Implemented: ORS 475.314

Hist.: PH 9-2014(Temp), f. & cert. ef. 4-1-14 thru 9-27-14

333-008-1245

Transfers to a Patient or Designated Primary Caregiver

(1) A registered facility may not transfer a tetrahydrocannabinol-infused product that is manufactured in a manner that is attractive to minors. For purposes of this section a product is considered to be manufactured in a manner that is attractive to minors if it is:

(a) Brightly colored; or

(b) In the shape of an animal or any other commercially recognizable toy or candy.

ADMINISTRATIVE RULES

(2) Prior to a registered facility transferring usable marijuana or an immature plant to a patient or a designated primary caregiver the PRF must ensure that:

(a) The usable marijuana or an immature plant has not tested positive for mold, mildew or pesticides as specified in OAR 333-008-1190; and

(b) The identity and cardholder status of the person requesting usable marijuana or an immature plant is verified by viewing the person's OMMF card and picture identification and making sure the two match.

(3) The PRF must ensure that for each transfer of usable marijuana or an immature plant to a patient or a designated primary caregiver the following information is documented:

(a) The name, OMMF card number and expiration date of the card of each person to whom the registered facility transfers usable marijuana or an immature plant;

(b) A copy of the person's picture identification;

(c) The amount of usable marijuana transferred in metric units, if applicable;

(d) The number of immature plants transferred, if applicable;

(e) The amount of a finished product transferred in metric units, or units of the finished product, if applicable;

(f) A description of what was transferred;

(g) The date of the transfer; and

(h) The amount of money paid by a patient or a designated primary caregiver to a registered facility for the transfer of usable marijuana or an immature plant.

(4) The PRF must ensure that a registered facility does not transfer at any one time more usable marijuana or immature plants than a patient or designated primary caregiver is permitted to possess under ORS 475.320(1)(a). A PRF is not responsible for determining whether a patient or designated primary caregiver is limited in the amount of usable marijuana he or she can possess under 475.320(1)(b).

Stat. Auth.: ORS 475.314 & 475.338

Stats. Implemented: ORS 475.314

Hist.: PH 9-2014(Temp), f. & cert. ef. 4-1-14 thru 9-27-14

333-008-1275

Enforcement

(1)(a) Informal Enforcement. If, during an inspection the Authority documents violations of ORS 475.314 or any of these rules, the Authority may issue a written Notice of Violation to the PRF that cites the laws alleged to have been violated and the facts supporting the allegations.

(b) The PRF must submit to the Authority a signed plan of correction within 10 business days from the date the Notice of Violation was mailed to the person. A signed plan of correction will not be used by the Authority as an admission of the violations alleged in the Notice.

(c) A PRF must correct all deficiencies within 10 days from the date of the Notice, unless an extension of time is requested from the Authority. A request for such an extension shall be submitted in writing and must accompany the plan of correction.

(d) The Authority must determine if a written plan of correction is acceptable. If the plan of correction is not acceptable to the Authority it must notify the PRF in writing and request that the plan of correction be modified and resubmitted no later than 10 working days from the date the letter of non-acceptance was mailed.

(e) If the registered facility does not come into compliance by the date of correction reflected on the plan of correction, the Authority may propose to revoke the registration of the facility or impose civil penalties.

(f) The Authority may conduct an inspection at any time to determine whether a registered facility has corrected the deficiencies in a Notice of Violation.

(2) Formal Enforcement. If, during an inspection or based on other information the Authority determines that a registered facility or PRF is in violation of ORS 475.314 or these rules the Authority may issue:

(a) A Notice of Proposed Revocation in accordance with ORS 183.411 through 183.470; or

(b) A Notice of Imposition of Civil Penalties in accordance with ORS 183.745. Civil penalties may be issued for any violation of ORS 475.314 and these rules, not to exceed \$500 per violation per day.

(3) The Authority must determine whether to use the informal or formal enforcement process based on the nature of the alleged violations, whether there are mitigating or aggravating factors, and whether the PRF or the registered facility has a history of violations.

(4) The Authority must issue a Notice of Proposed Revocation if the:

(a) Facility no longer meets the criteria in ORS 475.314(3)(a) to (d);

or

(b) PRF is not a resident of Oregon, has disqualifying criminal convictions as described in OAR 333-008-1120, or a court has issued an order that prohibits the PRF from participating in the OMMF under ORS 475.300 through 475.346 unless a new PRF is approved by the Authority.

(5) The Authority may maintain a civil action against a facility that is operating but not registered in accordance with ORS 475.314 and these rules.

(6) The Authority may revoke the registration of a facility for failure to comply with an ordinance adopted by a city or county pursuant to Oregon Laws 2014, chapter 79, section 2, if the city or county:

(a) Has provided the facility with due process substantially similar to the due process provided to a registration or license holder under the Administrative Procedures Act, ORS 183.413 to 183.470; and

(b) Provides the Authority with a final order that is substantially similar to the requirements for a final order under ORS 183.470 that establishes the facility is in violation of the local ordinance.

(7) The Authority must post a final order revoking the registration of a facility on the Authority's website and provide a copy of the final order to the OMMF.

(8) To the extent permitted by law, if the Authority discovers violations that may constitute criminal conduct or conduct that is in violation of laws within the jurisdiction of other state or local governmental entities, the Authority may refer the matter to the applicable agency.

(9) If the registration of a facility is revoked the PRF must make arrangements to return the usable marijuana and immature plants in amounts still possessed by the facility, to the person who transferred the usable marijuana or immature plants and must document the same.

Stat. Auth.: ORS 431.262, 475.314 & 475.338

Stats. Implemented: ORS 431.262 & 475.314

Hist.: PH 9-2014(Temp), f. & cert. ef. 4-1-14 thru 9-27-14

333-008-1400

Moratoriums

(1) For purposes of this rule, "moratorium" means an ordinance, adopted by the governing body of a city or county by May 1, 2014, that specifically suspends the operation of registered medical marijuana facilities within the area subject to the jurisdiction of the city or county, for a period of time that does not extend past May 1, 2015.

(2) If a city or county adopts a moratorium it must notify the Authority and provide a copy of the ordinance.

(3) An applicant applying for registration of a facility proposing to operate in an area subject to a moratorium may submit a request, in writing, to withdraw the application and may request a refund of the fees.

(4) A PRF of a registered facility located in an area subject to a moratorium may submit a request, in writing, to surrender its registration and request a refund of the fees.

(5) Upon receipt of a request to withdraw an application or surrender a registration under sections (3) or (4) of this rule the Authority shall determine whether the ordinance falls within the definition of moratorium and inform the applicant or PRF in writing whether:

(a) The application is considered withdrawn and the fees refunded; or

(b) The registration has been surrendered and the fees refunded.

(6) The Authority may refund all fees, including the non-refundable registration fee.

(7) Notifications or requests described in sections (2) to (4) of this rule may be submitted to the Authority:

(a) By mail at P.O. Box 14116, Portland, OR 97293; or

(b) By electronic mail to medmj.dispensaries@state.or.us.

Stat. Auth.: 2014 OL, Ch. 79, Sec. 3

Stats. Implemented: 2014 OL, Ch. 79, Sec. 3

Hist.: PH 9-2014(Temp), f. & cert. ef. 4-1-14 thru 9-27-14

Rule Caption: Criteria for eligibility of school-based health center funding and grant awards

Adm. Order No.: PH 10-2014

Filed with Sec. of State: 4-1-2014

Certified to be Effective: 4-1-14

Notice Publication Date: 2-1-2014

Rules Adopted: 333-028-0260, 333-028-0270, 333-028-0280

Subject: The Oregon Health Authority, Public Health Division is adopting permanent rules pertaining to the criteria for continuation funding for certified school-based health centers (SBHCs), awarding grants to communities planning for certified SBHCs, and incentive funding to: (1) increase the number of SBHCs as patient-centered primary care homes; (2) improve the coordination of care of

ADMINISTRATIVE RULES

patients served by coordinated care organizations and school-based health centers; and (3) improve the effectiveness of the delivery of health services through school-based health centers to children who qualify for medical assistance as mandated by the passage of House Bill 2445 by the 2013 Legislature. The rules are intended to fulfill the mandates by prescribing the criteria for eligibility of funding and grant awards.

Rules Coordinator: Alayna Nest—(971) 673-1291

333-028-0260

Funding Criteria for Certified SBHCs

(1) The program is required, under ORS 413.225 to provide funds for the expansion and continuation of certified school-based health centers.

(2) A SBHC that is certified by the program is eligible for funding by the program.

(3) Funding for a certified SBHC may be provided, but is not limited to being provided, to:

- (a) A local public health authority, as that is defined in ORS 431.260;
- (b) A sponsoring agency; or

(c) A coordinated care organization, or governmental entity or person that can demonstrate a significant interest and involvement in assisting and coordinating with SBHCs.

(4) Funding award amounts will be primarily based on the number of certified SBHCs in the county and legislatively approved budget. The program may take into consideration other factors such as the quality of the health care services, clients served, and population needs.

(5) Funding for certified SBHCs shall be awarded for up to two years. Fund awards are renewable based on the certification renewal process per OAR 333-028-0220.

(6) Funding for a certified SBHC may be suspended or discontinued at the program's discretion if a certified SBHC is out of compliance with certification requirements and the program has issued a suspension notice under OAR 333-028-0250(4).

(7) The program must discontinue funding of an SBHC that has been decertified.

Stat. Auth.: ORS 413.225
Stats. Implemented: 2013 OL Ch. 683, ORS 413.225
Hist.: PH 10-2014, f. & cert. ef. 4-1-14

333-028-0270

Funding Criteria for SBHC Planning Communities

(1) The program is required to direct funds to communities planning for certified school-based health centers and will do so through a competitive grant proposal process for one or two year planning grants.

(2) Any of the following entities may be eligible to apply for planning grant funds on behalf of their community:

- (a) A local public health authority;
- (b) A school or school district;
- (c) A coordinated care organization as that is defined in ORS 414.025;
- (d) Medical, dental or mental health organizations; or
- (e) A governmental entity or person that can demonstrate a significant interest and involvement in establishing, assisting or coordinating with SBHCs.

(3) The program will specify in its published request for proposals which entities within a community are eligible for that specific grant award.

(4) Planning grant applicants will be evaluated on elements outlined in the request for proposal, which must include but is not limited to an evaluation of community need and readiness for a SBHC.

(5) The grant amount awarded shall be determined based on number of awarded applicants and legislatively approved budget.

(6) Funding for planning communities shall be awarded for up to two years.

Stat. Auth.: ORS 413.225
Stats. Implemented: 2013 OL Ch. 683, ORS 413.225
Hist.: PH 10-2014, f. & cert. ef. 4-1-14

333-028-0280

Funding Criteria for Incentive Funds

(1) The program shall award grant funding to communities with certified SBHCs through a competitive grant proposal process in order to incentivize:

(a) Increasing the number of SBHCs as state-recognized patient-centered primary care homes as that is defined in ORS 414.025;

(b) Improve coordination of care of patients served by coordinated care organizations and SBHCs; and

(c) Improve the effectiveness of the delivery of health services through SBHCs to children who qualify for medical assistance.

(2) Any entity or person described in OAR 333-028-0270(2) may apply for funding and the program will specify in its published request for proposals which entities within a community are eligible for that specific grant award.

(3) The program will evaluate applicants based on elements outlined in the request for proposals, which must include but is not limited to an evaluation of whether the person or entity has the qualifications to accomplish one or more of the activities described in subsections (1)(a) through (c) of this rule.

(4) Funding awards shall be determined based on number of awarded applicants and legislatively approved budget.

(5) Funding for the incentive grants shall be awarded for up to two years.

Stat. Auth.: ORS 413.225
Stats. Implemented: 2013 OL Ch. 683, ORS 413.225
Hist.: PH 10-2014, f. & cert. ef. 4-1-14

Rule Caption: Update newborn screening program rules and fees including addition of severe combined immunodeficiencies (SCID).

Adm. Order No.: PH 11-2014

Filed with Sec. of State: 4-15-2014

Certified to be Effective: 5-1-14

Notice Publication Date: 2-1-2014

Rules Amended: 333-024-0205, 333-024-0210, 333-024-0215, 333-024-0220, 333-024-0225, 333-024-0230, 333-024-0231, 333-024-0232, 333-024-0235, 333-024-0240

Subject: The Oregon Health Authority, Public Health Division, Oregon State Public Health Laboratory is permanently amending administrative rules in chapter 333, division 24. The amendments will: update newborn screening program rules regarding definitions, congenital disorders tested for and methods of testing, timing of specimen collection and requirements for fee exemption; add severe combined immunodeficiencies (SCID) to the screening panel no later than May 1, 2014; and increase the newborn screening kit fee effective May 1, 2014.

Rules Coordinator: Alayna Nest—(971) 673-1291

333-024-0205

Definitions

As used in these rules:

(1) "Colorimetric assay" means a qualitative laboratory procedure to detect the presence of the enzyme biotinidase which, when present, produces a color change.

(2) "Congenital disorder" means a condition that is present at birth. This includes but is not limited to cystic fibrosis, endocrine, hemoglobinopathy, metabolic, and immunodeficiency disorders.

(3) "County health department" means those county and district health departments formed under ORS 431.416.

(4) "Cystic fibrosis" means a disorder, usually due to a single enzyme deficiency of genetic origin, in which the individual is completely or partially unable to produce a functioning transmembrane conductance regulator protein that results in progressive multi-organ dysfunction and the accumulation of trypsinogen in the blood during the newborn period.

(5) "Diagnostic laboratory" means a laboratory approved to perform testing for the congenital disorders listed herein to rule out a specific disorder suspected by newborn screening or for screening infants older than six months of age.

(6) "Division" means the Public Health Division of the Oregon Health Authority.

(7) "Dried blood specimen" means a blood specimen obtained from an infant by means of capillary-puncture or skin-puncture (heel stick), not by means of venipuncture or any other method, which is placed on special filter paper kits and allowed to air dry.

(8) "Endocrine disorders" means disorders related to hormone production or utilization resulting in abnormal growth and development, fluid and electrolyte imbalance or other disturbance, including hypothyroidism and congenital adrenal hyperplasia.

(9) "Fluorescent immunoassay" means a competitive binding or direct assay creating specific antibody-antigen reactions to detect thyroxine, thyroid stimulating hormone, 17-alpha-hydroxyprogesterone and immunoreactive trypsinogen.

ADMINISTRATIVE RULES

(10) "Fluorescent spot test" means a biochemical laboratory test procedure utilizing certain naturally occurring enzymes in erythrocytes and added chemicals used to detect galactose in blood specimens as a screening test for galactosemia. It is described occasionally in the scientific literature as a "Hill test."

(11) "Hemoglobinopathy" means one of a group of disorders which results in abnormal structure and function of hemoglobin that leads to variable degrees of anemia, hemolysis and other complications. These include sickle cell disease and other clinically significant hemoglobinopathies.

(12) "High performance liquid chromatography" means the utilization of a separation column to detect various hemoglobin proteins based on their retention time.

(13) "Immunodeficiency disorders" means a group of disorders in which the immune system is not functioning properly. This includes severe combined immunodeficiency (SCID), a primary immune disorder characterized by a defect in T-cell production and function. SCID is also described as the "bubble boy disease".

(14) "Isoelectric focusing" means a laboratory procedure in which protein, hemoglobin in blood, is subjected to an electric field in a gel medium with a gradient pH causing it to migrate to its pH and isoelectric point, revealing specific patterns for each type of hemoglobin.

(15) "Kit" means any or all parts of the combined materials, laboratory slips, tubes, mailing containers, or other components provided by the state public health laboratory for the purposes of collection or submission of specimens for laboratory tests.

(16) "Metabolic disorders" means those disorders of intermediary metabolism and hormone production, regulation, or utilization in which the individual is completely or partially incapable of normal metabolism of biotin, single amino acids, galactose, or fatty acids resulting in the abnormal accumulation of those and other metabolites in the blood. These include phenylketonuria and medium-chain acyl-CoA dehydrogenase deficiency.

(17) "Newborn screening panel" means those disorders identified by the Oregon Health Authority in these rules for which all infants shall be tested, except if the infant is being reared as an adherent to a religion the teachings of which are opposed to such testing.

(18) "Practitioner" means a person duly and regularly licensed by the proper authority to practice medicine, naturopathy or chiropractic or to be a nurse practitioner. For purposes of OAR 333-024-0215(1) only, this definition is extended to include the licensed or unlicensed person who takes responsibility for delivery or the health care of the baby; or being none, the person responsible for the health care of the mother prior to birth of the baby.

(19) "Precision" of an assay means a quantitative measure of reproducibility of a laboratory procedure in assaying a particular chemical under defined conditions. Examples include, but are not limited to, statistically determined values of standard deviations from the mean and coefficients of variation.

(20) "Sensitivity" of an assay means the lowest concentration or quantity of a particular chemical that can be reliably detected or measured by a laboratory assay procedure under defined conditions.

(21) "Specificity" of an assay means the accuracy with which a laboratory assay procedure can reliably identify or measure the quantity of a particular chemical to distinguish it from other related or unrelated chemicals under defined conditions.

(22) "Specimen for newborn screening" means a dried blood specimen from an infant submitted to the state public health laboratory to detect congenital disorders included on the newborn screening test panel.

(23) "State public health laboratory" means the Oregon State Public Health Laboratory of the Public Health Division, 3150 NW 229th Avenue, Hillsboro, Oregon 97124.

(24) "Tandem mass spectrometry" means a laboratory procedure in which amino acids and acylcarnitines are detected and quantified in a sample taken from a dried blood spot.

(25) "These rules" means OAR 333-024-0205 through 333-024-0240.

(26) "TREC assay" means a DNA polymerase chain reaction method to detect T-cell receptor excision circles. An absence or reduction in TRECs can be used as an indicator for severe combined immunodeficiency or other primary immune deficiencies.

Stat. Auth.: ORS 431.310

Stats. Implemented: ORS 433.285, 433.290 & 433.295

Hist.: HD 18-1981(Temp), f. & ef. 9-11-81; HD 3-1982, f. & ef. 2-25-82; HD 10-1986, f. & ef. 6-11-86; PH 11-2014, f. 4-15-14, cert. ef. 5-1-14

333-024-0210

Infants Tested for Metabolic Diseases

Every infant born in Oregon on or after May 1, 2014, shall be tested for at least the following congenital disorders by the state public health laboratory:

- (1) Cystic fibrosis (CF).
- (2) Endocrine disorders:
 - (a) Congenital hypothyroidism (CH); and
 - (b) Congenital adrenal hyperplasia (CAH).
- (3) Galactosemia (GALT).
- (4) Hemoglobin disorders:
 - (a) Sickle cell disease (Hb S/S);
 - (b) Sickle cell/beta thalassemia (Hb S/A); and
 - (c) Sickle cell/hemoglobin C disease (Hb S/C).
- (5) Metabolic disorders:
 - (a) Amino acid disorders:
 - (A) Homocystinuria (HCY);
 - (B) Phenylketonuria (PKU); and
 - (C) Tyrosinemia (TYR).
 - (b) Biotinidase deficiency;
 - (c) Fatty acid oxidation disorders:
 - (A) Carnitine uptake defect (CUD);
 - (B) Carnitine/acylcarnitine translocase deficiency (CT);
 - (C) Carnitine palmitoyl transferase deficiency (CPT), Types I and II;
 - (D) Glutaric acidemia, Type II (GA-II);
 - (E) Long-chain L-3 hydroxyacyl-CoA dehydrogenase deficiency (LCHAD);
 - (F) Medium-chain acyl-CoA dehydrogenase deficiency (MCAD);
 - (G) Short-chain acyl-CoA dehydrogenase deficiency (SCAD);
 - (H) Trifunctional protein deficiency (TFP); and
 - (I) Very long-chain acyl-CoA dehydrogenase deficiency (VLCAD).
 - (d) Organic acid disorders:
 - (A) Beta-ketothiolase deficiency (BKT);
 - (B) Glutaric acidemia, Type I (GA-I);
 - (C) Isobutyryl-CoA dehydrogenase deficiency (IBG);
 - (D) Isovaleric acidemia (IVA);
 - (E) Malonic aciduria (MAL);
 - (F) Maple syrup urine disease (MSUD);
 - (G) Methylmalonic acidemia (MMA);
 - (H) Propionic acidemia (PA);
 - (I) 2-Methyl-3-hydroxybutyryl CoA dehydrogenase deficiency (2M3HBA);
 - (J) 2-Methylbutyryl CoA dehydrogenase deficiency (2MBG);
 - (K) 3-hydroxy-3-methylglutaryl-CoA lyase deficiency (HMG);
 - (L) 3-methylcrotonyl-CoA carboxylase deficiency (3-MCC);
 - (M) 3-methylglutaconyl-CoA hydratase deficiency (3MGA); and
 - (N) Multiple carboxylase deficiency (MCD).
 - (e) Urea Cycle Disorders:
 - (A) Arginase deficiency (ARG);
 - (B) Argininosuccinate lyase deficiency (ASA); and
 - (C) Citrullinemia, Type I (CIT I).
 - (6) Other disorders as defined by Oregon Health Authority.
 - (7) Severe combined immunodeficiencies (SCID).

Stat. Auth.: ORS 433.285

Stats. Implemented: ORS 433.285

Hist.: HD 18-1981(Temp), f. & ef. 9-11-81; HD 3-1982, f. & ef. 2-25-82; HD 17-1983, f. & ef. 10-12-83; HD 10-1986, f. & ef. 6-11-86; HD 28-1994, f. 10-28-1994, cert. ef. 11-1-94; 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 11-2014, f. 4-15-14, cert. ef. 5-1-14

333-024-0215

Person Responsible for Submitting Specimens for Newborn Screening Testing

(1)(a) The person responsible for assuring that specimens are submitted for testing the infant for congenital disorders shall be in order of responsibility:

(A) The hospital, freestanding birthing center, or other health care facility licensed under ORS Chapter 441, or if the infant is not in such a facility;

(B) The practitioner, or if no practitioner is in attendance;

(C) The parent or legal guardian.

(b) For purposes of this section and OAR 333-024-0225, in the case of infants entering a health care facility before 48 hours of age as a result of transfer from another health care facility or from out-of-hospital birth, the receiving health care facility shall be responsible for the timely collection of specimens.

ADMINISTRATIVE RULES

(2) The state public health laboratory may perform tests for certain congenital disorders for patients from outside Oregon.

Stat. Auth.: ORS 433.285
Stats. Implemented: ORS 433.285
Hist.: HD 18-1981(Temp), f. & ef. 9-11-81; HD 3-1982, f. & ef. 2-25-82; HD 17-1983, f. & ef. 10-12-83; HD 10-1986, f. & ef. 6-11-86; 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 11-2014, f. 4-15-14, cert. ef. 5-1-14

333-024-0220

Manner of Submitting Specimens

(1) All specimens submitted to the state public health laboratory for testing for congenital disorders shall be collected using kits available from the state public health laboratory according to procedures, protocols, and shipping instructions specified in the Newborn Screening Practitioner's Manual or on the website maintained by the state public health laboratory.

(2) Specimens collected for newborn screening testing shall be sent to the state public health laboratory within 24 hours of collection.

(3) Specimens shall be transmitted to the state public health laboratory in such a manner that they are received by the laboratory no later than five days after collection, preferably within 24 to 48 hours.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 433.285
Stats. Implemented: ORS 433.285
Hist.: HD 18-1981(Temp), f. & ef. 9-11-81; HD 3-1982, f. & ef. 2-25-82; HD 17-1983, f. & ef. 10-12-83; HD 10-1986, f. & ef. 6-11-86; 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 11-2014, f. 4-15-14, cert. ef. 5-1-14

333-024-0225

Time of Collecting Specimens for Testing Infants

A specimen for newborn screening testing shall be collected within five days after birth from every infant surviving more than two days, as follows:

(1) In the case of infants born outside a hospital or other health care facility and of infants who will remain in the hospital or health care facility for 24 hours or more, a specimen shall be collected after 24 hours but before five days after birth, preferably between 24 and 48 hours after birth. A second specimen shall be collected between 10 and 14 days but before one month of age.

(2) In the case of infants discharged from a hospital or other health care facility before 24 hours of age, a specimen shall be collected just prior to discharge from the facility, and a second specimen shall be collected from such infants 10 to 14 days after birth.

(3) In the case of infants who are preterm, low birth weight or ill and are admitted to a special care baby unit or neonatal intensive care unit, a specimen shall be collected at admission, a second specimen collected between 48 and 72 hours of age and a third specimen collected at discharge or 28 days of life, whichever comes first.

(4) In the case of infants up to six months of age entering the care of a practitioner and for whom the screening status is unknown or cannot be determined, a specimen shall be collected within two weeks of the first visit to the practitioner and sent to the state public health laboratory for screening.

(5) In the case of infants over six months of age entering the care of a practitioner and for whom the screening status is unknown or cannot be determined, a specimen shall be collected within two weeks of the first visit and sent to a diagnostic laboratory providing screening services for older infants.

Stat. Auth.: ORS 433.285
Stats. Implemented: ORS 433.285
Hist.: HD 18-1981(Temp), f. & ef. 9-11-81; HD 3-1982, f. & ef. 2-25-82; HD 17-1983, f. & ef. 10-12-83; HD 10-1986, f. & ef. 6-11-86; 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 11-2014, f. 4-15-14, cert. ef. 5-1-14

333-024-0230

Methods of Testing

(1) Infants shall be tested for congenital disorders on the newborn screening test panel by methods approved by rule of the Oregon Health Authority. The following laboratory procedures are approved. No other method shall be approved unless it meets or exceeds these methods in respect to specificity, sensitivity, and precision of the assay. Persons wanting amendment of this rule to include another method must provide technical data to the state public health laboratory showing to the satisfaction of the state public health laboratory that the proposed method meets or exceeds the approved methods in these respects.

(2) Laboratory methods for detecting congenital disorders shall be performed upon dried blood specimens and be as follows:

(a) Amino acid and urea cycle disorders: Quantitative measurement of amino acids by tandem mass spectrometry.

(b) Biotinidase deficiency: Colorimetric assay for biotinidase activity.

(c) Congenital adrenal hyperplasia: Fluorescent immunoassay of 17-alpha hydroxyprogesterone (17-OHP).

(d) Congenital hypothyroidism: Fluorescent immunoassay of thyroxine (T4) with secondary assay of thyroid stimulating hormone (thyrotropin or TSH).

(e) Cystic fibrosis: Fluorescent immunoassay for the presence or absence of immunoreactive trypsinogen (IRT).

(f) Fatty acid oxidation disorders: Quantitative measurement of acyl-carnitines by tandem mass spectrometry.

(g) Galactosemia: Fluorescent immunoassay for the presence or absence of detectable galactose uridyl transferase in erythrocytes and galactose.

(h) Hemoglobinopathies: Primary screening by isoelectric focusing and confirmation by high performance liquid chromatography to detect hemoglobin variants.

(i) Severe combined immunodeficiencies: DNA polymerase chain reaction (PCR) to detect the absence or presence of T-cell receptor excision circles (TREC assay).

Stat. Auth.: ORS 433.285
Stats. Implemented: ORS 433.285
Hist.: HD 18-1981(Temp), f. & ef. 9-11-81; HD 3-1982, f. & ef. 2-25-82; HD 17-1983, f. & ef. 10-12-83; HD 10-1986, f. & ef. 6-11-86; HD 28-1994, f. 10-28-1994, cert. ef. 11-1-94; 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 11-2014, f. 4-15-14, cert. ef. 5-1-14

333-024-0231

Procedures for Follow-Up of Specimens Administered Too Early, Improperly Collected, and Those That Show Abnormal Results

(1) Improperly collected specimens. Where specimens contain insufficient blood, are contaminated or are found to be otherwise unsuitable for testing (refer to Newborn Screening Specimen Collection in the state public health laboratory's Practitioner's Manual or website), a repeat specimen will be requested. A letter will be mailed or faxed by the state public health laboratory to the practitioner who submitted the original specimen within two to four working days after receiving the sample. If there is no response after 10 working days, the state public health laboratory will send a follow-up letter. If there is no response within 21 working days after the second letter, a certified letter will be sent indicating that the state public health laboratory will no longer be tracking that infant and that the responsibility for further screening rests with the practitioner and the parents.

(2) Specimens that show anomalous results. The state public health laboratory will refer anomalous results to the screening program's medical consultants. Reports of anomalous findings will be made by the medical consultants to individual practitioners. Requests for repeat or diagnostic specimens will be made through the medical consultants by letter or telephone call, depending upon the urgency of the situation. The practitioner will inform the state public health laboratory of the final resolution or confirmation of each case to ensure timely and complete follow-up.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 433.285
Stats. Implemented: ORS 433.285
Hist.: HD 6-1985, f. 4-26-85, ef. 5-1-85; HD 10-1986, f. & ef. 6-11-86; 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 11-2014, f. 4-15-14, cert. ef. 5-1-14

333-024-0232

Demographic Data

The state public health laboratory will maintain demographic data records on infants to be used for the purposes of monitoring statistical trends and screening practices in hospitals, birthing facilities, and individual practices. This monitoring will enable the state public health laboratory to:

(1) Identify facilities and health care providers that submit inadequate specimens;

(2) Evaluate the overall effectiveness of the screening program;

(3) Monitor and ensure timely and complete follow-up; and

(4) Ensure that the most effective newborn screening program for the State of Oregon will be maintained.

Stat. Auth.: ORS 433.285 & 433.290
Stats. Implemented: ORS 433.285 & 433.290
Hist.: HD 6-1985, f. 4-26-85, ef. 5-1-85; 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 11-2014, f. 4-15-14, cert. ef. 5-1-14

ADMINISTRATIVE RULES

333-024-0235

Religious Exemption from Newborn Screening Testing

(1) A religious exemption from testing for congenital disorders may be claimed if the infant is being reared as an adherent to a religion the teachings of which are opposed to such testing.

(2)(a) In the event a religious exemption is claimed from the requirements for testing for congenital disorders, the person otherwise responsible for submitting the specimen for testing shall be responsible for submitting a completed statement to the state public health laboratory signed by the infant's parent or legal guardian using the following language:

STATEMENT OF RELIGIOUS EXEMPTION

The undersigned parent or legal guardian of _____, born on _____, states that this child is exempt from newborn screening testing for detection of congenital disorders in that the child is being reared as an adherent to a religion the teachings of which are opposed to such testing.

(Signature of parent or legal guardian)

(Date)

(b) The completed statement in subsection (a) of this section may be made on the reverse side of the original specimen identification form which otherwise accompanies the dried blood specimen used to test the infant for congenital disorders.

Stat. Auth.: ORS 431.180

Stats. Implemented: ORS 433.285

Hist.: HD 18-1981(Temp), f. & ef. 9-11-81; HD 3-1982, f. & ef. 2-25-82; HD 17-1983, f. & ef. 10-12-83; HD 10-1986, f. & ef. 6-11-86; HD 8-1991, f. & cert. ef. 6-19-91; 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 11-2014, f. 4-15-14, cert. ef. 5-1-14

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 (2)(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.

(3) For Oregon practitioners, newborn screening test kits purchased by prepayment on or after May 1, 2014:

(a) \$32 per one-specimen kit; or

(b) \$64 per two-specimen kit; or

(c) \$64 per three-specimen kit (neonatal intensive care unit (NICU) and special baby care unit (SBCU) use only).

(4) 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 newborn screening specimens, which may be subject to a charge of \$32 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.

(5) Kits requested for testing for congenital disorders shall be prepaid by the requestor in the amount as specified in section (3) of this rule. Kit requests must be accompanied by payment for the full amount of the order.

(6) No Oregon infant shall be denied testing for congenital disorders because of inability of the infant's parent or legal guardian to pay the fee for a test or kit:

(a) A practitioner or parent or legal guardian requesting exemption from fees shall complete a statement indicating the following:

STATEMENT OF FEE EXEMPTION

The undersigned parent or legal guardian of _____, born on _____, attests that they are unable to pay the fee/charge for labor and delivery services and for testing for congenital disorders because of lack of sufficient funds, insurance or Medicaid coverage.

(Signature of parent or legal guardian)

(Date)

(b) The above completed statement shall be completed by the parent or legal guardian on the original specimen identification form which accompanies the dried blood specimen used to test the infant for congenital disorders.

(c) Exemption statements must be received by the state public health laboratory within 90 days of the first newborn screening.

(d) Upon receipt of the statement in subsection (6)(a) of this rule, and confirmation of Oregon Health Authority records, the Oregon Health Authority will issue a refund check. The state public health laboratory will issue a refund check to the payer of record. The state public health laboratory will replace kits, damaged or unused, which are returned to the laboratory.

(7) 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.

(8) All specimens submitted to the state public health laboratory shall be collected according to procedures, protocols, and shipping instructions specified on the Oregon State Public Health Laboratory's website.

[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; PH 11-2014, f. 4-15-14, cert. ef. 5-1-14

Oregon Health Insurance Exchange Chapter 945

Rule Caption: 2015 Administrative Charge on Insurers

Adm. Order No.: OHIE 2-2014

Filed with Sec. of State: 4-15-2014

Certified to be Effective: 4-15-14

Notice Publication Date: 3-1-2014

Rules Amended: 945-030-0030

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

Rules Coordinator: Gregory Jolivet—(503) 373-9406

945-030-0030

Annual Administrative Charge on Insurers

(1) Effective January 1, 2015, each health insurer offering qualified health plans through the Exchange shall pay a monthly administrative charge equal to \$9.66 times the number of members enrolled through the Exchange in that month.

(2) Effective January 1, 2015, each health insurer offering standalone dental plans through the Exchange shall pay a monthly administrative charge equal to \$0.97 times the number of members enrolled through the Exchange in that month.

(3) If the total charges collected exceed the maximum amount permissible under ORS 741.105, Cover Oregon will return excess funds to carriers on a pro-rata basis no later than the end of the 2nd quarter of the next calendar year.

Stat. Auth.: ORS 741.002

Stats. Implemented: ORS 741.105

Hist.: OHIE 1-2013, f. & cert. ef. 3-18-13; OHIE 3-2013(Temp), f. & cert. ef. 5-28-13 thru 11-22-13; OHIE 5-2013, f. & cert. ef. 8-19-13; OHIE 2-2014, f. & cert. ef. 4-15-14

Oregon Health Licensing Agency Chapter 331

Rule Caption: Adopt program requirements for military spouses/domestic partners and individuals with military training or experience

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

Filed with Sec. of State: 4-3-2014

Certified to be Effective: 4-3-14 thru 9-17-14

Notice Publication Date:

Rules Adopted: 331-010-0060, 331-010-0070

Subject: Adopt temporary administrative rules to implement a process for individuals who have military training or experience for an authorization to practice a profession listed under ORS 676.583 or ORS 676.800. The military training or experience must be substantially equivalent to profession specific application requirements. Individuals must submit Joint Services Transcript demonstrating training or experience.

Adopt temporary administrative rules to implement a process to obtain an expedited authorization to practice for military spouses or

ADMINISTRATIVE RULES

domestic partners as required by 2013 House Bill 2027. The rule specifies the documents required to obtain a temporary authorization and the information which must be submitted before a permanent authorization will be issued.

Rules Coordinator: Samantha Patnode—(503) 373-1917

331-010-0060

Application for Authorization by Military Spouse or Domestic Partner

(1) “Military spouse or domestic partner” means a spouse or domestic partner of an active member of the Armed Forces of the United States who is the subject of a military transfer to Oregon.

(2) To qualify under this rule for authorization to practice a profession or occupation in a program administered under ORS 676.583 and 676.800, a military spouse or domestic partner must:

(a) Meet the qualifications for authorization as provided in the applicable statutes and rules of the program for which authorization is sought;

(b) Be married to, or in a domestic partnership with a member of the Armed forces of the United States who is assigned to a duty station located in Oregon by official active duty military order;

(c) Hold an active license, certificate or registration in good standing, in another state or territory of the United States, to practice the profession or occupation for which authorization is sought;

(d) Have at least one year of active practice in the profession or occupation for which authorization is sought during the three years immediately preceding the application; and

(e) Provide documentation of the requirements in this section, in a manner satisfactory to the Agency or applicable board or council.

(3) Upon submittal of a completed application form prescribed by the Agency, payment of fees required under subsection (6) of this rule, and copies of the following documents, applicants under this rule may immediately be granted temporary authorization, valid for three months, pending the Agency’s receipt of any remaining documentation required under subsection (2) of this rule:

(a) Copy of marriage certificate or domestic partnership registration with the name of the applicant and the name of the active duty member of the Armed Forces of the United States;

(b) Copy of assignment to a duty station located in Oregon by official active duty military order for the spouse or domestic partner named in the marriage certificate or domestic partnership registration; and

(c) Affirmation by applicant that:

(i) The applicant has requested evidence of authorization from the state or territory in which the applicant is authorized; and

(ii) The applicant is not subject to discipline in that state or territory for a matter related to services regulated by the agency or the board under which authorization is sought.

(4) Processing of applications for authorization under this rule must be expedited, with review of such applications made before review of applications submitted by individuals who are not military spouses or domestic partners.

(5) Temporary authorization issued under this rule must become original active authorizations if, before expiration of the applicant’s temporary authorization, the applicant demonstrates to the satisfaction of the Agency that all required qualifications for authorization have been met.

(6) Notwithstanding any other rules administered by the Agency, an applicant for authorization under this rule must submit an application fee for an original authorization listed within the program rules administered under ORS 676.583 and 676.800.

Stat. Auth.: ORS 676.308, 676.615, 680.515, 688.720, 688.815, 688.819, 690.047, 2014 OL Ch. 35

Stats. Implemented: ORS 676.308, 680.515, 688.720, 688.815, 688.819, 690.047, 2014 OL Ch. 35

Hist.: HLA 2-2014(Temp), f. & cert. ef. 4-3-14 thru 9-17-14

331-010-0070

Application for Military Training or Experience

An individual seeking to use military training or experience as a qualification for an authorization to practice a profession or occupation in a program administered under ORS 676.583 and 676.800 must submit a Joint Services Transcript demonstrating completion of military training or experience that is substantially equivalent to requirements set forth in statute or rule by the agency or the boards or councils.

Stat. Auth.: ORS 676.308, 676.615, 680.515, 688.720, 688.815, 688.819, 690.047, 2014 OL Ch. 35

Stats. Implemented: ORS 676.308, 680.515, 688.720, 688.815, 688.819, 690.047, 2014 OL Ch. 35

Hist.: HLA 2-2014(Temp), f. & cert. ef. 4-3-14 thru 9-17-14

Oregon Liquor Control Commission Chapter 845

Rule Caption: Delegates authority to approve redemption centers to the Commission’s Executive Director (Administrator).

Adm. Order No.: OLCC 3-2014

Filed with Sec. of State: 3-31-2014

Certified to be Effective: 5-1-14

Notice Publication Date: 1-1-2014

Rules Amended: 845-020-0020

Subject: This rule describes the criteria for approving redemption centers for the return of empty beverage containers. The adopted amendments delegate the authority to approve redemption centers from the Commissioners to the Executive Director (the Administrator).

Rules Coordinator: Annabelle Henry—(503) 872-5004

845-020-0020

Redemption Centers

(1) The Commission shall approve a redemption center if it finds the redemption center will provide a convenient service to consumers for the return of empty beverage containers. The Commissioners delegate to the Administrator the authority to grant or deny redemption center applications in accordance with this rule.

(2) The Commission considers factors such as the following in determining whether or not a redemption center provides a convenient service to consumers for the return of empty beverage containers:

(a) Location of the redemption center;

(b) Kinds of beverage containers accepted at the redemption center;

(c) Dealers to be served by the redemption center and their distance from the redemption center;

(d) Days and hours of operation of the redemption center;

(e) Parking facilities serving the redemption center;

(f) Evidence showing that the redemption center meets all applicable local ordinances and zoning requirements;

(g) The cap, if any, on the number of beverage containers per person per day that the redemption center will accept;

(h) Payment method(s) accepted by the redemption center for redeemed beverage containers;

(i) The projected volume of beverage container returns at the redemption center as compared to the actual returns at the dealers to be served by the redemption center;

(j) A description of how consumers will be notified of the redemption center’s location, services, and service hours.

Stat. Auth.: ORS 459A.735(1), (3) & (4)

Stats. Implemented: ORS 459A.735

Hist.: LCC 39, f. 7-17-72, ef. 7-8-72; Renumbered from 845-010-0615; OLCC 2-2010, f. 2-22-10, cert. ef. 3-1-10; OLCC 3-2014, f. 3-31-14, cert. ef. 5-1-14

Oregon Medical Board Chapter 847

Rule Caption: Decreases Data Order fees, changes license name, and deletes references to license no longer offered

Adm. Order No.: OMB 10-2014

Filed with Sec. of State: 4-9-2014

Certified to be Effective: 4-9-14

Notice Publication Date: 2-1-2014

Rules Amended: 847-005-0005

Subject: The rule amendment decreases the Data Order Charges fees to accurately reflect the current costs in fulfilling the request. The proposed rule amendment also deletes references to Limited License, Special as this license is no longer available and updates the title of Limited License, Postgraduate to Limited License, Pending Examination for Division 50 (Physician Assistants) and Division 70 (Acupuncturists).

Rules Coordinator: Kimberly Fisher—(971) 673-2667

847-005-0005

Fees

(1) Licensing Fees:

(a) Doctor of Medicine/Doctor of Osteopathy (MD/DO) Initial License Application — \$375.

ADMINISTRATIVE RULES

(b) MD/DO Registration: Active, Administrative Medicine, Inactive, Locum Tenens, Military/Public Health, Telemedicine, Telemonitoring and Teleradiology — \$253/year+*.

(c) MD/DO Registration: Emeritus — \$50/year.

(d) MD/DO Limited License, SPEX/COMVEX, Visiting Professor, Fellow, Medical Faculty, Postgraduate Application — \$185.

(e) MD/DO Application to Supervise a Physician Assistant — \$100.

(f) Acupuncture Initial License Application — \$245.

(g) Acupuncture Registration: Active, Inactive, Locum Tenens and Military/Public Health — \$161/year*.

(h) Acupuncture Registration: Emeritus — \$50/year.

(i) Acupuncture Limited License, Visiting Professor, Pending Examination Application — \$75.

(j) Physician Assistant Initial License Application — \$245.

(k) Physician Assistant Registration: Active, Inactive, Locum Tenens and Military/Public Health — \$191/year*.

(l) Physician Assistant Registration: Emeritus — \$50/year.

(m) Physician Assistant Surcharge for 2014–2015 registration period — \$65.

(n) Physician Assistant Limited License, Pending Examination Application — \$75.

(o) Podiatrist Initial Application — \$340.

(p) Podiatrist Registration: Active, Administrative Medicine, Inactive, Locum Tenens, Military/Public Health, Telemedicine and Telemonitoring — \$243/year*.

(q) Podiatrist Registration: Emeritus — \$50/year.

(r) Podiatrist Limited License, Postgraduate Application — \$185.

(s) Reactivation Application Fee — \$50.

(t) Electronic Prescription Drug Monitoring Program — \$25/year**.

(u) Workforce Data Fee — \$5/license period***.

(v) Criminal Records Check Fee — \$52****.

(w) Oral Specialty or Competency Examination (\$1,000 deposit required) — Actual costs.

(2) Delinquent Registration Renewals:

(a) Delinquent MD/DO Registration Renewal — \$195.

(b) Delinquent Acupuncture Registration Renewal — \$80.

(c) Delinquent Physician Assistant Registration Renewal — \$80.

(d) Delinquent Podiatrist Registration Renewal — \$195.

(3) Licensee Information Request Charges:

(a) Verification of Licensure — Individual Requests (1–4 Licenses) — \$10 per license.

(b) Verification of Licensure — Multiple (5 or more) — \$7.50 per license.

(c) Malpractice Report — Individual Requests — \$10 per license.

(d) Malpractice Report — Multiple (monthly report) — \$15 per report.

(e) Disciplinary — Individual Requests — \$10 per license.

(4) Base Service Charges for Copying — \$5 + .20/page.

(5) Record Search Charges (+ copy charges in section (4) of this rule):

(a) Clerical — \$20 per hour.

(b) Administrative — \$40 per hour.

(c) Executive — \$50 per hour.

(d) Medical — \$75 per hour.

(6) Data Order Charges:

(a) Standard Licensee Data Order — \$75 each.

(b) Custom Licensee Data Order — \$75 + \$40.00 per hour

Administrative time.

(c) Address Label Disk — \$50 each.

(7) All Board fees and fines are non-refundable and non-transferable.

(8) The Board may waive or reduce fees for public records upon written request if the Board determines that making the record available primarily benefits the general public.

+Per ORS 677.290(3), fee includes \$10.00 for the Oregon Health and Science University Library.

*Collected biennially excepted where noted in the Administrative Rules.

**Per ORS 431.960-431.978, fee is assessed to licensees authorized to prescribe or dispense controlled substances in Oregon for the purpose of creating and maintaining the Prescription Drug Monitoring Program administered by the Oregon Health Authority.

***Per ORS 676.410, fee is assessed for the purpose of creating and maintaining a healthcare workforce data base administered by the Oregon Health Authority.

****Per ORS 181.534(9)(g), fee is the actual cost of acquiring and furnishing criminal offender information.

Stat. Auth.: ORS 181.534, 431.972, 676.410, 677.265 & 677.290

Stats. Implemented: ORS 181.534, 192.440, 431.972, 676.410, 677.265 & 677.290

Hist.: ME 7-1984, f. & ef. 1-26-84; ME 17-1984, f. & ef. 11-5-84; ME 6-1985, f. & ef. 7-30-85; ME 3-1986(Temp), f. & ef. 4-23-86; ME 4-1986, f. & ef. 4-23-86; ME 9-1986, f. & ef. 7-31-86; ME 2-1987, f. & ef. 1-10-87; ME 7-1987(Temp), f. & ef. 1-26-87; ME 9-1987, f. & ef. 4-28-87; ME 25-1987, f. & ef. 11-5-87; ME 9-1988, f. & ef. 8-5-88; ME 14-1988, f. & ef. 10-20-88; ME 1-1989, f. & ef. 1-25-89; ME 5-1989 (Temp), f. & ef. 2-

16-89; ME 6-1989, f. & cert. ef. 4-27-89; ME 9-1989(Temp), f. & cert. ef. 8-1-89; ME 17-1989, f. & cert. ef. 10-20-89; ME 4-1990, f. & cert. ef. 4-25-90; ME 9-1990, f. & cert. ef. 8-2-90; ME 5-1991, f. & cert. ef. 7-24-91; ME 11-1991(Temp), f. & cert. ef. 10-21-91; ME 6-1992, f. & cert. ef. 5-26-92; ME 1-1993, f. & cert. ef. 1-29-93; ME 13-1993, f. & cert. ef. 11-1-93; ME 14-1993(Temp), f. & cert. ef. 11-1-93; ME 1-1994, f. & cert. ef. 1-24-94; ME 6-1995, f. & cert. ef. 7-28-95; ME 7-1996, f. & cert. ef. 10-29-96; ME 3-1997, f. & cert. ef. 11-3-97; BME 7-1998, f. & cert. ef. 7-22-98; BME 7-1999, f. & cert. ef. 4-22-99; BME 10-1999, f. & cert. ef. 7-8-99; BME 8-3-99; BME 14-1999, f. & cert. ef. 10-28-99; BME 4-2000, f. & cert. ef. 2-22-00; BME 6-2001(Temp), f. & cert. ef. 7-18-01 thru 11-30-01; BME 10-2001, f. & cert. ef. 10-30-01; BME 8-2003, f. & cert. ef. 4-24-03; BME 16-2003, f. & cert. ef. 10-23-03; BME 17-2004, f. & cert. ef. 9-9-04; BME 6-2005, f. & cert. ef. 7-20-05; BME 15-2006, f. & cert. ef. 7-25-06; BME 1-2007, f. & cert. ef. 1-24-07; BME 1-2008, f. & cert. ef. 1-22-08; BME 15-2008, f. & cert. ef. 7-21-08; BME 1-2009, f. & cert. ef. 1-22-09; BME 15-2009(Temp), f. & cert. ef. 9-11-09 thru 3-8-10; BME 1-2010, f. & cert. ef. 1-26-10; OMB 10-2011(Temp), f. & cert. ef. 7-13-11 thru 1-4-12; OMB 18-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; OMB 22-2011, f. & cert. ef. 10-18-11; OMB 33-2011(Temp), f. & cert. ef. 1-1-12 thru 6-29-12; OMB 3-2012, f. & cert. ef. 2-10-12; OMB 9-2012(Temp), f. & cert. ef. 3-2-12 thru 8-29-12; OMB 20-2012, f. & cert. ef. 8-3-12; OMB 27-2012(Temp), f. & cert. ef. 10-12-12 thru 4-10-13; OMB 5-2013, f. & cert. ef. 4-5-13; OMB 13-2013(Temp), f. & cert. ef. 7-12-13, cert. ef. 7-15-13 thru 1-11-14; OMB 26-2013, f. & cert. ef. 10-15-13; OMB 10-2014, f. & cert. ef. 4-9-14

Rule Caption: Authorizes Executive Director and Medical Director to approve Consent Agreements for re-entry

Adm. Order No.: OMB 11-2014

Filed with Sec. of State: 4-9-2014

Certified to be Effective: 4-9-14

Notice Publication Date: 2-1-2014

Rules Adopted: 847-001-0045

Rules Amended: 847-008-0003, 847-020-0183, 847-050-0043, 847-070-0045, 847-080-0021

Subject: The new rule and amendments delegate authority to the Executive Director and Medical Director to review and approve the terms and conditions in a Consent Agreement for re-entry to practice. The Applicant may be granted a license once the Consent Agreement is signed by the Executive Director or Medical Director.

Rules Coordinator: Kimberly Fisher—(971) 673-2667

847-001-0045

Approval of Consent Agreements for Re-entry to Practice

(1) The Executive Director or Medical Director has the authority to review and approve the terms and conditions in a Consent Agreement for re-entry to practice based on Board-established guidelines.

(2) The Executive Director's or Medical Director's signature grants approval of the Consent Agreement, which becomes a public document. As a public document, the Consent Agreement may be released to the public. However, the Consent Agreement is not an adverse action.

(3) The Applicant may be granted a license once the Consent Agreement is signed by the Executive Director or Medical Director.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.100, 677.175, 677.265, 677.512, 677.759 & 677.825

Hist.: OMB 11-2014, f. & cert. ef. 4-9-14

847-008-0003

Delegation of Authority

(1) The Executive Director or, in the absence of the Executive Director, the Medical Director has the authority to grant, renew and reactivate licensure for all license types and statuses upon satisfactory completion of the application.

(2) The Executive Director or, in the absence of the Executive Director, the Medical Director has the authority to approve visiting physician applications and visiting acupuncturist applications.

(3) The Executive Director has the authority to waive the registration fee for good and sufficient reason.

(4) The Executive Director has the authority to require additional documentation or explanatory statements for the application file to be considered satisfactorily complete.

(5) The Executive Director has the authority to determine that an applicant qualifies for licensure by expedited endorsement.

(6) The Executive Director has the authority to perform initial reviews of applications to determine whether an applicant or licensee meets the qualifications, has satisfactorily completed the application and should be approved or whether the application file contains derogatory information that requires review by an advisory committee and a determination by the Board.

(7) The Executive Director or Medical Director has the authority to review and approve Consent Agreements for re-entry to practice for applicants who have ceased clinical practice for a period of 24 or more consec-

ADMINISTRATIVE RULES

utive months and grant a license to the applicant upon the Executive Director's or Medical Director's signature.

(8) The Medical Director has the authority to determine whether an applicant or licensee has significant malpractice claims or patient care issues that require additional review by an advisory committee and a determination by the Board.

(9) The Executive Director has the authority to grant waivers of the competency examinations if the applicable waiver requirements are met.

Stat. Auth.: ORS 677.265, 677.235

Stats. Implemented: ORS 292.495, 677.235

Hist.: OMB 14-2013(Temp), f. 7-12-13, cert. ef. 7-15-13 thru 1-11-14; OMB 27-2013, f. & cert. ef. 10-15-13; OMB 11-2014, f. & cert. ef. 4-9-14

847-020-0183

Re-Entry to Practice — SPEX or COMVEX Examination, Re-Entry Plan

If an applicant has ceased the practice of medicine for a period of 12 or more consecutive months immediately preceding the application for licensure or reactivation, the applicant may be required to demonstrate clinical competency.

(1) The applicant who has ceased the practice of medicine for a period of 12 or more consecutive months may be required to pass the Special Purpose Examination (SPEX) or Comprehensive Osteopathic Medical Variable-Purpose Examination (COMVEX). This requirement may be waived if the applicant has done one or more of the following:

(a) The applicant has received a current appointment as Professor or Associate Professor at the Oregon Health and Science University or the Western University of Health Sciences College of Osteopathic Medicine of the Pacific; or

(b) Subsequent to ceasing practice, the applicant has:

(A) Completed one year of an accredited residency, or

(B) Completed one year of an accredited or Board-approved clinical fellowship, or

(C) Been certified or recertified by a specialty board as defined in 847-020-0100, or

(D) Obtained continuing medical education to the Board's satisfaction.

(2) The applicant who has ceased the practice of medicine for a period of 24 or more consecutive months may be required to complete a re-entry plan to the satisfaction of the Board. The re-entry plan must be reviewed and approved through a Consent Agreement prior to the applicant beginning the re-entry plan. Depending on the amount of time out-of-practice, the applicant may be required to do one or more of the following:

(a) Pass the SPEX/COMVEX examination;

(b) Practice for a specified period of time under a mentor/supervising physician who will provide periodic reports to the Board;

(c) Obtain certification or re-certification by a specialty board as defined in 847-020-0100;

(d) Complete a re-entry program as determined appropriate by the Board;

(e) Complete one year of accredited postgraduate or clinical fellowship training, which must be pre-approved by the Board's Medical Director;

(f) Complete at least 50 hours of Board-approved continuing medical education each year for the past three years.

(3) The applicant who fails the SPEX or COMVEX examination three times, whether in Oregon or other states, must successfully complete one year of an accredited residency or an accredited or Board-approved clinical fellowship before retaking the SPEX or COMVEX examination.

(4) The applicant may be granted a Limited License, SPEX/COMVEX according to 847-010-0064.

(5) All of the rules, regulations and statutory requirements pertaining to the medical school graduate remain in full effect.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.100, 677.190 & 677.265

Hist.: BME 20-2007, f. & cert. ef. 10-24-07; BME 4-2008, f. & cert. ef. 1-22-08; BME 6-2010, f. & cert. ef. 4-26-10; OMB 25-2011, f. & cert. ef. 10-18-11; OMB 9-2013, f. & cert. ef. 4-5-13; OMB 11-2014, f. & cert. ef. 4-9-14

847-050-0043

Inactive Registration, Initial Licensure, and Re-Entry to Practice

(1) Any physician assistant licensed in this state who changes location to some other state or country, or who is not in a current supervisory relationship with a licensed physician for six months or more, will be listed by the Board as inactive.

(2) If the physician assistant wishes to resume active status to practice in Oregon, the physician assistant must submit the Affidavit of Reactivation

and processing fee, satisfactorily complete the reactivation process and be approved by the Board before beginning active practice in Oregon.

(3) The Board may deny active registration if it judges the conduct of the physician assistant during the period of inactive registration to be such that the physician assistant would have been denied a license if applying for an initial license.

(4) If a physician assistant applicant has ceased practice for a period of 12 or more consecutive months immediately preceding the application for licensure or reactivation, the applicant may be required to do one or more of the following:

(a) Obtain certification or re-certification by the National Commission on the Certification of Physician Assistants (N.C.C.P.A.);

(b) Provide documentation of current N.C.C.P.A. certification;

(c) Complete 30 hours of Category I continuing medical education acceptable to the Board for every year the applicant has ceased practice;

(d) Agree to increased chart reviews upon re-entry to practice.

(5) The physician assistant applicant who has ceased practice for a period of 24 or more consecutive months may be required to complete a re-entry plan to the satisfaction of the Board. The re-entry plan must be reviewed and approved through a Consent Agreement prior to the applicant beginning the re-entry plan. Depending on the amount of time out of practice, the re-entry plan may contain one or more of the requirements listed in section (4) of this rule and such additional requirements as determined appropriate by the Board.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.512

Hist.: ME 12-1986, f. & cert. ef. 7-31-86; ME 2-1990, f. & cert. ef. 1-29-90; ME 10-1992, f. & cert. ef. 7-17-92; ME 5-1996, f. & cert. ef. 7-26-96; BME 11-1998, f. & cert. ef. 7-22-98; BME 2-2000, f. & cert. ef. 2-7-00; BME 25-2008, f. & cert. ef. 10-31-08; OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; Suspend temporary by OBDD 28-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12; OMB 29-2011, f. & cert. ef. 10-27-11; OMB 32-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 7-2012, f. & cert. ef. 2-10-12; OMB 11-2014, f. & cert. ef. 4-9-14

847-070-0045

Inactive Registration and Re-Entry to Practice

(1) Any acupuncturist licensed in this state who changes location to some other state or country shall be listed by the Board as inactive.

(2) If the acupuncturist wishes to resume active status, the acupuncturist must file an Affidavit of Reactivation and pay a processing fee, satisfactorily complete the reactivation process and be approved by the Board before beginning active practice in Oregon.

(3) The Board may deny active registration if it judges the conduct of the acupuncturist during the period of inactive registration to be such that the acupuncturist would have been denied a license if applying for an initial license.

(4) If an acupuncturist applicant has ceased practice for a period of 24 or more consecutive months immediately preceding the application for licensure or reactivation, the applicant may be required to do one or more of the following:

(a) Obtain certification or re-certification in Acupuncture or Oriental Medicine by the National Certification Commission for Acupuncture and Oriental Medicine (N.C.C.A.O.M.);

(b) Provide documentation of current N.C.C.A.O.M. Acupuncture or Oriental Medicine certification;

(c) Complete 15 hours of continuing education acceptable to the Board for every year the applicant has ceased practice;

(d) Complete a mentorship of at least 20 hours under a Board-approved clinical supervisor who must individually supervise the licensee. The clinical supervisor must report the successful completion of the mentorship to the Board.

(5) The acupuncturist applicant who has ceased practice for a period of five or more consecutive years may be required to complete a re-entry plan to the satisfaction of the Board. The re-entry plan must be reviewed and approved through a Consent Agreement prior to the applicant beginning the re-entry plan. Depending on the amount of time out of practice, the re-entry plan may contain one or more of the requirements listed in section (4) of this rule and such additional requirements as determined appropriate by the Board.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.175, 677.759

Hist.: ME 24-1987, f. & cert. ef. 10-29-87; ME 6-1993, f. & cert. ef. 4-22-93; ME 10-1996, f. & cert. ef. 10-29-96; BME 16-1999, f. & cert. ef. 10-28-99; BME 12-2005, f. & cert. ef. 10-12-05; BME 5-2009, f. & cert. ef. 1-22-09; OMB 8-2012, f. & cert. ef. 2-10-12; OMB 11-2014, f. & cert. ef. 4-9-14

ADMINISTRATIVE RULES

847-080-0021

Competency Examination and Re-Entry to Practice

(1) The applicant who has not had sufficient postgraduate training or certification or recertification with the ABPM or the ABPS within the past 10 years may be required to pass a competency examination in podiatry. The competency examination may be waived if the applicant has completed at least 50 hours of Board-approved continuing education each year for the past three years.

(2) The applicant who has ceased practice for a period of 12 or more consecutive months immediately preceding an application for licensure or reactivation may be required to pass a competency examination in podiatry. The competency examination may be waived if, subsequent to ceasing practice, the applicant has:

- (a) Passed the licensing examination administered by the NBPME, or
- (b) Been certified or recertified by the American Board of Podiatric Medicine (ABPM) or the American Board of Podiatric Surgery (ABPS), or
- (c) Completed a Board-approved one-year residency or clinical fellowship, or

(d) Obtained continuing medical education to the Board's satisfaction.

(3) The applicant who has ceased the practice of medicine for a period of 24 or more consecutive months may be required to complete a re-entry plan to the satisfaction of the Board. The re-entry plan must be reviewed and approved through a Consent Agreement prior to the applicant beginning the re-entry plan. Depending on the amount of time out of practice, the applicant may be required to do one or more of the following:

- (a) Pass the licensing examination;
- (b) Practice for a specified period of time under a mentor/supervising podiatric physician who will provide periodic reports to the Board;
- (c) Obtain certification or re-certification by the ABPM or the ABPS;
- (d) Complete a re-entry program as determined appropriate by the Board;
- (e) Complete one year of an accredited postgraduate or clinical fellowship training, which must be pre-approved by the Board's Medical Director;
- (f) Complete at least 50 hours of Board-approved continuing medical education each year for the past three years.

(4) Licensure shall not be granted until all requirements of OAR chapter 847, division 80, are completed satisfactorily.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.825 & 677.830

Hist.: OMB 20-2013, f. & cert. ef. 7-12-13; OMB 11-2014, f. & cert. ef. 4-9-14

Oregon Patient Safety Commission

Chapter 325

Rule Caption: Updates the Oregon Patient Safety Commission 2013-2015 biennial budget by amending OAR 325-005-0015

Adm. Order No.: PSC 1-2014

Filed with Sec. of State: 3-18-2014

Certified to be Effective: 3-21-14

Notice Publication Date: 3-1-2014

Rules Amended: 325-005-0015

Subject: In accordance with the rules governing semi-independent state agencies, this action amends the Oregon Patient Safety Commission 2013-2015 biennial budget to \$3,242,464 by amending OAR 325-005-015.

Rules Coordinator: Bethany A. Walmsley—(503) 224-9226

325-005-0015

Biennial Budget

The Commission hereby adopts by reference the Oregon Patient Safety Commission's 2013-2015 Biennial Budget of \$3,242,464 covering the period July 1, 2013, through June 30, 2015. The Commission's Executive Director will amend budgeted accounts as necessary, within the approved budget of \$3,242,464 for the effective operation of the Commission. The Commission will not exceed the approved 2013-2015 Biennial Budget without amending this rule, notifying interested parties, and holding a public hearing as required by ORS Chapter 182.462. Copies of the budget are available from the Commission's office and are posted on the Commission's website.

Stat. Auth.: ORS 442.820 & Sec. 9 Ch. 686 OL 2003

Stats. Implemented: ORS 183.453(1), 183.453(2)

Hist.: PSC 1-2006, f. & cert. ef. 2-6-06; PSC 4-2007, f. & cert. ef. 7-2-07; PSC 1-2009, f. & cert. ef. 6-26-09; PSC 1-2011, f. & cert. ef. 7-1-11; PSC 1-2012, f. 3-27-12, cert. ef. 4-1-12; PSC 1-2013, f. & cert. ef. 4-25-13; PSC 2-2013, f. & cert. ef. 7-3-13; DMAP 13-2014(Temp), f. 3-20-14, cert. ef. 4-1-14 thru 9-28-14; PSC 1-2014, f. 3-18-14, cert. ef. 3-21-14

Oregon Public Employees Retirement System Chapter 459

Rule Caption: Implement provisions of Senate Bill 861 (2013) affecting COLA calculation and administration of supplementary payments.

Adm. Order No.: PERS 4-2014

Filed with Sec. of State: 3-31-2014

Certified to be Effective: 3-31-14

Notice Publication Date: 11-1-2013

Rules Adopted: 459-005-0510, 459-005-0520

Subject: The 2013 Oregon Legislative Assembly (Special Session) passed Senate Bill 861, which modified the COLA structure previously adopted in Senate Bill 822 (2013) for COLAs paid on or after July 1, 2014. Under Senate Bill 861, the COLA is determined using the monthly allowance, pension, or benefit a recipient is entitled to on July 1 of the year in which the increase is calculated. The proposed OAR 459-005-0510 clarifies that the resulting annual COLA is paid during the following 12 months in the recipient's monthly allowance, pension, or benefit starting on August 1.

The bill includes an annual supplementary payment that begins in 2014 and sunsets on December 31, 2019. The annual supplementary payment is based on 0.25 percent of the benefit recipient's yearly allowance, pension, or benefit, but capped at \$150. An additional supplementary payment of 0.25 percent is paid to a benefit recipient whose yearly allowance, pension, or benefit is \$20,000 or less.

Annual supplementary payments will be paid to retired members, beneficiaries, alternate payees, and judges who receive or are entitled to receive a retirement allowance, pension, or benefit on July 1. Alternate payees will receive a supplementary payment by operation of ORS 238.465(5), which requires that any increase in a member's retirement allowance increases the amount paid to the alternate payee in the same proportion. Similar to the provisions applicable to the COLA, however, if the associated member is not receiving a supplementary payment because he or she has not yet retired, then the alternate payee will not receive a supplementary payment.

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-005-0510

Cost-of-Living Adjustment

(1) A cost-of-living adjustment (COLA) under ORS 238.360 and 238A.210 is calculated on an annual basis and then divided by 12 to determine the adjustment to the recipient's monthly allowance, pension, or benefit.

(2) Monthly COLA increases end when the recipient is no longer eligible to receive a monthly allowance, pension, or benefit.

(3) This rule is effective on July 1, 2014.

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

Stats. Implemented: ORS 238.360, 238.575 & 238A.210

Hist.: PERS 4-2014, f. & cert. ef. 3-31-14

459-005-0520

Supplementary Payment

(1) For purposes of this rule, "benefit recipient" means a member, beneficiary, alternate payee, or judge member.

(2) In accordance with ORS 238.465(1), an alternate payee is eligible for a supplementary payment only if the associated member or judge member is eligible.

(3) Increased benefits under ORS 238.364 and 238.366 or cost-of-living adjustments under 238.360 or 238A.210 are not applied to a benefit recipient's supplementary payments.

(4) A benefit recipient's supplementary payment shall not be included in a benefit recipient's yearly allowance or yearly pension or benefit for the purpose of calculating the cost-of-living adjustments under ORS 238.360, 238.575, or 238A.210.

Stat. Auth.: ORS 238.650, 238.465 & 238A.450

Stats. Implemented: ORS 238.360, 238.575, 238A.210 & OL 2013, Ch. 2, § 8 (1st special session)

Hist.: PERS 4-2014, f. & cert. ef. 3-31-14

Rule Caption: Update the Model Rules of Procedure Rule to reflect current state law.

ADMINISTRATIVE RULES

Adm. Order No.: PERS 5-2014
Filed with Sec. of State: 3-31-2014
Certified to be Effective: 3-31-14
Notice Publication Date: 1-1-2014
Rules Amended: 459-001-0005

Subject: The Oregon Administrative Procedures Act (APA) requires state agencies to adopt procedural rules for administrative rulemaking and conducting contested case proceedings. The APA also requires the Attorney General to adopt model rules that state agencies must use, although agencies may adopt additional rules governing administrative procedures. OAR 459-001-0005 adopted the Attorney General's Model Rules of Procedure. In response to statutory changes and appellate court decisions, the Attorney General updated the Model Rules, effective January 31, 2012. These rule modifications are only to conform to the date of and therefore adopt the updated Model Rules.

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-001-0005

Model Rules of Procedure

The Attorney General's Model Rules of Procedure under the Administrative Procedures Act, as adopted and effective January 31, 2012, are adopted as rules of procedure of the Public Employees Retirement Board, except as modified by other rules of the Board.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or the Oregon Public Employees Retirement System.]
Stat. Auth.: ORS 183.341, 237.470, 238.650, 238A.450 & 243.470
Stats. Implemented: ORS 237.410 - 237.620, chapters 238, 238A & 243.401-243.507
Hist.: PER 11, f. 4-18-72, ef. 5-1-72; PER 12, f. 3-14-74, ef. 4-11-74; PER 13, f. & ef. 10-26-72; Renumbered from 459-030-0005; PER 2-1978, f. & ef. 11-2-78; PER 1-1980, f. & ef. 2-15-80; PER 1-1986, f. & ef. 7-7-86; PERS 2-1990, f. & cert. ef. 1-8-90; PERS 1-1992, f. & cert. ef. 1-14-92; PERS 4-1994, f. & cert. ef. 5-10-94; PERS 3-1995, f. 11-14-95, cert. ef. 11-15-95; PERS 1-1998, f. & cert. ef. 3-16-98; PERS 4-2000, f. & cert. ef. 7-14-00; PERS 11-2001, f. 12-14-01, cert. ef. 1-1-02; PERS 25-2004, f. 11-23-04, cert. ef. 12-1-04; PERS 10-2006, f. & cert. ef. 6-26-06; PERS 7-2008, f. & cert. ef. 4-4-08; PERS 5-2014, f. & cert. ef. 3-31-14

Rule Caption: Clarify participant eligibility and service time used in apportioning the health insurance premium.

Adm. Order No.: PERS 6-2014
Filed with Sec. of State: 3-31-2014
Certified to be Effective: 3-31-14
Notice Publication Date:

Rules Amended: 459-035-0001, 459-035-0050

Subject: ORS 238.415 established the Retiree Health Insurance Premium Account (RHIPA) to pay a monthly subsidy toward the cost of healthcare coverage for eligible retired state employees who are not Medicare eligible. This subsidy is actuarially funded solely by state employers as part of their employer rates and applies only to members who retire from a state employer and who immediately apply for their retirement benefit.

To be eligible for the subsidy, the state employee (or their surviving spouse or dependent) must retire for service or disability and have 8 years or more of "qualifying service." The monthly premium subsidy is calculated on a sliding scale that incrementally increases with years of "qualifying service" with a state employer. For Plan Year 2014, the RHIPA monthly premium subsidy will range from \$163.39 (8 years of service) to \$326.79 (30+ years of service).

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-035-0001

Definitions

For purposes of this division:

- (1) "Dependent" means a PERS member's or retiree's dependent child. For the purpose of this rule a "child" is defined as follows:
 - (a) A natural child.
 - (b) A legally adopted child, or a child placed in the home pending adoption.
 - (c) A step-child who resides in the household of the stepparent who is an eligible retired member.
 - (d) A grandchild, provided that at the time of birth, at least one of the grandchild's parents was covered under a PERS-sponsored health insurance plan as a dependent child of the PERS member or retiree and resides in the household of the member or retiree.

(2) "Dependent Domestic Partner" means a person who has a relationship with a PERS retiree that has the characteristics described below. To qualify as a "dependent domestic partner", the person and the PERS retiree must:

- (a) Share a close personal relationship and be responsible for each other's common welfare, including but not limited to having joint financial responsibilities;
- (b) Be each other's sole domestic partner;
- (c) Not be married to anyone, nor have had another domestic partner within the previous 12 months;
- (d) Not be related by blood so closely as to bar marriage in the State of Oregon;
- (e) Have jointly shared the same regular and permanent residence for at least 12 months immediately preceding the effective date of coverage with the intent to continue doing so indefinitely; and
- (f) Have the PERS retiree providing over one-half of the financial support for the person and qualify as a dependent of the PERS retiree as determined under section 105(b) of the Internal Revenue Code, 26 USC 105(b).

(3) "Eligible Person" means a person who is eligible for coverage under a PERS-sponsored health insurance plan. The conditions for such eligibility are set forth in OAR 459-035-0020.

(4) "Eligible Retired Member" means an eligible person who is eligible for payments toward the cost of the Medicare Companion Plan from RHIA. The conditions for such eligibility are set forth in OAR 459-035-0030.

(5) "Eligible Retired State Employee" means an eligible person who is eligible for non-Medicare insurance premium payments from the RHIPA. Conditions for such eligibility are set forth in OAR 459-035-0040.

(6) "Health Insurance Premium" means the self-sustaining premium calculated to cover the projected claims and costs incurred by the insurance company for a participant in a health care plan. "Health Insurance Premium" includes retrospective premiums and employee contributions. "Health Insurance Premium" does not include any intentional load to cover dependents or other groups or participants.

(7) "Medicare" means the federal health care insurance plan established under Title XVIII of the Social Security Act as amended.

(8) "Medicare Companion Plan" means a PERS-sponsored health insurance plan for eligible persons who are eligible for and enrolled in Medicare.

(9) "Net to Carrier" means the health insurance premium due to the insurance company. "Net to Carrier" does not include any charges for PEBB or PERS health insurance administration.

(10) "PEBB" means the Public Employees' Benefit Board established under ORS 243.061.

(11) "PERS Member" has the same meaning as "member" provided in ORS 238.005 and 238A.005.

(12) "Plan Year" means a 12-month period beginning January 1 and ending December 31.

(13) "Qualifying Service" under ORS 238.415(1)(c) means creditable service, as defined in ORS 238.005, with a state employer, plus any periods of employment with a state employer participating in PERS that are required of the employee before becoming a PERS member.

(14) "Retiree" means a PERS member who is receiving a service or disability retirement allowance or benefit under PERS or who received a lump sum payment under ORS 238.305(3), 238.315, or 238A.195, or payment(s) under ORS 238A.400, or a person who is receiving retirement pay or pension calculated under ORS 1.314 to 1.380 (1989 Edition).

(15) "Retrospective Premium" means any additional premium liability that is determined at the end of the plan year, based on any pre-determined formula.

(16) "RHIA" means the Retirement Health Insurance Account established under ORS 238.420 to help defray the cost of the Medicare Companion Plan.

(17) "RHIPA" means the Retiree Health Insurance Premium Account established under ORS 238.415 to help defray the cost of PERS-sponsored health plans other than the Medicare Companion Plan.

(18) "SRHIA" means the Standard Retiree Health Insurance Account established under ORS 238.410 to administer employee and the employer contributions to the PERS sponsored health insurance program.

(19) "Staff" means the employees of the Public Employees Retirement System.

(20) "Third Party Administrator" means the individual or organization that the Board contracts with to provide administrative services as specified in the contract.

Stat. Auth.: ORS 238.410, 238.650 & 238A.450

ADMINISTRATIVE RULES

Stats. Implemented: ORS 238.410, 238.415, 238.420 & 238A.050
Hist.: PERS 4-1996, f. & cert. ef. 6-11-96; PERS 15-1998, f. & cert. ef. 12-17-98; PERS 5-1999, f. & cert. ef. 11-15-99; PERS 14-2002, f. & cert. ef. 11-18-02; PERS 17-2005, f. & cert. ef. 10-3-05; PERS 1-2010(Temp), f. & cert. ef. 4-5-10 thru 9-27-10; PERS 9-2010, f. & cert. ef. 9-29-10; PERS 13-2012, f. & cert. ef. 12-5-12; PERS 6-2014, f. & cert. ef. 3-31-14

459-035-0050

Contribution Payment From Retiree Health Insurance Premium Account for Eligible Retired State Employees Not Eligible for Medicare

This rule establishes the procedure for determining the amount of contribution that will be paid from the Retiree Health Insurance Premium Account (RHIPA)(ORS 238.415) on behalf of an eligible retired state employee under age 65, as described in OAR 459-035-0040, who is enrolled in a health insurance plan sponsored by PERS.

(1) On or before November 1 of each calendar year, staff shall determine the monthly amount available to be paid from the RHIPA on behalf of an eligible retired state employee enrolled in a PERS health insurance plan contracted for under ORS 238.410. In determining the average difference between the health insurance premiums paid by retired state employees under contracts entered into by the Public Employees Retirement Board and the health insurance premiums paid by state employees who are not retired under contracts entered into by PEBB (without regard to employees who have opted out of PEBB-sponsored health insurance coverage), the staff shall calculate the change in value of the average of active PEBB plans after adjusting for the demographic (age/sex) differences between:

- (a) The active employee participants; and
- (b) Retired members receiving a subsidy and participating in one of the PERS non-Medicare health insurance plans as follows:

(A) Obtain the average employee participation for each health insurance plan sponsored by PEBB for the most recent three-month period;

(B) Obtain the health insurance premium for each health insurance plan sponsored by PEBB for the plan year next following;

(C) Obtain the average eligible retired state employee participation for each health insurance plan sponsored by PERS for the most recent three-month period;

(D) Compute the average health insurance premium for all plans sponsored by PEBB pursuant to the following formula:

(i) Step 1. Multiply the average participation in paragraph (A) of this subsection by the health insurance premium in paragraph (B) of this subsection for each plan;

(ii) Step 2. Total the average participation for all plans;

(iii) Step 3. Total the result for all of the calculations in Step 1 of sub-paragraph (i) of this paragraph; and

(iv) Step 4. Divide the total in Step 3 of sub-paragraph (iii) of this paragraph by the total in Step 2 of sub-paragraph (ii) of this paragraph.

(E) Compute the change in value of the average active PEBB plan pursuant to the following formula:

(i) Step 1. Divide the total in paragraph (C) of this subsection by the total in Step 2 of paragraph (D) of this subsection;

(ii) Step 2. Multiply the average participation for each plan in paragraph (A) of this subsection by the result of Step 1 of sub-paragraph (i) of this paragraph for each plan;

(iii) Step 3. Multiply the premium for each plan in paragraph (B) of this subsection by the estimated factor of non-Medicare retiree claims cost to active claims cost;

(iv) Step 4. Multiply the result of Step 2 of sub-paragraph (ii) of this paragraph by the result of Step 3 of sub-paragraph (iii) of this paragraph for each plan;

(v) Step 5. Total the results for all of the calculations in Step 4 of sub-paragraph (iv) of this paragraph;

(vi) Step 6. Total the results of the average participation calculations for all plans in Step 2 of sub-paragraph (ii) of this paragraph; and

(vii) Step 7. Divide the total premium in Step 5 of sub-paragraph (v) of this paragraph by total average participation as calculated in Step 6 of sub-paragraph (vi) of this paragraph.

(F) The result of Step 7 of sub-paragraph (E)(vii) of this subsection minus Step 4 of sub-paragraph (D)(iv) of this subsection is the maximum monthly amount available to be paid by PERS on behalf of an eligible retired state employee. Under no circumstances will this amount be less than \$0.

(G) The maximum monthly amount paid by PERS on behalf of an eligible retired state employee shall be determined using qualifying service.

(2) The factor in Step 3 of sub-paragraph (1)(b)(E)(iii) of this rule shall be evaluated no less frequently than every three years.

(3) The monthly amount available established under section (1) of this rule shall be published by November 1 of each calendar year, or as soon as

possible thereafter, and shall be effective for the plan year next following for PERS sponsored plans.

(4) In the event an active plan is not to be renewed for a subsequent plan year, the participants shall be deemed to be covered by another existing plan most similar in benefits.

(5) This rule applies to the amount to be paid by PERS for the plan year 1993 and subsequent plan years.

(6) No person eligible for a contribution from the RHIPA as provided for in this rule shall be entitled to a contribution from the RHIA.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.415

Hist.: PERS 8-1992, f. 12-14-92, cert. ef. 12-31-92; PERS 4-1996, f. & cert. ef. 6-11-96; PERS 4-1998, f. & cert. ef. 3-16-98; PERS 15-1998, f. & cert. ef. 12-17-98; PERS 12-2000(Temp), f. 12-15-00 cert. ef. 1-1-01 thru 6-29-01; PERS 2-2001, f. & cert. ef. 4-12-01; PERS 14-2002, f. & cert. ef. 11-18-02; PERS 23-2003, f. 12-15-03 cert. ef. 1-1-04; PERS 6-2014, f. & cert. ef. 3-31-14

Rule Caption: Clarify the receipt stamp requirement for received items.

Adm. Order No.: PERS 7-2014

Filed with Sec. of State: 3-31-2014

Certified to be Effective: 3-31-14

Notice Publication Date: 1-1-2014

Rules Amended: 459-005-0220

Subject: Clarify the receipt stamp affixation/display requirement to include the receipt log for checks, and the presumption that if no date stamp is displayed the item will be deemed filed and received three business days before the imaged date.

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-005-0220

Receipt Date for Reports, Documents, Remittances, and Payments

(1) As used in this rule:

(a) "Imaged date" means the date on which a report, document, remittance, or payment is imaged and stored electronically to a dedicated network server.

(b) "Private express carrier" has the same meaning as in ORS 293.660(2).

(c) "Settlement date" means the date on which the participating Depository Financial Institution (DFI) or its correspondent is scheduled to be debited or credited by the Federal Reserve.

(2) If the due date of a report, document, remittance, or payment falls on a weekend or legal holiday, the due date is deemed to be the next business day.

(3) Any report, document, remittance, or payment required by PERS shall be deemed filed and received based on the receipt stamp affixed to the report, document, remittance, or payment when received by PERS; or in the case of a check or cash submission, on the date recorded in PERS' daily cash receipts log or check log.

(4) Any report, document, remittance, or payment that does not display a PERS receipt stamp, or has not been recorded in PERS' daily cash receipts log or check log, shall be deemed filed and received on the imaged date. If the imaged date is later than the due date, the report, document, remittance, or payment shall be deemed filed and received three (3) business days before the imaged date.

(5) Any report, document, remittance, or payment required by PERS which is lost or delayed in transmission through USPS or by a private express carrier, shall be deemed filed and received on the date it was mailed or deposited for transmittal if the sender:

(a) Can establish by evidence satisfactory to PERS, which includes but is not limited to documentation provided by USPS or the private express carrier, that the report, document, remittance, or payment was deposited in the USPS or with a private express carrier before the date due for filing, and was correctly addressed to PERS;

(b) Files with PERS a duplicate of the lost report, document, remittance, or payment, in accordance with the transmittal requirements of OAR 459-005-0210 or 459-005-0215; and

(c) Satisfies the requirements of subsections (a) and (b) of this section within 30 days after PERS notifies the sender in writing of failure to receive the report, document, remittance, or payment.

(6) An electronic funds transfer (EFT) shall be deemed received on the settlement date of the transfer. A settlement date specified by an employer for an EFT shall be no later than the due date specified by PERS for a remittance or a payment.

(7) Any report or document that PERS accepts by fax as provided in OAR 459-005-0210 or 459-005-0215 which is:

ADMINISTRATIVE RULES

(a) Transmitted by a fax device to any office of PERS shall be deemed filed or received on the date of transmission as inscribed by the PERS fax device.

(b) Lost in transmission through a fax communication shall be deemed filed and received when originally transmitted if the sender can establish by affidavit the proof of sending and correct addressing, together with a copy of any activity report from the sender's fax device, and a duplicate of the original report or document.

(8) A fax shall be accepted on weekends and holidays as long as the fax is otherwise in compliance with due dates specified in administrative rule.

(9) Any report or document that PERS accepts by e-mail transmission as specified in OAR 459-005-0210(5) which is:

(a) Transmitted by e-mail to any office of PERS shall be deemed received as of the date PERS receives the transmission.

(b) Lost in transmission by e-mail shall be deemed filed and received when originally transmitted if the sender can establish by affidavit the proof of sending and correct addressing, together with a copy of any activity report from the sender's electronic device, and a duplicate of the original report or document.

(10) A report or document transmitted by fax or e-mail must be transmitted in accordance with the provisions of this rule and OAR 459-005-0215 and must be received by PERS before midnight on the due date.

(11) When transmitting a document or report by use of fax or e-mail, the sender bears the risk of failure of the transmission.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238, 238A

Hist.: PERS 6-1999, f. & cert. ef. 11-22-99; PERS 21-2005, f. & cert. ef. 11-1-05; PERS 10-2007, f. & cert. ef. 7-26-07; PERS 7-2014, f. & cert. ef. 3-31-14

Oregon State Lottery Chapter 177

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

Adm. Order No.: LOTT 1-2014

Filed with Sec. of State: 3-21-2014

Certified to be Effective: 4-6-14

Notice Publication Date: 3-1-2014

Rules Adopted: 177-094-0100

Subject: The Oregon Lottery has adopted 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 require 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.

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

The 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—(503) 540-1417

177-094-0100

Annual Affidavit Required for Prize Winners of the Win for LifeSM Scratch-itSM Ticket Game

This rule applies retroactively to the Win for LifeSM Scratch-itSM ticket game that began April 4, 1995 and ended February 29, 1996.

(1) **Definitions:** The definitions in OAR 177-094-0000 do not apply to this rule.

(a) "Original validation date" or "date of validation" is the date the Lottery determined that the prize winner's Win for LifeSM Scratch-itSM ticket was valid and eligible for payment of the top prize of \$1,000 per month for life.

(b) "Scratch-itSM" has the meaning set forth in OAR 177-050-0002.

(2) Annual Affidavit Required:

(a) General: Beginning April 1, 2014, once each year and no earlier than thirty days prior to the anniversary of the original validation date, a prize winner of a Win for LifeSM Scratch-itSM ticket game top prize of \$1,000 per month for life shall provide the Lottery with an affidavit on a form provided by the Lottery, signed by the prize winner, bearing the seal of a notary public, verifying the prize winner is living, containing the prize winner's current address, and a bank account number to which the prize shall be paid.

(b) Termination of Prize Payment: If a prize winner of a Win for LifeSM Scratch-itSM ticket game prize of \$1,000 per month for life does not provide the Lottery with the annual affidavit described in subsection (2)(a) of this rule, then the Lottery shall not make the annual prize payment of \$12,000 to the prize winner until the affidavit is received. Lottery shall retain that year's annual prize payment for six years from the anniversary of the original validation date unless the affidavit is received. If the prize winner fails to provide an annual affidavit within the six-year period, that year's annual prize payment shall constitute an unclaimed prize as described in OAR 177-010-0085 and shall be forfeited to the public purpose.

(c) Interest: No interest shall be paid by the Lottery on the value of the prize during the period the prize remained unclaimed.

(3) Garnishment for Child Support Owed:

(a) Payment Less Garnishment Amounts: When a search of delinquent child support obligors performed pursuant to ORS 461.715 and OAR 177-010-0090 Child Support Validation Check results in a positive match with a prize winner receiving payments under the Win for LifeSM Scratch-itSM ticket game top prize of \$1,000 per month for life and the Division of Child Support of the Department of Justice (DOJ) or its successor initiates garnishment proceedings, or upon receipt of garnishment proceedings from DOJ directed to the Lottery for monies due or to become due to a prize winner, the Lottery shall pay the prize winner the sum of the prize winner's monthly payments from the date the Lottery placed the prize winner's payments on hold to the prize winner's next anniversary of the original validation date less any amounts withheld pursuant to the garnishment proceedings and applicable tax laws.

(b) Subsequent Payments: The Lottery shall make any subsequent annual payments, less any amounts withheld pursuant to the garnishment proceedings and applicable tax laws, on the anniversary date of the validation of the prize or on the next business day following if the anniversary date is a Saturday, Sunday, holiday, or furlough closure day.

(4) **Death During a Payment Year:** If a prize winner of a Win for LifeSM Scratch-itSM ticket game prize of \$1,000 per month for life dies within a year for which a single annual prize payment has been paid prospectively to the winning player for that year, the prize could be overpaid. It is the policy of the Lottery that the difference between the prize that should have been paid based on the date of the death of the prize winner relative to the anniversary date of validation of the prize and the prize amount that was actually paid during the year in which the prize winner died will not be subject to reimbursement by the Lottery. If for any reason a prize payment is paid after the year in which the prize winner dies relative to the anniversary date of validation of the prize, the prize payment shall be subject to reimbursement to the Lottery.

Stat. Auth.: ORS 461, 461.210, 461.220, 461.250, 461.715, OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461, 461.210, 461.220, 461.250, 461.715

Hist.: LOTT 1-2014, f. 3-21-14, cert. ef. 4-6-14

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

Adm. Order No.: LOTT 2-2014

Filed with Sec. of State: 3-21-2014

Certified to be Effective: 4-1-14

Notice Publication Date: 3-1-2014

ADMINISTRATIVE RULES

Rules Amended: 177-099-0100

Subject: The Oregon Lottery has amended the above referenced administrative rule regarding the Keno Jackpot Bonus prize pools.

The rule amendments will authorize the Lottery to 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 amendments also authorize the Lottery to discontinue the 6-spot and 7-spot Keno Jackpot Bonus prizes. The money held in the prize pools under the prior version of the rule will roll into the prize pool for the 8-spot Jackpot Bonus prize under the current rule. The 6-spot and 7-spot prize pools are discontinued. The elimination of the 6-spot and 7-spot Jackpot Bonus prizes will result in an increased 8-spot Jackpot Bonus prize because the percentage of gross Keno sales that had been allocated for Jackpot Bonus prizes will no longer be split among three prize pools.

Rules Coordinator: Mark W. Hohlt—(503) 540-1417

177-099-0100

Keno Jackpot Bonus

(1) General:

(a) **Jackpot Bonus Prizes:** In addition to the prizes described in OAR 177-099-0080 and 177-099-0090, the Director may designate additional prizes for some or all of the Keno spot games. The Director may change this designation at any time. When the Director designates a spot game as eligible for such a prize, the Director shall determine the percentage of gross Keno sales (excluding sales of the Keno Multiplier option) to be allocated to a prize pool held in reserve as an additional prize for winners of the top prize in the designated spot game. A prize awarded from one of these prize pools is called a Jackpot Bonus prize. A Jackpot Bonus prize is awarded when a ticket wins the top prize for the designated spot under 177-099-0080 or 177-099-0090. If the Jackpot Bonus prize pool for a specific spot is not won, the Jackpot Bonus prize pool for that spot continues to grow.

(b) **Director's Discretion:** When the Director exercises discretion to change the spot games eligible for a Jackpot Bonus prize, the Lottery will post notice of the Jackpot Bonus change on the Lottery's website at www.oregonlottery.org seven calendar days in advance of such change. Lottery may also announce the change by any other reasonable means.

(c) **Rollover:** When the Director exercises discretion to remove a spot game from eligibility for a Jackpot Bonus prize, the Director shall rollover any funds held in the prize pool for that spot game into any other Jackpot Bonus prize pools as determined by the Director.

(2) **Automatic Entry:** If a game play on a ticket is for a spot game that has been designated by the Director as eligible for a Jackpot Bonus prize, the ticket is automatically playing for the Jackpot Bonus prize described under subsection (1)(a) of this rule, as well as a prize under either OAR 177-099-0080 or 177-099-0090. For example, if a Keno ticket with a 6-spot game play is the only Keno or Special Keno ticket to match 6 out of 6 of the winning numbers, that ticket, subject to ticket validation requirements, would win the top prize for the 6-spot under 177-099-0080 (\$1,600) and the accumulated Jackpot Bonus prize for the 6-spot.

(3) **Division of Jackpot Bonus Prize Pool:** The prize money in the Jackpot Bonus prize pool for a specific spot for any given drawing is divided by the number of tickets winning the top prize for that spot under either OAR 177-099-0080 or 177-099-0090. The Jackpot Bonus prize pool is divided among those winning tickets on a pro-rata basis determined by the amount that each winning ticket played in the drawing in which the Jackpot Bonus prize was won. For example, if one Keno ticket wins the top prize for the 8-spot (\$15,000) in a drawing, and was purchased for ten drawings at \$3 per drawing, and one Special Keno ticket wins the top prize for the 8-spot (\$25,000) in the same drawing, and was purchased for one drawing at \$1, the holder of the Keno ticket would receive 75% of the prize in the Jackpot Bonus prize pool for the 8-spot and the holder of the Special Keno ticket would receive the remaining 25% of the prize in that Jackpot Bonus prize pool.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461.200

Hist.: LOTT 3-1999, f. 3-25-99, cert. ef. 4-4-99; LOTT 3-2002(Temp) f. & cert. ef. 2-4-02 thru 8-2-02; LOTT 7-2002, f. & cert. ef. 4-29-02; LOTT 19-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 30-2002, f. & cert. ef. 11-25-02; LOTT 3-2003(Temp), f. 3-28-03, cert. ef. 4-7-03 thru 9-30-03; LOTT 11-2003, f. & cert. ef. 6-30-03; LOTT 4-2009(Temp), f. & cert. ef. 8-26-09 thru 2-18-10; LOTT 3-2010, f. 1-29-10, cert. ef. 2-1-10; LOTT 1-2011, f. 2-25-11, cert. ef. 3-1-11; LOTT 2-2014, f. 3-21-14, cert. ef. 4-1-14

Oregon State Marine Board Chapter 250

Rule Caption: Slow-no wake on Dexter Dam Reservoir from the Covered Bridge to the west shore.

Adm. Order No.: OSMB 8-2014(Temp)

Filed with Sec. of State: 4-11-2014

Certified to be Effective: 4-11-14 thru 5-3-14

Notice Publication Date:

Rules Amended: 250-020-0221

Subject: This rule will temporarily adopt a slow-no wake zone on the portion of the lake from the Covered Bridge to the west shoreline for the weekend of April 12–13, 2014, and also on May 3, 2014 for scheduled rowing events.

Rules Coordinator: June LeTarte—(503) 378-2617

250-020-0221

Boat Operations on Certain Waters in Lane County

(1) No person shall operate a motorboat in excess of 5 MPH ("Slow-No Wake") in the following areas:

(a) Triangle Lake: Within 200 feet of a marked swimming area or a designated public launching ramp;

(b) Fern Ridge Lake:

(A) Within 200 feet of a marked swimming area or a designated public launching ramp;

(B) In the Coyote Creek Channel;

(C) Between shore and buoy line which extends southerly from the north shore to a point approximately 200 feet of the northern most Eugene Yacht Club mooring dock thence generally south and west approximately 200 feet of the docks to a point approximately 200 feet south of the Tri Pass Club mooring dock thence generally west to the southern tip of the Tri Pass Club dock as buoyed except for the buoyed corridor immediately south of the Eugene Yacht Club southernmost dock;

(D) South of the buoy line which extends easterly from a point approximately 100 yards north of the Perkins Boat Ramp to the adjacent shoreline;

(E) In the Main Long Tom River Channel.

(c) Dexter Dam Reservoir:

(A) Within 200 feet of a marked swimming area or a designated public launching ramp;

(B) Within 50 feet of the causeway crossing the reservoir.

(C) On the portion of the lake from the Covered Bridge to the west shore from 6:00 am to 6:00 pm on April 12, 2014; from 7:00 am to 2:00 pm on April 13, 2014, and from 7:00 am to 2:00 pm on May 3, 2014.

(d) Lookout Point Reservoir:

(A) Within 200 feet of a marked swimming area or a designated public launching ramp;

(B) East of the Southern Pacific Railroad bridge.

(e) Dorena Dam Reservoir:

(A) Within 200 feet of a marked swimming area or a designated public launching ramp.

(B) Southeast of a line between markers on Humphrey Point and the northeast shore.

(f) Cottage Grove Reservoir:

(A) Within 200 feet of a marked swimming area or a designated public launching ramp;

(B) South of a line between a marker on the east shore, near the Wilson Creek area, and on the west shore near Cedar Creek.

(g) Hills Creek Reservoir:

(A) Within 200 feet of a marked swimming area or a designated public launching ramp;

(B) On Packard Creek arm west of Rigdon Road (USFS Road #21);

(C) On Hills Creek south of the Hills Creek Crossing Bridge;

(D) On the Middle Fork, Willamette River south of the Rigdon Road (USFS #21) (Upper Crossing) Bridge;

(E) No person shall operate a motorboat for any purpose on Larison Creek arm west of Rigdon Road (USFS Road #21).

(h) Collard Lakes;

(i) Picket Lake;

(j) Munsel Lake — west of the line of marker buoys;

(k) Fall Creek Lake:

(A) Within 200 feet of a designated public launching ramp or marked swimming area;

(B) On Fall Creek upriver from the buoys located approximately 200 feet downstream of the Big Fall Creek Road;

ADMINISTRATIVE RULES

Oregon State Treasury Chapter 170

(C) On Winberry Creek upriver from the buoys located approximately 1800 feet downstream of the Winberry Creek Road Bridge.

(l) Siltcoos Lake:

(A) Within 200 feet of a designated public launching ramp or marked swimming area;

(B) Between shore and buoy line at the mouth of Kiechle Arm beginning at a point at the east shoreline of Arrowhead Point and extending northerly approximately 900 yards to a point approximately 100 yards off shore of Camp Baker during the period of June 1 through September 30.

(C) In Miller Arm north of the buoy line, located at the entrance near Nightingales' Fishing Camp, during the period of May 1 through September 31.

(2) No person shall operate a motorboat in excess of 5 MPH on Leaburg Reservoir and the McKenzie River from the dam upstream to Good Pasture Bridge.

(3) No person shall operate a motorboat in excess of a "Slow-No Wake" speed within 300 feet of a boat launching ramp or a boat moorage on the following bodies of water (for purpose of this regulation, "Slow-No Wake" speed means the speed of a boat shall not exceed 5 MPH):

(a) Cougar Reservoir;

(b) Blue River Reservoir;

(c) Siuslaw River — between the river entrance and the highway bridge at Mapleton.

(4) No person shall operate a motorboat for any purpose on the following lakes: Scott, Melakwa, Hidden, Blair, Upper Erma Bell, Middle Erma Bell, Lower Erma Bell, Torrey, Whig, Wahanna, Rigdon, Lower Rigdon, Kiwa, Upper Eddeleo, Round, Betty, and Alameda.

(5) No person shall operate a motorboat for any purpose in excess of 10 MPH on Munsel Lake east of the line of marker buoys, except from June 1 through September 30, between the hours of 10 a.m. and 5 p.m.

(6) No person shall operate a motorboat on the McKenzie River above Good Pasture Bridge, except a representative of the Oregon State Police or the County Sheriff's Office pursuant to a criminal investigation or search and rescue operation.

(7) No person shall operate a motorboat, except with an electric motor:

(a) In the Old Long Tom River Channel;

(b) On Fern Ridge Reservoir south of State Highway 126;

(c) On Hult Reservoir.

(8) No person shall operate a propeller-driven airboat or non-displacement hull type hovercraft in the following areas on Fern Ridge Reservoir where there is emergent vegetation present:

(a) Coyote Creek area — east of a line beginning at the West Coyote Creek bridge at Highway 126 extending north approximately one mile to a point near the mouth of Coyote Creek, then extending north approximately 1.4 miles to a point located approximately 100 yards off shore of the northwest corner of Gibson Island;

(b) Amazon Bay area — east of a line beginning at a point located approximately 100 yards off shore of the northwest corner of Gibson Island extending northeast approximately one mile to the Shore Lane access;

(c) South Marsh area — west of a line extending from a point on the shoreline at the southern boundary of Zumwalt Park near the end of Vista Drive extending southeast approximately one mile to a point on the shoreline at the tip of Perkins Peninsula;

(d) Long Tom Area — southwest of a line beginning at a point on the shore line at the end of Moyer Lane extending southeast approximately 0.9 miles to a point on the west shoreline of the Jeans Peninsula at the north end of Winter Lane.

(9) No person shall operate a motorboat north and east of a line across the entrance of Bannister Cove on Lookout Point Reservoir, as marked.

Stat. Auth.: ORS 830.110 & 830.175

Stats. Implemented: ORS 830.175

Hist.: MB 21, f. 8-23-63; MB 27, f. 6-3-65; MB 31, f. 6-20-66; MB 42, f. 12-3-68; MB 44, f. 8-21-69; MB 48, f. 6-28-71, ef. 7-25-71; MB 49, f. 8-14-72, ef. 9-1-72; MB 3-1979(Temp), f. & ef. 6-22-79; MB 5-1979, f. 7-31-79, ef. 8-1-79; Renumbered from 250-020-0131; MB 8-1981, f. & ef. 11-16-81; MB 5-1982, f. & ef. 6-1-82; MB 6-1982, f. & ef. 6-1-82; MB 15-1984, f. 11-30-84, ef. 12-1-84; MB 6-1995, f. & cert. ef. 7-14-95; MB 9-1996, f. & cert. ef. 5-29-96; OSMB 2-2000, f. & cert. ef. 7-14-00; OSMB 2-2001, f. & cert. ef. 1-25-01; OSMB 1-2008, f. & cert. ef. 1-15-08; OSMB 3-2010, f. & cert. ef. 1-15-10; OSMB 9-2010(Temp), f. & cert. ef. 5-6-10 thru 9-30-10; Administrative correction 10-26-10; OSMB 13-2010, f. & cert. ef. 11-1-10; OSMB 5-2011(Temp), f. 3-28-11, cert. ef. 4-8-11 thru 4-11-11; Administrative correction, 4-25-11; [OSMB 10-2011(Temp), f. 6-30-11, cert. ef. 7-1-11 thru 10-1-11; OSMB 10-2011(Temp) Suspended by OSMB 11-2011(Temp), f. & cert. ef. 8-5-11 thru 10-1-11, Administrative correction, 8-25-11]; OSMB 4-2012(Temp), f. & cert. ef. 4-2-12 thru 4-30-12; OSMB 8-2012, f. 4-24-12, cert. ef. 5-1-12; OSMB 1-2013(Temp), f. 3-18-13, cert. ef. 4-12-13 thru 4-27-13; Administrative correction, 5-22-13; OSMB 6-2013, f. 10-28-13, cert. ef. 11-1-13; OSMB 8-2014(Temp), f. & cert. ef. 4-11-14 thru 5-3-14

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

Adm. Order No.: OST 2-2014

Filed with Sec. of State: 4-11-2014

Certified to be Effective: 4-11-14

Notice Publication Date: 3-1-2014

Rules Amended: 170-063-0000

Subject: 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—(503) 373-1028

170-063-0000

Oregon School Bond Guaranty Program

(1) Definitions. For purposes of this rule, the following definitions shall apply:

(a) "OST" means the Office of the State Treasurer.

(b) The "Act" means the Oregon School Bond Guaranty Act set forth in ORS 328.321 to 328.356.

(c) "Authorized District Official" means the chairperson of the board, the superintendent, president, or business administrator for the School District, or other designee of the board.

(d) "Business Day" means any day on which the offices of the State Treasurer are open to the public for the conduct of substantially all of the powers and duties of the agency. Saturdays, Sundays, or state holidays or any other day recognized by state government as a holiday or a day on which the State Treasurer's offices are officially closed to the public shall not be considered a Business Day.

(e) "Certificate of Qualification" means a letter from OST pursuant to ORS 328.331(3).

(f) "Determination of Ineligibility" means a letter from OST pursuant to ORS 328.336.

(g) "Guaranty Program" means the school bond guaranty program established by the Act.

(h) "Nationally Recognized Bond Counsel Firm" means a bond counsel firm listed in the most recent publication of The Bond Buyer's Municipal Market Place.

(i) "Qualified Bonds" means bonds that are originally issued as tax credit bonds under the Internal Revenue Code and any bonds resulting from a conversion of such tax credit bonds to an interest bearing format over and above interest payments that may be due and payable under the original terms of such tax credit bonds.

(j) "Qualified Paying Agent" means a paying agent acceptable to OST who agrees to comply with the applicable requirements of the Act and provides a letter to OST acknowledging as much.

(k) "School District" or "District" means a common or union high school district, an education service district, or a community college district.

(l) "State School Aid" means the State School Fund Grant described in ORS 327.008(2), plus amounts received from the Common School Fund under 327.410, plus amounts received from federal forest revenues under 294.060, plus amounts received from state managed forests under 530.115.

(m) Terms not otherwise specifically defined herein shall have the meanings given in the Act. For purposes of calculating outstanding bonds or other outstanding borrowings as required under this rule, any borrowings

ADMINISTRATIVE RULES

that are defeased as provided in ORS 287A.195(1)(d)(B) shall be excluded and shall not be included in the amount of an outstanding borrowing.

(2) Request for Certificate of Qualification to Participate in Guaranty Program. School Districts may request a Certificate of Qualification at any time during the year by filing a Request for Certificate of Qualification. Such requests, however, must be submitted no less than 30 days prior to sale of the bonds for which the guaranty, if granted, will apply. Requests, and all other written communications pursuant to the Guaranty Program, shall be submitted to OST as provided in OAR 170-055-0001(4), and shall include:

(a) The name, county, and district number (if applicable) of the requesting School District;

(b) The name of the business administrator or other contact person for the requesting School District;

(c) The mailing address, phone number, e-mail address, and fax number (if applicable) of the requesting School District;

(d) A statement of whether any of the School District's previously issued and outstanding debt is covered by the Guaranty Program;

(e) A copy of the requesting School District's most recent audited financial statements, audit opinion, and management letter; and a statement by an Authorized District Official that they have not been contacted and are not participating in any investigation by an oversight agency or, alternatively, documentation of any conclusions reached by such agency regarding their activities.

(f) A listing of outstanding general obligation debt and associated debt service schedules, for debt issued by the School District since the date of its most recent financial audit;

(g) A certificate, signed by an Authorized District Official:

(A) Stating whether the requesting School District has ever failed to pay debt service on any of its bonds, certificates of participation, or other financial obligations when due, and explaining the circumstances and resolution of any such defaults or failures;

(B) Describing current lawsuits against the School District challenging the ability or authority of the School District to issue bonds or that may materially affect the ability of the School District to make scheduled debt service payments on its bonds when due;

(C) Stating that the requesting School District has filed its current budget document(s) with the Oregon Department of Education, and in accordance with Oregon Local Budget Law;

(D) Stating the amount of debt the School District is authorized by law to incur, and stating that the requesting School District is within this limit;

(E) Describing the possible repayment structure of all bonds the School District may issue during the period of the requested Certificate of Qualification, including any Qualified Bonds. Such repayment structure shall cover the estimated debt service schedule and, for Qualified Bonds, include any scheduled deposits to a sinking fund and the interest rate to which such bonds may be converted, if they may be converted to an interest bearing format over and above interest payments that may be due and payable under the original terms of such bonds;

(F) Attesting to the accuracy and completeness of the materials provided; and

(G) Stating that the School District has engaged a Qualified Paying Agent, who, under the terms of the agreement between the two parties (the "Paying Agent Agreement"), has agreed to provide the School District with a written notification by January 15 of each year of the required debt service amounts (including any scheduled deposits to a sinking fund for Qualified Bonds) which are due in the then-current fiscal year and the following two fiscal years, such that the School District may have the proper information to levy adequate amounts for such payments coming due in the following fiscal years.

For example, a notification provided by January 15, 2010 shall include information on debt service due in the current FY 2010 year (July 1, 2009 through June 30, 2010), the FY 2011 year (July 1, 2010 through June 30, 2011), and FY 2012 year (July 1, 2011 through June 30, 2012).

(h) A non-refundable application processing fee as set forth in OAR 170-061-0015;

(i) An authorizing resolution of the District that expressly authorizes the District to participate in the Guaranty Program and that affirmatively pledges the taxing power and full faith and credit of the District to payment of any payments made by the State Treasurer pursuant to ORS 328.341; and

(j) Any additional materials that may be required by OST in support of the request for participation in the Guaranty Program.

(3) Review of Request for Certificate of Qualification. Upon receipt of a request for a Certificate of Qualification, OST shall determine whether all items listed in section (2) of this rule have been provided, whether such

items are current, and whether such items demonstrate that the requesting School District is likely to be able to repay any amounts paid by OST under ORS 328.341. To make its determination, OST may request additional information from the School District, as well as from any other person or entity that collects information pertaining to the financial well-being of the requesting School District.

(a) Any District submitting debt service schedules under section (2) that indicate the amount of periodic debt service paid, or projected to be paid, by the District on its outstanding bonds guaranteed under the Guaranty Program, outstanding debt payable through a fund diversion agreement with the State Department of Education, and any other debt that has been guaranteed for repayment by the State of Oregon that is outstanding or anticipated at the time its request is submitted to OST, is equal to eighty (80) percent or more of the amount of State School Aid transferred to, or projected to be transferred to, the District by the State of Oregon in any fiscal year that the requested guaranty would be in effect, will be considered a repayment risk by OST and OST will require the requesting District to pledge revenues or property to secure some or all of its repayment obligation to the State of Oregon or to purchase bond insurance or another form of credit enhancement acceptable to OST as a condition to issuance of a Certificate of Qualification.

(b) If after its review, OST determines that a District does not fall within the parameters set forth in paragraph (a) of this section but, due to other factors, the fiscal stability of the District may not be sufficiently strong to assure repayment to the State of Oregon of any amounts paid by OST under ORS 328.341, OST may require the requesting District to pledge additional revenues or property to secure its repayment obligation to the State of Oregon or to purchase bond insurance or another form of credit enhancement acceptable to OST as a condition to issuance of a Certificate of Qualification.

(4) Issuance of Certificate of Qualification. Upon determining that a School District is eligible to participate in the Guaranty Program, OST shall issue a Certificate of Qualification to the School District. A Certificate of Qualification will not apply to Qualified Bonds unless the School District indicated in its request for a Certificate of Qualification that it planned to issue Qualified Bonds under the Certificate of Qualification. OST shall act upon a School District's request for a Certificate of Qualification within 10 business days after receipt of a request under section (2) of this rule. The Certificate of Qualification:

(a) Shall evidence the School District's immediate qualification for the Guaranty Program contingent upon compliance with section (6) and all other sections of this rule for each bond issue contemplated for guaranty under the Act;

(b) Be valid for one year from the date of its issuance;

(c) May be applied to any or all general obligation bonds or general obligation refunding bonds issued by the School District during such one-year period that comply with this rule and the Act, except Qualified Bonds for which specific approval must be noted as set forth in OAR 170-061-0015(4)(d). A bond shall be considered issued as of its dated date.

(d) Will specifically state whether it applies to Qualified Bonds issued by the School District during the period of its validity.

(5) A School District that has received a Certificate of Qualification, but did not request Qualified Bonds to be included under the Certificate of Qualification, may submit an amended request at least one month prior to the scheduled issuance date for any Qualified Bonds requesting an amended Certificate of Qualification that specifically covers the Qualified Bonds, which request shall include the information required for such bonds in OAR 170-063-0000(2). OST shall act upon such request within 5 business days.

(6) School Districts to Provide Information Specific to Each Bond Issued Under the Program. A School District which has received a Certificate of Qualification may, while the Certificate of Qualification is in effect, obtain the state's guaranty of a series of its bonds under the Guaranty Program, by:

(a) Fully complying with Oregon Administrative Rule 170-061-0000 (Notice and Reporting Requirements by Public Bodies When Issuing Bonds), including providing notification on MDAC Form 1 to OST at least 10 business days prior to the marketing of any bonds referencing participation in the Guaranty Program, for the bonds which will be guaranteed (this may be submitted simultaneously with information described in section (2) of this rule);

(b) Submitting the following documents to OST at least 5 business days prior to the closing of the bonds to which the guaranty will apply:

ADMINISTRATIVE RULES

(A) A copy of a resolution adopted by the board or governing body of the School District, authorizing the School District to issue the bonds and participate in the Guaranty Program;

(B) An opinion from a Nationally Recognized Bond Counsel Firm that the bonds, when issued, will be general obligation bonds as defined in the Act, and will be valid and binding obligations of the issuer;

(C) A certificate stating that no litigation is pending or threatened against the School District, questioning the authority of the School District to issue the bonds or levy taxes to pay the bonds;

(D) A specific statement as to whether any of the bonds will be Qualified Bonds; and

(E) Any additional materials that may be required by OST in support of the request for participation in the Guaranty Program, including but not limited to, any information or agreement requested by OST with respect to creation of sufficient debt service funds, assurance that any bond insurance, pledge of security or other credit enhancement required for issuance of the Certificate remains in effect and available, or other repayment mechanisms to pay any outstanding bonds, including Qualified Bonds or to repay OST when payment is due.

(7) Letter of Confirmation. No later than the day on which the bonds are scheduled to close, OST shall, if the Certificate of Qualification is in effect and the School District has complied with section (6)(a) and (6)(b) of this rule, issue a Letter of Confirmation identifying the series of bonds to which the guaranty shall apply, and stating that the guaranty shall apply to that series of bonds if the series of bonds closes within 15 business days after the date of the letter, and there is filed with bond counsel a certificate, signed by an Authorized District Official and dated the date of the closing, stating that no litigation is pending or threatened against the School District which questions the authority of the District to issue the bonds or levy taxes to pay the bonds. If the series of bonds described in the letter of confirmation is closed within that 15 business day period, and the non-litigation certificate is filed with bond counsel as required by this Section, the series of bonds shall be guaranteed under the Guaranty Program, and the guaranty shall not be affected by any denial or revocation pursuant to section (10) of this rule.

(8) Guaranty Fees. School Districts whose bonds are guaranteed by the state shall submit to OST, within 10 business days of closing of any guaranteed bonds, a fee as set forth in OAR 170-061-0015.

(9) Ratings. OST will undertake to have the Oregon School Bond Guaranty Program rated by one or more of the major debt rating agencies. School Districts may contact the Debt Management Division of OST to determine which agencies have rated the program. School Districts proposing to issue bonds under the Guaranty Program may:

(a) Engage, at their own expense, one or more of the rating agencies to apply the rating of the Guaranty Program to their bonds; and

(b) At their discretion, and at their own expense, choose to obtain an underlying rating on the bonds.

(10) Denial or Revocation of Qualification/Determination of Ineligibility. OST may deny a School District's request for a Certificate of Qualification, or revoke a previously issued Certificate of Qualification, and issue a Determination of Ineligibility in accordance with the Act, if:

(a) The School District fails to meet the provisions outlined in the Act or any of the requirements outlined in this rule;

(b) The State has ever paid, pursuant to the Guaranty Program, any principal of or interest on any of the School District's bonds; or

(c) OST has reason to question the financial integrity of the School District, including but not limited to, whether sufficient funds exist to repay any outstanding Bonds, including Qualified Bonds, when payment is due or to repay the State of Oregon for any payments made by OST under ORS 328.341.

(11) Guaranty Final Upon Issuance. Pursuant to ORS 328.336, issuance of a Determination of Ineligibility shall not affect the validity of the state's guaranty of any outstanding bonds issued under a Letter of Confirmation pursuant to section (7) of this rule.

(12) Reference to Guaranty. School Districts with a valid Certificate of Qualification, and that have complied with section (6) and all other sections of this rule, shall evidence the State's guaranty of the School District's bonds by:

(a) Referencing the guaranty on the cover of the preliminary official statement(s) and official statement(s), or other offering document(s), for the applicable bond(s);

(b) Referencing the guaranty on the face of the School District's applicable bond(s); and

(c) Including language describing the guaranty (to be provided by OST) in the School District's preliminary official statement(s) and official

statement(s), or any other offering document(s), for the applicable bond(s). Language supplied by OST must be used in its entirety and may not be modified or amended.

(13) School Districts to Report Changes Affecting Qualification. School Districts who have had bonds guaranteed under the Guaranty Program shall promptly notify OST if at any time there are material changes or occurrences that might affect the School District's eligibility to qualify or maintain its qualification to participate in the Guaranty Program, including but not limited to:

(a) Failure to adopt a resolution or ordinance that formally adopts the budget, sets appropriations, and if needed, levies property taxes in accordance with Oregon local budget law;

(b) Failure to pay debt service on any outstanding bond, certificate of participation, or similar financial obligation; or

(c) Failure to establish or levy for debt service scheduled (including any sinking fund deposits) for any outstanding bonds, including Qualified Bonds, or a material change in any other repayment mechanism for outstanding bonds, including Qualified Bonds.

(14) Notice to OST of debt service payments. School Districts who are unable to transfer scheduled debt service payments to a Qualified Paying Agent 15 days prior to the payment date and Qualified Paying Agents who have not received sufficient funds 10 days prior to the payment date, shall provide notice to OST as provided in OAR 170-055-0001(4) and by telephone to (503) 378-4930 or email to DMD@ost.state.or.us.

(15) Notice to OST of sinking fund deposits. School Districts shall provide written verification that they have made any required sinking fund deposits for Qualified Bonds by May 1 of each year to their Qualified Paying Agents and such Qualified Paying Agent shall promptly notify OST if they do not receive such annual verification.

(16) Repayment. Respective School Districts are responsible for paying all of their obligations guaranteed by the State under the Guaranty Program and for the advance funding of any debt service fund established for such obligations. Any funds paid by the State on behalf of a School District under the Guaranty Program shall be recovered by OST in a manner consistent with the Act.

(17) Reporting on Debt Service Fund. Any School District with outstanding Qualified Bonds guaranteed under the Guaranty Program shall report to the OST at least annually the amount of moneys paid into the School District's debt service fund to pay the Qualified Bonds together with a calculation demonstrating that such advance payments are scheduled to be fully funded and sufficient to repay the Qualified Bonds in full when payment is due. To the extent moneys are not scheduled to be paid into the debt service fund on an annual basis, the School District in its notification shall demonstrate that current balances in the debt service fund, along with any future deposits, will be sufficient to repay the Qualified Bonds in full when due. School Districts with outstanding Qualified Bonds that are subject to conversion to taxable interest bearing bonds and any Qualified Paying Agents for such Qualified Bonds shall promptly notify OST of such conversion as provided in OAR-170-055-0001(4) and by telephone to (503) 378-4930 or email to DMD@ost.state.or.us.

(18) Interest. OST will charge interest in connection with the recovery of funds under the Act. Any interest charged will be in a manner consistent with the Act.

(19) Penalty. In addition to charging interest, OST may impose a penalty on a School District for which the State made a payment under the Guaranty Program. Any penalty imposed will be consistent with the Act.

(20) Exceptions. OST may waive any or all provisions of this rule to the extent provided by law.

This rule shall be effective on the date it is adopted by OST and filed with the Secretary of State and its requirements shall apply to any Certificates of Qualification that are in effect on such date.

Stat. Auth.: ORS 328.321 - 328.356

Stats. Implemented: ORS 328.321 - 328.356 & 328.331

Hist.: OST 3-1998(Temp), f. 12-14-98, cert. ef. 1-2-99 thru 6-30-99; OST 2-1999, f. 6-22-99, cert. ef. 7-1-99; OST 1-2000(Temp) f. 10-31-00, cert. ef. 10-31-00 thru 4-27-01, Administrative correction 6-7-01; OST 7-2008, f. & cert. ef. 12-29-08; OST 5-2009(Temp), f. & cert. ef. 10-30-09 thru 4-27-10; OST 1-2010 f. & cert. ef. 1-15-10; OST 1-2014(Temp), f. & cert. ef. 1-15-14 thru 7-14-14; OST 2-2014, f. & cert. ef. 4-11-14

Oregon University System Chapter 580

Rule Caption: Increase the amount of vacation payout to 260 hours for a set period of time

Adm. Order No.: OUS 1-2014

Filed with Sec. of State: 3-21-2014

Certified to be Effective: 3-21-14

ADMINISTRATIVE RULES

Notice Publication Date: 2-1-2014

Rules Amended: 580-021-0030

Subject: With the passage of Senate Bill 270 (2013) and the substantial change in the governance of Oregon's public universities, it is vital that the State Board of Higher Education and the Office of the Chancellor make every reasonable effort to ensure that adequate staff are retained in order to make transition to Oregon State University, Portland State University, and the University of Oregon, as well as any possible change to the governance of the remaining OUS institutions, as seamless as possible. Under current administrative rules, as a general matter, full-time unclassified OUS employees accrue 15 hours of vacation each month; however, these employees may not accrue more than 260 hours of vacation leave and, upon separation of service, may not cash out more than 180 hours of vacation leave. In order to incent Office of the Chancellor employees to remain at OUS during the critical period of transition facing public higher education in the state over the next 18 months and, after consulting other public sector vacation leave schemes in Oregon, including those for state employees under the purview of DAS, the OSBHE approved that payment for accrued vacation leave be increased for a specific period of time for unclassified employees in the Office of the Chancellor.

Rules Coordinator: Marcia M. Stuart—(541) 346-5749

580-021-0030

Vacations

(1) Eligibility. Vacation means absence from work permitting rest and recreation for a specified period of time during which regular compensation continues. Unclassified employees gain vacation privileges only if employed at .50 FTE or more on a 12-month appointment.

(2) Computation. Eligible unclassified employees accrue vacation on a monthly basis, beginning the first of the month following date of hire or on the first of the month if an employee is hired the first working day of the month. Vacation accrues on the last day of the month and is available for use the first day of the next month subject to the restrictions in section (3) of this rule. A 9-month employee appointed to a 12-month contract may receive credit for the previous 9-month contract, on a pro-rata basis. Eligible employees with a 12-month, 1.0 FTE contract accrue 15 hours of vacation per month; eligible employees on a .50 FTE or more contract accrue vacation in proportion to their FTE. An employee who terminates OUS employment before completing the 6-month wait period receives no vacation, and is not entitled to compensation for vacation accrued. On February 28, 1998, eligible employees shall be credited with vacation leave on a pro-rata basis at a rate of 14.67 hours per month as if monthly accrual had begun on their last vacation anniversary date or, for those employed fewer than 11 months, on their date of hire.

(3) Wait Period and Maximum Balance. Vacation accrual is available to the unclassified employee for use six months after vacation accrual begins. Until September 1, 1999, there will be no maximum on the amount of vacation leave that an employee can accrue. However, effective September 1, 1999, no employee may accrue in excess of 260 hours, and any accrued vacation leave in excess of this cap will be forfeited.

(4) Transfer.

(a) Inter-institutional/Unclassified to Unclassified. If an eligible unclassified employee transfers to another unclassified position within the Department and remains eligible for vacation accrual, the employee shall transfer all accrued vacation leave to the new position. However, if there is a break in service for more than 30 days, all accrued vacation pay will be paid off by the sending institution and the employee will be considered a new hire in the position. Moving from position to position within the same institution shall not be considered a transfer or a break in service for purposes of this rule.

(b) For purposes of this Rule, OHSU shall be considered an institution within the Department whereby an OHSU unclassified employee who "transfers to unclassified position within the Department and remains eligible for vacation accrual," may, subject to approval by the receiving department or institution, transfer all accrued vacation time from OHSU to an institution within the Department; upon such a transfer, the vacation benefits of a former OHSU employee shall be administered in accordance with 580-021-0030.

(c) Classified to Unclassified Appointment. If a classified employee of the Department receives an unclassified appointment within the Department and is eligible for vacation leave, the employee may bring up

to 80 hours of accrued vacation leave; the receiving department or institution may accept up to 250 hours maximum. The former classified employee shall receive cash compensation from the sending department or institution for any remaining accrued vacation leave. The former classified employee may use accrued vacation without serving a 6 month wait period.

(5) The accrual of vacation leave is reduced on a pro-rata basis for the period of leave without pay, sabbatical leave, and educational leave. Vacation leave is accrued during other periods of paid leave.

(6) Payment for Accrued Vacation Leave. Unclassified employees are not entitled to payment for unused vacation leave except upon termination of employment or upon transfer within the Department to another unclassified position not eligible for vacation benefits. Unclassified employees who transfer to a classified position within State of Oregon employment are subject to applicable OUS rules or collective bargaining agreements governing payment for accrued vacation. The maximum number of hours that can be paid upon termination or transfer is 180 hours.

(7) Scheduling and Use of Vacation Leaves. Vacation leaves are scheduled with the approval of the employee's supervisor and should be planned cooperatively with the employee. Vacation leave should be scheduled in such a manner as to minimize disruption to the organization. Supervisors must be reasonable in allowing the use of vacation leave and may not unreasonably deny vacation requests where the result would be the forfeiture of accrued vacation. For purposes of calculation, one normal work day is the equivalent of eight hours of vacation leave for a full-time employee.

(8) Record Keeping. Each institution is responsible for maintaining the individual records of vacation accrual and use.

(9) Vacation Donation. The transfer of vacation time, for use by another employee, classified or unclassified, is not permitted.

(10) Vacation Borrowing. Employees are not permitted to borrow against vacation that is not yet accrued. (Section 12, relating to interim provisions for employees moving from Management Service to Unclassified Service, was repealed December 1, 1999.)

(11) Notwithstanding section (6) of this rule, from the period December 1, 2013 through June 30, 2015, unclassified employees of the Office of the Chancellor, upon termination or transfer as described in this rule, may receive cash payment for up to 260 hours of accrued vacation leave.

Stat. Auth.: ORS 240 & 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 3-1978, f. & ef. 6-5-78; HEB 11-1984, f. & ef. 11-9-84; HEB 10-1990, f. & cert. ef. 7-26-90; HEB 1-1993, f. & cert. ef. 2-5-93; HEB 4-1996, f. & cert. ef. 10-24-96; HEB 5-1996, f. & cert. ef. 12-18-96; OSSHE 2-1998, f. & cert. ef. 2-25-98; OSSHE 7-2001(Temp), f. & cert. ef. 12-5-01 thru 5-1-02; OSSHE 2-2002, f. & cert. ef. 5-1-02; OUS 8-2013(Temp), f. & cert. ef. 11-20-13 thru 3-13-14; Administrative correction, 3-18-14; OUS 1-2014, f. & cert. ef. 3-21-14

Oregon University System, Oregon State University Chapter 576

Rule Caption: Correction to two typographical errors contained in internal cross-references in Student Conduct Code.

Adm. Order No.: OSU 4-2014(Temp)

Filed with Sec. of State: 4-15-2014

Certified to be Effective: 4-16-14 thru 6-30-14

Notice Publication Date:

Rules Amended: 576-015-0043, 576-015-0050

Subject: Correction to two typographical errors contained in internal cross-references in Student Conduct Code.

Rules Coordinator: Beth Giddens—(541) 737-2449

576-015-0043

Notice

(1) Upon receiving a complaint or report that a Student or Student Organization may have violated the Student Conduct Code, the Director of SCCS or the Office of Equity and Inclusion ("OEI") will notify the Student/Student Organization in writing of the alleged violation(s). The notice will inform the Student or Student Organization of the rule(s) said to have been violated and a description of the acts or omissions alleged to have been in violation of the Student Conduct Code.

(2) If the Director of SCCS determines the alleged violation(s) of 576-015-0020(1)–(5), (8)–(10), or (12)–(23) may result in Suspension or Expulsion, the notice described in subsection (1) will set a time and place for a SCCS Committee hearing. If the conduct at issue has also given rise

ADMINISTRATIVE RULES

to alleged violations of 576-015-0020(6), (7) or (11), this notice may be sent by the Office of Equity and Inclusion pursuant to subsection (3). The period of time between the hearing date and the accused Student's or Student Organization's receipt of the notice must be at least 72 hours. The Director of SCCS will notify the Student/Student Organization that the SCCS Committee Hearing may be waived and, in its place, the case heard by the Director of SCCS or designee.

(3) If the Office of Equity and Inclusion ("OEI") determines the alleged violation(s) of 576-015-0020(6), (7) or (11) may result in Suspension or Expulsion, the notice described in subsection (1) will set forth a time and place for a hearing with a Hearing Officer assigned by the Office of Equity and Inclusion pursuant to the process set forth in 576-015-0052. The period of time between the hearing and the accused Student's or Student Organization's receipt of the notice must be at least 72 hours.

(4) If there is an allegation of academic dishonesty as defined in OAR 576-015-0020(2), the Director of SCCS will determine what conduct proceeding is appropriate. If there is a record of a previous incident of academic dishonesty, the Director of SCCS will send written notice to the Student of a SCCS Committee hearing, as described in subsections (1) and (2) of this rule, and 576-015-0050.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: OSU 4-1998, f. & cert. ef. 6-24-98; OSU 1-2001, f. & cert. ef. 2-21-01; OSU 2-2002, f. & cert. ef. 2-25-02; OSU 2-2010, f. 6-30-10, cert. ef. 7-1-10; OSU 3-2014(Temp), f. 3-5-14, cert. ef. 3-6-14 thru 6-30-14; OSU 4-2014(Temp), f. 4-15-14, cert. ef. 4-16-14 thru 6-30-14

576-015-0050

Student Conduct and Community Standards (SCCS) Committee Hearing

(1) Students or Student Organizations who receive notice under 576-015-0043(2) may elect to participate in a SCCS Committee Hearing. Students or Student Organizations who receive notice under 576-015-0043(3) are subject to the process set forth in 576-015-0052.

(2) When an SCCS Committee hearing is called, the accused Student or Student Organization will appear before a panel of up to five faculty or staff and five Students appointed by the Vice Provost for Student Affairs and the Associated Students of Oregon State University, respectively. The Bylaws of the SCCS Committee are available from the Vice Provost for Student Affairs or the SCCS office.

(3) All SCCS Committee hearings are closed and information presented along with all supporting documents will be disseminated internally only on a need to know basis and will not be disseminated externally except as required by law. The hearing is informal and does not follow administrative contested case or courtroom procedures.

(4) If the Student or Student Organization has been properly notified and fails to appear, the SCCS Committee may proceed with the hearing and conduct action may be taken.

(5) During the hearing, the accused Student or Student Organization may be accompanied by an advisor of the Student's/Student Organization's choice. The advisor may be a faculty or staff member, fellow Student, parent, or any person of the Student's/Student Organization's choice so long as the availability of the advisor does not hamper the timeliness of the hearing. The Student/Student Organization may choose to have an attorney serve as advisor, however the advisor does not represent the Student/Student Organization in a conduct hearing and the Student/Student Organization will be expected to speak for him/herself or themselves at all times.

(6) During the hearing, the Student or Student Organization has the opportunity to offer information and testimony on his/her/its own behalf. The Student/Student Organization also has the opportunity to review and respond to all information, statements, or evidence presented.

(7) The chairperson of the SCCS Committee, or designee, will decide any questions or objections to hearing procedures that are raised during the hearing.

(8) Members of the Committee may ask questions of any person present during the hearing and the chairperson will invite questions and comments from the accused Student/Student Organization and the victim-claimant if present. The chairperson may also invite questions or comments from advisors or others present. If the chairperson decides an essential person or piece of information is missing, the chairperson may decide to reconvene the hearing at the earliest practical time that the missing information will be available.

(9) After the chairperson has determined that all necessary information has been presented and questions answered, the Committee will go into executive session and all other persons will be excused. The Committee will determine, based on a preponderance of the evidence, whether or not it

believes the accused Student/Student Organization is responsible for a violation of the Conduct Code and, if so, the Committee will reconvene with the accused Student/Student Organization and a representative of SCCS to consider what sanctions may be appropriate. The accused Student/Student Organization may waive his/her/their right to be present. The Committee may consider:

(a) Evidence of any mitigating circumstances presented by the Student/Student Organization; and

(b) Other relevant information, including but not limited to, evidence of prior violations of the Student Conduct Code presented by a representative of SCCS.

(10) The Committee will again go into executive session to make a decision about appropriate sanctions. The time between the conclusion of the hearing and the delivery of the recommendation to the Director of SCCS shall be no more than three days, excluding weekends and holidays. The Committee's decision will be in the form of a written recommendation to the Director of SCCS.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: OSU 1-1991, f. & cert. ef. 3-6-91; OSU 8-1995, f. & cert. ef. 12-29-95; OSU 4-1998, f. & cert. ef. 6-24-98; OSU 1-2001, f. & cert. ef. 2-21-01; OSU 2-2010, f. 6-30-10, cert. ef. 7-1-10; OSU 4-2011, f. & cert. ef. 6-13-11; OSU 3-2014(Temp), f. 3-5-14, cert. ef. 3-6-14 thru 6-30-14; OSU 4-2014(Temp), f. 4-15-14, cert. ef. 4-16-14 thru 6-30-14

Rule Caption: Updating OSU's definition of directory information.

Adm. Order No.: OSU 5-2014(Temp)

Filed with Sec. of State: 4-15-2014

Certified to be Effective: 4-16-14 thru 6-30-14

Notice Publication Date:

Rules Amended: 576-020-0010

Subject: This rule change increases privacy protections for students and realign OSU's definition of directory information with its current practices by narrowing "current email address" to only "OSU email address" and removing "month and day of birth. It also improves students' graduation experience by allowing OSU to include college, student level, anticipated graduation date and honors information on graduation programs.

Rules Coordinator: Beth Giddens—(541) 737-2449

576-020-0010

Definition of Terms

Definition of Terms

(1) "Student" — A person who is or has been enrolled at Oregon State University.

(2) "Educational Record" — Records directly related to a student which are maintained by Oregon State University or by a person acting for the University.

(3) "Directory Information" — Student's name, current mailing address and telephone number, OSU e-mail address, campus office address, class standing, college and major field of study, student level (grad, undergrad, etc.), full-time or part-time enrollment status, status as a graduate teaching assistant or graduate research assistant and hours of service, participation in officially recognized activities and sports, dates of attendance, anticipated graduation date, degrees, honors or awards received, date(s) of degree(s), and most recent previous educational institution attended by student.

(4) "Institutional Official" — 6-19-03 A person employed by the University in an administrative, supervisory, academic, research or support staff position (including health staff); a person, company or entity with whom the University has contracted (such as an attorney, auditor or collection agent); a person serving on the board of trustees; or a student serving on an official committee such as a disciplinary or grievance committee or assisting another school official in performing his or her tasks.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: OSU 3, f. & ef. 6-20-77; OSU 8-1996, f. & cert. ef. 8-23-96; OSU 10-2001, f. & cert. ef. 11-16-01; OSU 5-2002, f. & cert. ef. 5-8-02; OSU 2-2003, f. & cert. ef. 6-19-03; OSU 3-2004, f. 11-16-04, cert. ef. 1-1-05; OSU 5-2014(Temp), f. 4-15-14, cert. ef. 4-16-14 thru 6-30-14

Real Estate Agency

Chapter 863

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

ADMINISTRATIVE RULES

Adm. Order No.: REA 1-2014
Filed with Sec. of State: 4-14-2014
Certified to be Effective: 4-28-14
Notice Publication Date: 3-1-2014
Rules Amended: 863-020-0030

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

Rules Coordinator: Erica Kleiner—(503) 378-4409

863-020-0030

Application for Continuing Education Provider Certification and Renewal

(1) An applicant for certification as a continuing education provider must submit to the Agency an application on an Agency-approved form containing the following information. No application fee is required.

(a) The applicant's name, mailing address, physical address, and phone number;

(b) The date of the application;

(c) The applicable qualification listed in OAR 863-020-0020(1) and, if the Real Estate Board approved the applicant's qualifications under 863-020-0025, the applicant must also submit the Agency's confirmation letter;

(d) The name and signature of the individual authorized by the applicant to submit the application;

(e) The applicant's authorized contact person, title, phone number, and e-mail address;

(f) The applicant's website address;

(g) Information concerning the course presentation formats, such as classroom instruction, online, etc.; and

(h) An affirmation that the applicant:

(A) Will comply with the statutory and administrative rule provisions applicable to continuing education providers, and

(B) Understands that the continuing education provider certification does not authorize the provider to offer an advanced course in real estate practices, the property manager advanced practices course, or the brokerage administration sales and supervision course. If the provider wishes to offer those courses, the provider may seek separate approval of the course under OAR chapter 863, division 22.

(2) The Agency will assign a provider number and mail a confirmation of certification to the applicant after review and approval of an application.

(3) The Agency will publish on its website and have available at the Agency a list of certified course providers and include the following information:

(a) The provider's name, mailing address, physical address, and phone number;

(b) The provider's authorized contact person, title, phone number, and e-mail address;

(c) The provider's website address;

(d) The course presentation formats offered by the provider, such as classroom instruction, online, etc.; and

(e) The date of certification and provider number.

(4) Once certified, the continuing education provider must submit on an Agency-approved form any changes in the information provided on the application.

(5) If a provider no longer wishes to be certified or no longer meets the qualifications contained in OAR 863-020-0020, it must inform the Agency in writing within five business days.

(6) A continuing education provider certification expires on December 31, 2013, and annually thereafter on December 31 of each year. Effective November 1, 2013, continuing education providers must submit an application for renewal, prior to expiration, using an online renewal process that is available through the Agency's website.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.182

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13; REA 1-2013, f. 1-14-13, cert. ef. 2-1-13; REA 6-2013(Temp), f. 10-31-13, cert. ef. 11-1-13 thru 4-29-14; REA 1-2014, f. 4-14-14, cert. ef. 4-28-14

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

Adm. Order No.: REA 2-2014
Filed with Sec. of State: 4-14-2014
Certified to be Effective: 4-28-14

Notice Publication Date: 3-1-2014

Rules Amended: 863-014-0020

Subject: 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—(503) 378-4409

863-014-0020

Examinations

(1) For purposes of this rule, "examination provider" means the vendor, under a contract with the Agency, which provides licensing examination services and collects the fee for such services directly from a license applicant.

(2) In addition to any other licensing eligibility requirements:

(a) A real estate broker license applicant must pass a real estate broker examination, consisting of a state portion and a national portion.

(b) A principal broker license applicant must pass a principal real estate broker examination.

(c) A principal broker license applicant who was licensed in Oregon as a salesperson prior to July 1, 2002 is not required to take the real estate broker examination, but must pass the principal broker examination.

(d) A real estate broker or principal broker who has not held an active license for two or more consecutive years must pass a reactivation examination.

(3) To be eligible to take an examination:

(a) A license applicant must have submitted a license application and fee to the Agency required under OAR 863-014-0010 or a license reactivation application and fee required under OAR 863-014-0065;

(b) A real estate broker license applicant must have successfully completed the required courses of study for a real estate broker license under OAR 863-022-0010 from an approved school(s);

(c) A principal broker license applicant, who has never held an Oregon real estate broker license and who has not completed the required courses of study for a real estate broker license, must have successfully completed the required courses of study for a real estate broker license under OAR 863-022-0010 from an approved school(s);

(d) A principal real estate broker license applicant must have successfully completed the brokerage administration and sales supervision course required under OAR 863-022-0025 from an approved school; and

(e) The school providing the course(s) under (b), (c) or (d) of this section, must have certified to the examination provider that the applicant completed the course(s) as provided in OAR 863-022-0060.

(4) To be admitted to an examination site:

(a) A license applicant must be eligible to take an examination under section (3) of this rule;

(b) The applicant must register with the examination provider in advance of the examination and comply with the provider's requirements and instructions; and

(c) The examination provider will collect the examination fee under ORS 696.270 directly from the applicant.

(5) An applicant must pay a separate examination fee for each examination.

(6) If an applicant for a principal real estate broker license passes an examination but is not issued a license within one year from the date of the examination:

(a) The applicant is no longer qualified for the license on the basis of the examination; and

(b) The applicant must retake and pass the examination as required by this rule.

(7) If an applicant for a real estate broker license passes both the national and the state portions of an examination but is not issued a license within one year from the date of the examination:

(a) The applicant is no longer qualified for the license on the basis of the examination; and

(b) The applicant must retake and pass the examination as required by this rule.

(8) A real estate broker license applicant who passes only one portion of a license examination (state or national portion) must pass the remaining portion within one year from the examination date of the passed portion in order to qualify for a license on the basis of the examination.

Stat. Auth.: ORS 696.385 & 696.425

Stats. Implemented: ORS 696.020, 696.022 & 696.425

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 3-2004, f. 4-28-04, cert. ef. 5-3-04; REA 1-2005, f. 5-5-05, cert. ef. 5-6-05; REA 2-2005(Temp), f. 6-9-05, cert. ef. 7-1-05 thru 12-26-05; Administrative correction 1-20-06; REA 2-2007(Temp), f. & cert. ef. 3-21-07 thru 9-16-07; REA 4-2007, f. & cert. ef. 9-26-07; Renumbered from 863-015-0020, REA 5-2008, f. 12-15-08, cert. ef. 1-1-09; REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 2-2010, f. 12-15-10,

ADMINISTRATIVE RULES

cert. ef. 1-1-11; REA 3-2011(Temp), f. & cert. ef. 6-22-11 thru 12-1-11; REA 6-2011, f. 8-15-11, cert. ef. 9-1-11; REA 7-2011, f. & cert. ef. 11-15-11; REA 5-2013(Temp), f. 10-31-13, cert. ef. 11-1-13 thru 4-29-14; REA 2-2014, f. 4-14-14, cert. ef. 4-28-14

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

Adm. Order No.: REA 3-2014

Filed with Sec. of State: 4-14-2014

Certified to be Effective: 4-28-14

Notice Publication Date: 3-1-2014

Rules Amended: 863-014-0015, 863-024-0015

Subject: 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.

Rules Coordinator: Erica Kleiner—(503) 378-4409

863-014-0015

Background Check Application and Fingerprint

(1) An applicant for real estate broker or principal real estate broker license must submit to a background check, except an applicant who is currently licensed as a real estate broker, principal real estate broker, or real estate property manager or who is eligible for renewal of such licenses.

(2) The background check includes a criminal background check as provided in OAR chapter 863, division 005, which requires the applicant to provide fingerprints.

(3) Effective July 1, 2011, the Agency and a vendor for fingerprinting services ("fingerprint service provider") have contractually agreed that:

(a) The fingerprint service provider will provide fingerprint services to license applicants and submit the fingerprints to the Oregon State Police for Oregon and nationwide criminal history checks.

(b) A license applicant may only submit fingerprints required by the Agency through the fingerprint services provider.

(c) A license applicant must pay the fee for fingerprinting, authorized under ORS 696.270, directly to the fingerprint services provider.

(d) A license applicant must provide fingerprints according to the requirements and instructions of the fingerprint services provider.

(e) A license applicant must have submitted a license application to the Agency before providing fingerprints.

(4) As provided in ORS 181.540, all fingerprint cards, photographs, records, reports, and criminal offender information obtained or compiled by the Agency are confidential and exempt from public inspection. The commissioner will keep such information segregated from other information on the applicant or licensee and maintain such information in a secure place.

(5) If the Agency determines that additional information is necessary to conduct a background check, the Agency may request such information in writing, and the applicant must provide the requested information. If the applicant fails to provide the requested information, the Agency may determine that the license application is incomplete and terminate the application.

(6) A license applicant must successfully complete the remaining portions of the licensing process required by OAR 863-014-0035 or 863-014-0040 within the 12 months from the date of the successfully completed background check process and review. If the applicant does not meet the licensing requirement within the 12 months, the background check review is no longer valid and the applicant must submit to another background check, including fingerprints as described in this rule.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.020 & 696.022

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03; REA 4-2003(Temp), f. 12-18-03, cert. ef. 1-1-04 thru 6-29-04; REA 3-2004, f. 4-28-04 cert. ef. 5-3-04; REA 1-2005, f. 5-5-05, cert. ef. 5-6-05; Renumbered from 863-015-0015, REA 5-2008, f. 12-15-08, cert. ef. 1-1-09; REA 1-2009, f. 12-15-09, cert. ef. 1-1-10; REA 3-2011(Temp), f. & cert. ef. 6-22-11 thru 12-1-11; REA 6-2011, f. 8-15-11, cert. ef. 9-1-11; REA 7-2011, f. & cert. ef. 11-15-11; REA 4-2013(Temp), f.10-31-13, cert. ef. 11-1-13 thru 4-29-14; REA 3-2014, f. 4-14-14, cert. ef. 4-28-14

863-024-0015

Background Check and Fingerprint Requirements

(1) An applicant for a property manager license must submit to a background check, except an applicant who is currently licensed as a real estate broker or principal real estate broker or who is eligible for renewal of such licenses.

(2) The background check includes a criminal background check as provided in OAR chapter 863, division 005, which requires the applicant to provide fingerprints.

(3) Effective July 1, 2011, the Agency and a vendor for fingerprinting services ("fingerprint service provider") have contractually agreed that:

(a) The fingerprint service provider will provide fingerprint services to license applicants and submit the fingerprints to the Oregon State Police for Oregon and nationwide criminal history checks.

(b) A license applicant may only submit fingerprints required by the Agency through the fingerprint services provider.

(c) A license applicant must pay the fee for fingerprinting, authorized under ORS 696.270, directly to the fingerprint services provider.

(d) A license applicant must provide fingerprints according to the requirements and instructions of the fingerprint services provider.

(e) A license applicant must have submitted a license application to the Agency before providing fingerprints.

(4) As provided in ORS 181.540, all fingerprint cards, photographs, records, reports, and criminal offender information obtained or compiled by the Agency are confidential and exempt from public inspection. The commissioner will keep such information segregated from other information on the applicant or licensee and maintain such information in a secure place.

(5) If the Agency determines that additional information is necessary in order to conduct a background check, the Agency may request such information in writing, and the applicant must provide the requested information. If the applicant fails to provide the requested information, the Agency may determine that the license application is incomplete and terminate the application.

(6) A license applicant must successfully complete the remaining portions of the licensing process required by 863-024-0045 within the 12 months from the date of the successfully completed background check process and review. If the applicant does not meet all licensing requirement within the 12 months, the background check review is no longer valid and the applicant must submit to another background check, including fingerprints as described in this rule.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.020 & 696.022

Hist.: REA 7-2008, f. 12-15-08, cert. ef. 1-1-09; REA 1-2009, f. 12-15-09, cert. ef. 1-1-10; REA 3-2011(Temp), f. & cert. ef. 6-22-11 thru 12-1-11; REA 6-2011, f. 8-15-11, cert. ef. 9-1-11; REA 7-2011, f. & cert. ef. 11-15-11; REA 4-2013(Temp), f.10-31-13, cert. ef. 11-1-13 thru 4-29-14; REA 3-2014, f. 4-14-14, cert. ef. 4-28-14

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

Adm. Order No.: REA 4-2014

Filed with Sec. of State: 4-14-2014

Certified to be Effective: 4-28-14

Notice Publication Date: 3-1-2014

Rules Amended: 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

Subject: 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 Broker's Responsibilities, Authority to Use Registered Business Name, OAR 863-014-0066 Licensee Name Change, OAR 863-014-0095

ADMINISTRATIVE RULES

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—(503) 378-4409

863-014-0003

Definitions

As used in this division, unless the context requires otherwise, the following definitions apply:

(1) "Agency" means the Real Estate Agency with powers pursuant to ORS 696.385.

(2) "Agency-approved form" means an electronic or paper form approved by the Real Estate Agency.

(3) "Board" means the Real Estate Board established pursuant to ORS 696.405.

(4) "Branch office" is defined in ORS 696.010.

(5) "Commissioner" means the Real Estate Commissioner described in ORS 696.375.

(6) "Incapacitated" means the physical or mental inability to perform the professional real estate activities described in ORS 696.010.

(7) "Legal name" means the first name, middle name and last or surname, without the use of initials or nicknames and is the name given at birth or subsequently acquired through marriage, court order or adoption.

(8) "Licensed Name" means the name of a real estate licensee as it appears on the current, valid real estate license issued to the licensee pursuant to ORS 696.020.

(9) "Principal broker" means "principal real estate broker," as defined in ORS 696.010.

(10) "Principal Broker Licensed Name" means the licensed name of a principal broker under which the licensee will conduct professional real estate activity. The principal broker's licensed name must be the principal broker's legal name as displayed on the licensee's license.

(11) "Real estate activity," "professional real estate activity," and "real estate business" mean "professional real estate activity" as defined in ORS 696.010.

(12) "Real estate broker" is defined in ORS 696.010 and includes a principal real estate broker, as that term is defined in ORS 696.010, unless the context requires otherwise.

(13) "Real estate licensee" and "licensee" mean a "real estate licensee" as defined in ORS 696.010, unless the context requires otherwise.

(14) "Registered business name" is defined in ORS 696.010.

(15) "Signed" or "Signature" means original or electronic signature as provided by OAR 863-014-0076.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.020 & 696.022

Hist.: REA 5-2008, f. 12-15-08, cert. ef. 1-1-09; REA 1-2009, f. 12-15-09, cert. ef. 1-1-10; REA 3-2011(Temp), f. & cert. ef. 6-22-11 thru 12-1-11; REA 6-2011, f. 8-15-11, cert. ef. 9-1-11; REA 7-2011, f. & cert. ef. 11-15-11; REA 4-2014, f. 4-14-14, cert. ef. 4-28-14

863-014-0010

License Application Form and Content

(1) Effective July 1, 2011, before the Agency will accept any documents or information relating to an applicant's qualifications, an applicant for a real estate broker or principal broker license must submit an online application and fee required under this rule.

(2) Effective September 15, 2011, before the Agency will accept any documents or information relating to an applicant's qualifications, an applicant for a real estate broker license or principal broker license must submit an application and pay the fee required under this rule using an online application process that is available through the Agency's website.

(3) The license application includes:

(a) The applicant's legal name as defined in OAR 863-014-0003, mailing address, email address and phone number.

(b) The applicant's date and place of birth.

(c) The applicant's Social Security Number or Individual Taxpayer Identification Number.

(d) Certification by the applicant that the applicant has a high school diploma, General Educational Development (GED) certificate or the international equivalent.

(e) Certification by the applicant that the applicant is at least 18 years of age.

(f) For a real estate broker license applicant or a principal broker license applicant, who is not an active or inactive Oregon real estate licensee, whether the applicant:

(A) Has ever been convicted of or is under arrest, investigation, or indictment for a felony or misdemeanor;

(B) Has ever been refused a real estate license or any other occupational or professional license in any other state or country;

(C) Has ever had any real estate license or other occupational or professional license revoked or suspended; or

(D) Has ever been fined or reprimanded as such a licensee.

(g) Any other information the commissioner considers necessary to evaluate the applicant's trustworthiness and competency to engage in professional real estate activity in a manner that protects the public interest.

(h) Certification by the applicant that all information provided by the applicant is true and correct.

(4) In addition to the requirements in (3) of this rule, a principal broker license applicant must provide proof that the applicant has three years of active real estate experience.

(5) Every license application must be accompanied by the license fee authorized by ORS 696.270. At all periods of the year, the fee for all licenses issued is as authorized by 696.270. That is, the Agency does not pro-rate license fees.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.020 & 696.022

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03; Renumbered from 863-015-0010, REA 5-2008, f. 12-15-08, cert. ef. 1-1-09; REA 1-2009, f. 12-15-09, cert. ef. 1-1-10; REA 3-2011(Temp), f. & cert. ef. 6-22-11 thru 12-1-11; REA 6-2011, f. 8-15-11, cert. ef. 9-1-11; REA 7-2011, f. & cert. ef. 11-15-11; REA 4-2014, f. 4-14-14, cert. ef. 4-28-14

863-014-0015

Background Check Application and Fingerprint

(1) An applicant for real estate broker or principal real estate broker license must submit to a background check, except an applicant who is currently licensed as a real estate broker, principal real estate broker, or real estate property manager or who is eligible for renewal of such licenses.

(2) The background check includes a criminal background check as provided in OAR chapter 863, division 005, which requires the applicant to provide fingerprints.

(3) The Agency and a vendor for fingerprinting services ("fingerprint service provider") have contractually agreed that:

(a) The fingerprint service provider will provide fingerprint services to license applicants and submit the fingerprints to the Oregon State Police for Oregon and nationwide criminal history checks.

(b) A license applicant may only submit fingerprints required by the Agency through the fingerprint services provider.

(c) A license applicant must pay the fee for fingerprinting, authorized under ORS 696.270, directly to the fingerprint services provider.

(d) A license applicant must provide fingerprints according to the requirements and instructions of the fingerprint services provider.

(e) A license applicant must have submitted a license application to the Agency before providing fingerprints.

(4) As provided in ORS 181.540, all fingerprint cards, photographs, records, reports, and criminal offender information obtained or compiled by the Agency are confidential and exempt from public inspection. The com-

ADMINISTRATIVE RULES

missioner will keep such information segregated from other information on the applicant or licensee and maintain such information in a secure place.

(5) If the Agency determines that additional information is necessary to conduct a background check, the Agency may request such information in writing, and the applicant must provide the requested information. If the applicant fails to provide the requested information, the Agency may determine that the license application is incomplete and terminate the application.

(6) A license applicant must successfully complete the remaining portions of the licensing process required by OAR 863-014-0035 or 863-014-0040 within the 12 months from the date of the successfully completed background check process and review. If the applicant does not meet the licensing requirement within the 12 months, the background check review is no longer valid and the applicant must submit to another background check, including fingerprints as described in this rule.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.020 & 696.022

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03; REA 4-2003(Temp), f. 12-18-03, cert. ef. 1-1-04 thru 6-29-04; REA 3-2004, f. 4-28-04, cert. ef. 5-3-04; REA 1-2005, f. 5-5-05, cert. ef. 5-6-05; Renumbered from 863-015-0015, REA 5-2008, f. 12-15-08, cert. ef. 1-1-09; REA 1-2009, f. 12-15-09, cert. ef. 1-1-10; REA 3-2011(Temp), f. & cert. ef. 6-22-11 thru 12-1-11; REA 6-2011, f. 8-15-11, cert. ef. 9-1-11; REA 7-2011, f. & cert. ef. 11-15-11; REA 4-2013(Temp), f.10-31-13, cert. ef. 11-1-13 thru 4-29-14; REA 3-2014, f. 4-14-14, cert. ef. 4-28-14; REA 4-2014, f. 4-14-14, cert. ef. 4-28-14

863-014-0035

Real Estate Broker Licensing Requirements

(1) Effective July 1, 2011, to be eligible for a real estate broker's license, an individual must complete the following steps in the order listed:

(a) Submit an online license application and pay the fee to the Agency required by OAR 863-014-0010.

(b) Successfully complete the required courses of study for a real estate broker license required by OAR 863-022-0010.

(c) Ensure that the school providing the required course of study certifies to the examination provider that the applicant completed the course as required by OAR 863-014-0020.

(d) Pass the real estate broker licensing examination and pay the fee to the examination provider as required by OAR 863-014-0020.

(e) Provide fingerprints for a criminal background check and pay the fee to the fingerprint services provider as required by OAR 863-0014-0015.

(2) If the applicant's qualifications for the required examination under (1) of this rule are based upon an active real estate license held in another state, the applicant must furnish a certificate of active license history from the other state.

(3) After the applicant meets the requirements under (1) and (2) of this rule, the Agency will complete a background check on the applicant, which includes a criminal background check under OAR 863-014-0015.

(4) A real estate broker must be associated with a principal broker. Using an online application available through the Agency's website, the principal broker must associate the broker to the registered business name or principal broker's licensed name.

(5) A currently licensed principal broker who wishes to be licensed as a real estate broker must submit a license application and pay the fee to the Agency required by OAR 863-014-0010.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.020 & 696.022

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2005, f. 5-5-05, cert. ef. 5-6-05; Renumbered from 863-015-0035, REA 5-2008, f. 12-15-08, cert. ef. 1-1-09; REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 3-2011(Temp), f. & cert. ef. 6-22-11 thru 12-1-11; REA 6-2011, f. 8-15-11, cert. ef. 9-1-11; REA 7-2011, f. & cert. ef. 11-15-11; REA 4-2014, f. 4-14-14, cert. ef. 4-28-14

863-014-0040

Principal Real Estate Broker Licensing Requirements

(1) To be eligible for a principal real estate broker's license, an individual must complete the following steps in the order listed:

(a) Submit a license application and pay the fee to the Agency required by OAR 863-014-0010. The license application includes proof satisfactory to the Agency that the applicant has three years of active real estate experience.

(b) If the applicant has never held an Oregon real estate broker license and has not completed the required courses of study for a real estate broker license, the applicant must complete such required courses under OAR 863-022-0010 from an approved school(s).

(c) Ensure that the school providing the courses of study for a real estate broker license under (b) of this section, certifies to the examination provider that the applicant completed the course as required by OAR 863-014-0020.

(d) Successfully complete the brokerage administration and sales supervision course required by OAR 863-022-0025.

(e) Ensure that the school providing the brokerage administration and sales supervision course certifies to the examination provider that the applicant completed the course as required by OAR 863-014-0020.

(f) Pass the principal broker licensing examination and pay the fee to the examination provider required by OAR 863-014-0020.

(g) If the applicant is not an active or inactive Oregon real estate licensee, provide fingerprints for a criminal background check and pay the fee to the fingerprint services provider as required by OAR 863-0014-0015.

(2) If the applicant is required to submit fingerprints under (1) of this rule, the Agency will complete a background check on the applicant, which includes a criminal background check, as required by OAR 863-014-0015.

(3) After the requirements in (1) and (2) of this rule are met:

(a) Using an online application through the Agency's website, the applicant must specify that the applicant will be conducting professional real estate activity under the applicant's licensed name as provided in (4) of this rule or is registering a business name as provided in (5) of this rule; or

(b) Using an online application available through the Agency's website, a principal broker must associate the applicant to the principal broker's registered business name or the principal broker's licensed name.

(4) If an applicant wishes to conduct professional real estate activity under the applicant's licensed name, the applicant must first obtain the principal broker license and then complete the Principal Broker Licensed Name application available online through the Agency's website.

(5) If an applicant wishes to conduct professional real estate activity under a registered business name registered by the applicant, the applicant must first obtain the principal broker license and then register a business name under OAR 863-014-0095.

(6) If the applicant's qualifications for three years of active experience are based wholly or partially upon an active real estate license held in another state, the applicant must furnish with the application a certificate of active license history from the other state.

(7) A currently licensed real estate broker who has held a principal broker license and who wishes to be licensed as a principal broker must apply for a principal broker license, pay the required fee and meet all the qualifications for a principal broker license under this rule.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.020 & 696.022

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03; REA 2-2005(Temp), f. 6-9-05, cert. ef. 7-1-05 thru 12-26-05; Administrative correction 1-20-06; Renumbered from 863-015-0040, REA 5-2008, f. 12-15-08, cert. ef. 1-1-09; REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 3-2011(Temp), f. & cert. ef. 6-22-11 thru 12-1-11; REA 6-2011, f. 8-15-11, cert. ef. 9-1-11; REA 7-2011, f. & cert. ef. 11-15-11; REA 4-2014, f. 4-14-14, cert. ef. 4-28-14

863-014-0050

License Renewal

(1) A licensee may only submit a license renewal application and pay the fee using an online application process, which will be available through the Agency's website.

(2) For purposes of this rule, "received by the Agency" means the date a licensee completed the online renewal process and paid the fee required under ORS 696.270.

(3) A real estate broker or principal broker license expires if a licensee fails to renew the license on or before the license expiration date. A real estate licensee may not engage in any professional real estate activity after a license expires. A real estate licensee may renew an expired license as provided in this rule.

(4) The Agency will renew an active real estate license to active status for the term prescribed in OAR 863-014-0030 when the Agency has received the following:

(a) The renewal fee authorized by ORS 696.270; and

(b) An active renewal application that includes certification by the licensee that the licensee has met the continuing education renewal requirements under section OAR 863-020-0010.

(5) The Agency will renew an active real estate license to inactive status for the term prescribed in OAR 863-014-0030, when the Agency has received the following:

(a) The renewal fee authorized by ORS 696.270; and

(b) An inactive renewal application.

(6) The Agency will renew an inactive real estate license to inactive status for the term prescribed in OAR 863-014-0030, when the Agency has received the following:

(a) The renewal fee authorized by ORS 696.270; and

(b) An inactive renewal application.

ADMINISTRATIVE RULES

(7) The Agency will renew an inactive real estate license to active status for the term prescribed in OAR 863-014-0030, when the Agency has received the following:

(a) The renewal fee authorized by ORS 696.270; and

(b) An Agency-approved active renewal application form that includes certification by the licensee that the licensee has met the real estate continuing education renewal requirements under OAR 863-020-0010.

(8) The Agency will renew an expired real estate license to active status when the Agency receives, within one year of the date the license expired, the following:

(a) The renewal fee and a late fee authorized by ORS 696.270; and

(b) An Agency-approved active renewal application form that includes certification by the licensee that the licensee met the real estate continuing education renewal requirements under OAR 863-020-0010.

(9) The Agency will renew an expired real estate license to inactive license status when the Agency receives, within one year of the date the license expired, the following:

(a) The renewal fee and a late fee authorized by ORS 696.270; and

(b) An Agency-approved inactive renewal application form.

(10) When the Agency renews an expired license, the renewed license is effective the date the renewal requirements are met. The renewal is not retroactive to the date the license expired and an expired license retains the status of expired during the expiration period.

(11) A license renewed under this rule expires two years from the date of the original expiration date.

(12) A real estate license that has expired for more than one year is lapsed, as defined in ORS 696.010.

(13) A license may not be renewed if it is lapsed, surrendered, suspended, or revoked. Except as provided in 863-014-0075, the former licensee must reapply and meet all the licensing qualifications required of new license applicants.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.020 & 696.022

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 3-2004, f. 4-28-04 cert. ef. 5-3-04; REA 1-2005, f. 5-5-05, cert. ef. 5-6-05; REA 2-2007(Temp), f. & cert. ef. 3-21-07 thru 9-16-07; REA 4-2007, f. & cert. ef. 9-26-07; Renumbered from 863-015-0050, REA 5-2008, f. 12-15-08, cert. ef. 1-1-09; REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 3-2011(Temp), f. & cert. ef. 6-22-11 thru 12-1-11; REA 6-2011, f. 8-15-11, cert. ef. 9-1-11; REA 7-2011, f. & cert. ef. 11-15-11; REA 4-2014, f. 4-14-14, cert. ef. 4-28-14

863-014-0062

Mailing Address, Email Address, Address Change, Service of Notice

(1) Each active, inactive and expired real estate licensee must maintain on file with the Agency a current mailing address and email address and notify the Agency within 10 calendar days of a change to a mailing or email address.

(2) A forwarding address is effective as a "current mailing address" when the Agency receives notice of the forwarding address by the United States Postal Service.

(3) Agency notice by mail, whether registered, certified, or regular, to the real estate licensee's current mailing address on file with the Agency constitutes service on the licensee.

(4) The Agency is not required by law to send notification or correspondence by regular mail to a licensee or license applicant regarding license or application status. The Agency may send notification or correspondence to a licensee or license applicant to the email address of the licensee or applicant on file with the Agency. Failure by a licensee or applicant to receive notification or correspondence provided via email does not relieve the licensee or applicant of the responsibility to maintain a current license or complete an application process.

(5) The Agency's primary and preferred method of notification and correspondence is to the licensee or license applicant's email address.

(6) For purposes of this rule, "notification or correspondence" in (4) and (5) of this rule means:

(a) Notification, correspondence or confirmation to licensees about license renewal, change of license status to active or inactive, license transfers, registered business name, branch office registration, license reactivation, license expiration, and name and address changes.

(b) Notification, correspondence or confirmation to license applicants about license application status, receipt of documents or information from third parties on license qualifications, and license issuance.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.020 & 696.022

Hist.: REA 1-2005, f. 5-5-05, cert. ef. 5-6-05; Renumbered from 863-015-0062, REA 5-2008, f. 12-15-08, cert. ef. 1-1-09; REA 3-2011(Temp), f. & cert. ef. 6-22-11 thru 12-1-11; REA 6-2011, f. 8-15-11, cert. ef. 9-1-11; REA 7-2011, f. & cert. ef. 11-15-11; REA 4-2014, f. 4-14-14, cert. ef. 4-28-14

863-014-0063

Real Estate License Transfers, Principal Brokers' Responsibilities, Authority to Use Registered Business Name

(1) As used in this rule:

(a) "Authorized licensee" means a principal broker who has authority and is responsible for a registered business name;

(b) "License transfer application" means a completed and signed online application that does one of the following:

(A) Transfers a real estate broker license to a receiving principal broker in order to become associated with the receiving principal broker, or

(B) Authorizes a real estate licensee to use a registered business name to conduct professional real estate activity.

(c) "Sending principal broker" means the authorized licensee or principal broker with whom an active real estate broker is associated before the license transfer;

(d) "Receiving principal broker" means the authorized licensee or principal broker with whom an active real estate broker will be associated after the license transfer.

(2) An online license transfer application, available through the Agency's website, includes:

(a) The name of the licensee, email address and license number of the licensee who is being transferred;

(b) The receiving broker's or authorized licensee's name, license number, date, signature, and attestation or the authorized use of the registered business name.

(3) A principal real estate broker with whom a licensee is associated remains responsible for the licensee's professional real estate activity until the Agency receives one of the following:

(a) An online inactivation application available through the Agency's website; or

(b) An online license transfer form and fee.

(4) If a principal real estate broker with whom a real estate broker is associated, or an individual real estate broker, doesn't complete the online inactivation process, the principal real estate broker remains responsible for the licensee's subsequent professional real estate activity until the Agency receives one of the following:

(a) An online inactivation application; or

(b) An online license transfer application and fee.

(5) The Agency will document the registered business name under which a real estate licensee is authorized to conduct professional real estate activity when the Agency receives an online license transfer application and the transfer fee authorized by ORS 696.270.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.020 & 696.022

Hist.: REA 4-2007, f. & cert. ef. 9-26-07; Renumbered from 863-015-0063, REA 5-2008, f. 12-15-08, cert. ef. 1-1-09; REA 1-2009, f. 12-15-09, cert. ef. 1-1-10; REA 3-2011(Temp), f. & cert. ef. 6-22-11 thru 12-1-11; REA 6-2011, f. 8-15-11, cert. ef. 9-1-11; REA 7-2011, f. & cert. ef. 11-15-11; REA 4-2014, f. 4-14-14, cert. ef. 4-28-14

863-014-0065

Inactive License, Change License Status to Active, Change License Category, License Reactivation

(1) A real estate licensee whose license is on inactive status may not engage in professional real estate activity.

(2) The commissioner may reprimand, suspend, revoke, or impose a civil penalty against an inactive licensee under ORS 696.301.

(3) The Agency will change an active real estate license to inactive license status when the Agency actually receives the following:

(a) An online inactivation application available through the Agency's website completed by the licensee to change the license status to inactive; or

(b) An online inactivation application available through the Agency's website completed by the licensee's principal broker to change the license status of the licensee to inactive.

(4) An inactive real estate licensee may be renewed under OAR 863-014-0050.

(5) For a period of 30 days after a real estate broker license becomes inactive, the licensee may change such license status from inactive to active and be transferred by a principal real estate broker under OAR 863-014-0063.

(6) Except as provided in section (7) of this rule, for a period of 30 days after the real estate license becomes inactive, the licensee may become licensed as an active principal real estate broker only if:

(a) The licensee is qualified for such license and

(b) The licensee submits to the Agency:

(A) An Agency-approved application, and

(B) Payment of the fee authorized by ORS 696.270.

ADMINISTRATIVE RULES

(7) If a license has not been on active status for two or more consecutive years, the licensee must complete the following steps in the order listed to reactivate the license:

(a) Submit an online reactivation application available through the Agency's website and pay the fee to the Agency required under ORS 696.270.

(b) Pass the real estate reactivation examination and pay the fee to the examination provider as required by OAR 863-014-0020.

(8) After the 30-day period specified in sections (5) and (6) of this rule, and subject to the examination requirements in section (9) of this rule, a licensee may change the license status from inactive to active only by submitting to the Agency:

(a) An online application for license reactivation; and

(b) Payment of the reactivation fee authorized by ORS 696.270.

(9) Subject to the examination requirements in section (9) of this rule, if an inactive licensee renews a license and maintains inactive status under section (5) of this rule, the licensee may, within 60 days of the date of renewal, change the license status to active by submitting to the Agency:

(a) An online application for license reactivation that includes certification that the licensee met the real estate continuing education renewal requirements under OAR 863-020-0008 or 863-020-0010; and

(b) Payment of the active renewal fee authorized by ORS 696.270, less the amount of the inactive renewal fee already paid by the licensee.

(10) The change of license status, transfer, or the reactivation of a license is effective when the Agency actually receives all required applications and fees.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.020 & 696.022

Hist.: REA 1-1991, f. & cert. ef. 11-4-91; REA 1-2002, f. 5-31-02, cert. ef. 7-1-02, Renumbered from 863-010-0081; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03; REA 3-2004, f. 4-28-04 cert. ef. 5-3-04; REA 1-2005, f. 5-5-05, cert. ef. 5-6-05; REA 2-2007(Temp), f. & cert. ef. 3-21-07 thru 9-16-07; REA 4-2007, f. & cert. ef. 9-26-07; Renumbered from 863-015-0065, REA 5-2008, f. 12-15-08, cert. ef. 1-1-09; REA 1-2009, f. 12-15-09, cert. ef. 1-1-10; REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 3-2011(Temp), f. & cert. ef. 6-22-11 thru 12-1-11; REA 6-2011, f. 8-15-11, cert. ef. 9-1-11; REA 7-2011, f. & cert. ef. 11-15-11; REA 4-2014, f. 4-14-14, cert. ef. 4-28-14

863-014-0066

Licensee Name Change

A licensee may apply for a name change by submitting to the Agency:

(1) An online name change application available through the Agency's website and payment of the fee authorized under ORS 696.270; and

(2) Legal proof of the name change, which must be in the form of an official record such as a marriage certificate, divorce certificate, or a court order/decree.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.020 & 696.022

Hist.: REA 3-2011(Temp), f. & cert. ef. 6-22-11 thru 12-1-11; REA 6-2011, f. 8-15-11, cert. ef. 9-1-11; REA 7-2011, f. & cert. ef. 11-15-11; REA 4-2014, f. 4-14-14, cert. ef. 4-28-14

863-014-0095

Business Name Registration, Principal Broker Licensed Name Registration, and Property Manager Licensed Registration

(1) If a principal real estate broker or property manager wishes to conduct real estate business in a name other than the licensee's legal name, the principal broker or property manager must first register the business name with the Agency using an online application process available through the Agency's website. For the purposes of this rule, "business name" means an assumed name or the name of a business entity, such as a corporation, partnership, limited liability company, or other business entity recognized by law. A licensee must maintain the registered business name in active status with the Oregon Secretary of State's Corporation Division.

(2) To register a business name, the principal broker must submit to the Agency on an Agency-approved form using an online application, the following:

(a) The business name in which the licensee wishes to conduct real estate business, which must be the exact name on file with the Oregon Secretary of State.

(b) Written authority to register the business name;

(c) A copy of the registration on file with the Oregon Secretary of State Business Registry showing the business name is active; and

(d) The fee authorized by ORS 696.270.

(3) A licensee who wishes to use a registered business name must submit to the Agency the following:

(a) The registered business name the licensee wishes to use; and

(b) Authorization from the principal broker who is responsible for the registered business name on the records of the Agency to use the name.

(4) Business names registered with the Agency do not expire and need not be renewed by the licensee. Any change in the business name registered with the Agency will be treated as the registration of a new business name, and an application for the change in business name must be submitted to the Agency together with the fee authorized by ORS 696.270.

(5) If a principal broker wishes to transfer the right to use and the responsibility for a business name that is registered with the Agency, the principal broker acquiring the right to use the name must file a change of business name registration with the Agency together with the fee authorized by ORS 696.270. A licensee must notify the Agency in writing if the licensee terminates its use of a business name.

(6) A business name registration becomes void when the Agency receives notice of termination of the use of a business name. A business name registration becomes void when no licensees are affiliated with the registered business name. A business name registration may be reactivated within one year from the voiding of a registration, unless a new user has registered the business name, without paying the fee authorized by ORS 696.270.

(7) Except as provided in OAR 863-014-0085 and this section, no real estate broker or principal broker may engage in professional real estate activities under more than one registered business name. A principal broker may engage in professional real estate activities under more than one registered business name if the business entity is an affiliated or subsidiary organization as described in OAR 863-014-0061.

(8) If a principal broker or property manager wishes to conduct real estate business in the licensee's legal name, the principal broker or property manager must first register the principal broker's licensed name or property manager's licensed name with the Agency using an online application process available through the Agency's website.

(9) To register a principal broker's licensed name or property manager's licensed name, the principal broker or property manager must submit to the Agency using an online application, the following:

(a) The licensee's licensed name.

(b) The fee authorized by ORS 696.270.

(c) Authorization from the principal broker or property manager who is responsible for the principal broker's licensed name or property manager's licensed name on record with the Agency to use the name.

(10) Principal broker licensed name and property manager licensed name registrations do not expire and need not be renewed by the licensee. Any change in the principal broker's licensed name or property manager's licensed name registration with the Agency will be treated as the registration of a new business name, and an application for the change in business name must be submitted to the Agency together with the fee authorized in ORS 696.270.

(11) A principal broker's licensed name or property manager's licensed name registration becomes void when the Agency receives notice of termination.

(12) Except as provided in OAR 863-014-0085 and this section, no real estate broker, principal broker or property manager may engage in professional real estate activities under more than one registered business name, principal broker's licensed name registration or property manager's licensed name registration. A principal broker or property manager may engage in professional real estate activities under more than one registered business name, principal broker's licensed name registration or property manager's licensed name registration, if the business entity is an affiliated or subsidiary organization as described in OAR 863-014-0061.

Stat. Auth.: ORS 696.026 & 696.385

Stats. Implemented: ORS 696.026

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03; Renumbered from 863-015-0095, REA 5-2008, f. 12-15-08, cert. ef. 1-1-09; REA 1-2009, f. 12-15-09, cert. ef. 1-1-10; REA 3-2011(Temp), f. & cert. ef. 6-22-11 thru 12-1-11; REA 6-2011, f. 8-15-11, cert. ef. 9-1-11; REA 7-2011, f. & cert. ef. 11-15-11; REA 4-2014, f. 4-14-14, cert. ef. 4-28-14

863-014-0100

Branch Office Registration

(1) Before engaging in professional real estate activity from a branch office, a principal real estate broker must provide to the commissioner on an online application available through the Agency's website, the branch office street and mailing addresses and the fee authorized by ORS 696.270.

(2) For the purposes of ORS 696.270, a branch office registration does not require renewal.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.026 & 696.200

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03; Renumbered from 863-015-0100, REA 5-2008, f. 12-15-08, cert. ef. 1-1-09; REA 1-2009, f. 12-15-09, cert. ef. 1-1-10; REA 4-2014, f. 4-14-14, cert. ef. 4-28-14

ADMINISTRATIVE RULES

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

Adm. Order No.: REA 5-2014

Filed with Sec. of State: 4-14-2014

Certified to be Effective: 4-28-14

Notice Publication Date: 3-1-2014

Rules Amended: 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

Subject: 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

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—(503) 378-4409

863-024-0003

Definitions

As used in this division, unless the context requires otherwise, the following definitions apply to this division:

(1) "Agency" means the Real Estate Agency with powers pursuant to ORS 696.385.

(2) "Agency-approved form" means an electronic or paper form approved by the Real Estate Agency.

(3) "Board" means the Real Estate Board established pursuant to ORS 696.405.

(4) "Branch office" is defined in ORS 696.010.

(5) "Commissioner" means the Real Estate Commissioner described in ORS 696.375.

(6) "Legal name" means the first name, middle name and last or surname, without the use of initials or nicknames and is the name given at birth or subsequently acquired through marriage, court order or adoption.

(7) "Licensed Name" means the name of a real estate licensee as it appears on the current, valid real estate license issued to the licensee pursuant to ORS 696.020.

(8) "Management of rental real estate" is defined in ORS 696.010.

(9) "Principal broker" means "principal real estate broker," as defined in ORS 696.010.

(10) "Property manager" means "real estate property manager," as defined in ORS 696.010.

(11) "Property Manager Licensed Name" means the licensed name of a licensed real estate property manager under which the licensee will con-

duct professional real estate activity. The Property Manager Licensed Name must be the licensed real estate property manager's legal name as displayed on the licensee's license.

(12) "Real estate activity," "professional real estate activity," and "real estate business" mean "professional real estate activity" as defined in ORS 696.010, which includes managing rental real estate.

(13) "Real estate broker" is defined in ORS 696.010.

(14) "Real estate licensee" and "licensee" mean a "real estate licensee" as defined in ORS 696.010.

(15) "Registered business name" is defined in ORS 696.010.

(16) "Signed" or "Signature" means original or electronic signature as provided by OAR-024-0076.

Stat. Auth.: ORS 696.385

Stat. Implemented: ORS 696.010 & 696.020

Hist.: REA 7-2008, f. 12-15-08, cert. ef. 1-1-09; REA 1-2009, f. 12-15-09, cert. ef. 1-1-10; REA 3-2011(Temp), f. & cert. ef. 6-22-11 thru 12-1-11; REA 6-2011, f. 8-15-11, cert. ef. 9-1-11; REA 7-2011, f. & cert. ef. 11-15-11; REA 5-2014, f. 4-14-14, cert. ef. 4-28-14

863-024-0015

Background Check and Fingerprint Requirements

(1) An applicant for a property manager license must submit to a background check, except an applicant who is currently licensed as a real estate broker or principal real estate broker or who is eligible for renewal of such licenses.

(2) The background check includes a criminal background check as provided in OAR chapter 863, division 005, which requires the applicant to provide fingerprints.

(3) The Agency and a vendor for fingerprinting services ("fingerprint service provider") have contractually agreed that:

(a) The fingerprint service provider will provide fingerprint services to license applicants and submit the fingerprints to the Oregon State Police for Oregon and nationwide criminal history checks.

(b) A license applicant may only submit fingerprints required by the Agency through the fingerprint services provider.

(c) A license applicant must pay the fee for fingerprinting, authorized under ORS 696.270, directly to the fingerprint services provider.

(d) A license applicant must provide fingerprints according to the requirements and instructions of the fingerprint services provider.

(e) A license applicant must have submitted a license application to the Agency before providing fingerprints.

(4) As provided in ORS 181.540, all fingerprint cards, photographs, records, reports, and criminal offender information obtained or compiled by the Agency are confidential and exempt from public inspection. The commissioner will keep such information segregated from other information on the applicant or licensee and maintain such information in a secure place.

(5) If the Agency determines that additional information is necessary in order to conduct a background check, the Agency may request such information in writing, and the applicant must provide the requested information. If the applicant fails to provide the requested information, the Agency may determine that the license application is incomplete and terminate the application.

(6) A license applicant must successfully complete the remaining portions of the licensing process required by 863-024-0045 within the 12 months from the date of the successfully completed background check process and review. If the applicant does not meet all licensing requirement within the 12 months, the background check review is no longer valid and the applicant must submit to another background check, including fingerprints as described in this rule.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.020 & 696.022

Hist.: REA 7-2008, f. 12-15-08, cert. ef. 1-1-09; REA 1-2009, f. 12-15-09, cert. ef. 1-1-10; REA 3-2011(Temp), f. & cert. ef. 6-22-11 thru 12-1-11; REA 6-2011, f. 8-15-11, cert. ef. 9-1-11; REA 7-2011, f. & cert. ef. 11-15-11; REA 4-2013(Temp), f.10-31-13, cert. ef. 11-1-13 thru 4-29-14; REA 3-2014, f. 4-14-14, cert. ef. 4-28-14; REA 5-2014, f. 4-14-14, cert. ef. 4-28-14

863-024-0045

Property Manager Licensing Requirements

(1) To be eligible for a property manager license, an individual must complete the following steps in the order listed:

(a) Submit a license application and pay the fee to the Agency required by OAR 863-024-0010.

(b) Successfully complete the required courses of study for a property manager license required by OAR 863-022-0015.

(c) Ensure that the school providing the required course of study certifies to the examination provider that the applicant completed the course as required by OAR 863-024-0020.

ADMINISTRATIVE RULES

(d) Pass the property manager licensing examination and pay the fee to the examination provider as required by OAR 863-012-0020.

(e) Provide fingerprints for a criminal background check and pay the fee to the fingerprint services provider as required by OAR 863-0014-0015.

(2) After the applicant meets the requirements under (1) of this rule, the Agency will complete a background check on the applicant, which includes a criminal background check under OAR 863-024-0015.

(3) Effective July 1, 2011 to September 14, 2011, after the requirements in (1) and (2) of this rule are met:

(a) The applicant must state that the applicant will be conducting professional real estate activity under the applicant's licensed name or is registering a business name as provided in (5) of this rule; or

(b) The applicant must submit to the Agency the name and address and authorization of a property manager or principal broker with whom the applicant will be associated and the authorization of the property manager or principal broker to use the registered business name.

(4) After the requirements in (1) and (2) of this rule are met:

(a) Using an online application through the Agency's website, the applicant must specify whether the applicant will be conducting professional real estate activity under their property manager's licensed name as provided in (5) of this rule or is registering a business name as provided in (6) of this rule; or

(5) If an applicant wishes to conduct professional real estate activity under their property manager's licensed name, the applicant must first obtain the property manager license and then complete an online application available through the Agency's website.

(6) If an applicant wishes to conduct professional real estate activity under a registered business name registered by the applicant, the applicant must first obtain a property manager license and then register a business name under 863-024-0095.

(7) A real estate property manager may only engage in the management of rental real estate. The licensee may not offer to, negotiate, attempt to, or engage in the sale, purchase, lease-option, appraisal, or exchange of real estate for another individual for compensation. The licensee may not charge, pay, receive, or accept a referral fee, finder's fee, or compensation from or share in a commission paid to a real estate broker for any activity involving the sale, purchase, lease-option, appraisal, or exchange of real estate. However, the licensee may charge, pay, receive, or accept a referral fee or finder's fee from or to a real estate broker or another real estate property manager for finding or referring an owner, renter, or lessee in real estate property management activity.

(8) A real estate property manager is responsible for all property management activity conducted under the property manager's license and for the actions of the property manager's nonlicensed property management employees. A licensed property manager may not authorize an unlicensed individual to supervise that property manager's licensed activity in the manager's absence. Except as provided for in OAR 863-024-0085, a property manager may not authorize another real estate licensee to supervise that property manager's licensed activity in the property manager's absence.

(9) A real estate property manager may be associated with a principal real estate broker to engage in property management activity on behalf of the principal real estate broker and under the supervision of that principal real estate broker. However, a property manager may not act in the broker's absence under OAR 863-024-0085.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.020 & 696.022

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03; REA 1-2005, f. 5-5-05, cert. ef. 5-6-05; REA 2-2005(Temp), f. 6-9-05, cert. ef. 7-1-05 thru 12-26-05; Administrative correction 1-20-06; Renumbered from 863-015-0045, REA 7-2008, f. 12-15-08, cert. ef. 1-1-09; REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 3-2011(Temp), f. & cert. ef. 6-22-11 thru 12-1-11; REA 6-2011, f. 8-15-11, cert. ef. 9-1-11; REA 7-2011, f. & cert. ef. 11-15-11; REA 5-2014, f. 4-14-14, cert. ef. 4-28-14

863-024-0050

License Renewal

(1) A licensee may only submit a license renewal application and pay the fee using an online application process, which will be available through the Agency's website.

(2) For purposes of this rule, "received by the Agency" means the date a license renewal is received by the Agency.

(3) A property manager license expires if a licensee fails to renew the license on or before the license expiration date. A licensee may not engage in any professional real estate activity after a license expires. A property manager may renew an expired license as provided in this rule.

(4) The Agency will renew an active property manager license to active status for the term prescribed in OAR 863-024-0030 when the Agency has received the following:

(a) The renewal fee authorized by ORS 696.270; and

(b) An Agency-approved active renewal application form requesting active license status that includes certification by the licensee that the licensee has met the real estate continuing education renewal requirements under section OAR 863-020-0010.

(5) The Agency will renew an active property manager license to inactive status for the term prescribed in OAR 863-024-0030, when the Agency has received the following:

(a) The renewal fee authorized by ORS 696.270; and

(b) An online inactive renewal application.

(6) The Agency will renew an inactive property manager license to inactive status for the term prescribed in OAR 863-024-0030 when the Agency has received the following:

(a) The renewal fee authorized by ORS 696.270; and

(b) An online inactive renewal application.

(7) The Agency will renew an inactive property manager license to active status for the term prescribed in OAR 863-024-0030, when the Agency has received the following:

(a) The renewal fee authorized by ORS 696.270; and

(b) An online active renewal application requesting active license status that includes certification by the licensee that the licensee has met the real estate continuing education renewal requirements under section (3) or (4) of this rule.

(8) The Agency will renew an expired property manager license to active status when the Agency receives, within one year of the date the license expired, the following:

(a) The renewal fee and a late fee authorized by ORS 696.270; and

(b) An online active renewal application that includes certification by the licensee that the licensee met the real estate continuing education renewal requirements under section OAR 863-020-0010.

(9) The Agency will renew an expired property manager license to inactive status when the Agency receives, within one year of the date the license expired, the following:

(a) The renewal fee and a late fee authorized by ORS 696.270; and

(b) An online inactive renewal application.

(10) When the Agency renews an expired license, the renewed license is effective the date the renewal requirements are met. The renewal is not retroactive to the date the license expired, and the expired license retains the status of expired during the expiration period.

(11) A license renewed under this rule expires two years from the date of the original expiration date.

(12) A real estate license that has expired for more than one year is lapsed, as defined in ORS 696.010.

(13) A license may not be renewed if it is lapsed, surrendered, suspended, or revoked. Except as provided in OAR 863-024-0075, the former licensee must reapply and meet all the licensing qualifications required of new license applicants.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.020, 696.022 & 696.270

Hist.: REA 7-2008, f. 12-15-08, cert. ef. 1-1-09; REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 3-2011(Temp), f. & cert. ef. 6-22-11 thru 12-1-11; REA 6-2011, f. 8-15-11, cert. ef. 9-1-11; REA 7-2011, f. & cert. ef. 11-15-11; REA 5-2014, f. 4-14-14, cert. ef. 4-28-14

863-024-0062

Mailing Address, Email Address, Address Change, Service of Notice

(1) Each active, inactive and expired property manager licensee must maintain on file with the Agency a current mailing address and email and notify the Agency within 10 calendar days of a change of mailing or email address.

(2) A forwarding address is effective as a "current mailing address" when the Agency receives notice of the forwarding address by the United States Postal Service.

(3) Agency notice by mail, whether registered, certified, or regular, to the real estate licensee's current mailing address on file with the Agency constitutes service on the licensee.

(4) The Agency is not required by law to send notification or correspondence by regular mail to a licensee or license applicant regarding license or application status. The Agency may send notification or correspondence to a licensee or license applicant to the email address of the licensee or applicant on file with the Agency. Failure by a licensee or applicant to receive notification or correspondence provided via email does not relieve the licensee or applicant of the responsibility to maintain a current license or complete an application process.

ADMINISTRATIVE RULES

(5) The Agency's primary and preferred method of notification and correspondence is to the licensee or license applicant's email address.

(6) For purposes of this rule, "notification or correspondence" in (4) and (5) of this rule means:

(a) Notification, correspondence or confirmation to licensees about license renewal, change of license status to active or inactive, license transfers, registered business name, branch office registration, license reactivation, license expiration, and name and address changes.

(b) Notification, correspondence or confirmation to license applicants about license application status, receipt of documents or information from third parties on license qualifications, and license issuance.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.020 & 696.022

Hist.: REA 7-2008, f. 12-15-08, cert. ef. 1-1-09; REA 3-2011(Temp), f. & cert. ef. 6-22-11 thru 12-1-11; REA 6-2011, f. 8-15-11, cert. ef. 9-1-11; REA 7-2011, f. & cert. ef. 11-15-11; REA 5-2014, f. 4-14-14, cert. ef. 4-28-14

863-024-0063

Property Manager License Transfers, Principal Brokers' Responsibilities, Authority to Use Registered Business Name

(1) As used in this rule:

(a) "Authorized licensee" means a property manager or principal broker who has authority over the use of a registered business name;

(b) "License transfer application" means an online license transfer application that does one of the following:

(A) Transfers a property manager license to a receiving principal broker in order to become associated with the receiving principal broker, or

(B) Authorizes a property manager to use a registered business name to conduct management of rental real estate.

(c) "Sending principal broker" means the principal real estate broker with whom an active property manager license is associated before the license transfer;

(d) "Receiving principal broker" means the principal real estate broker with whom an active property manager license will be associated after the license transfer.

(2) The property manager licensee must provide the following information on an online license transfer:

(a) The name, email address and license number of the property manager licensee who is being transferred;

(b) The receiving broker's or authorized licensee's name, license number, date, signature, and attestation or the authorized use of the registered business name.

(3) A principal real estate broker with whom a property manager licensee is associated remains responsible for the licensee's management of rental real estate until the Agency receives one of the following:

(a) An online inactivation application available through the Agency's website; or

(b) An online license transfer form and fee.

(4) If a principal real estate broker with whom a property manager is associated voluntarily gives the license to the property manager named in the license, the principal real estate broker remains responsible for the licensee's subsequent management of rental real estate until the Agency receives one of the following:

(a) An online inactivation application available through the Agency's website; or

(b) An online license transfer application and fee.

(5) The Agency will document the registered business name under which a property manager licensee is authorized to conduct management of rental real estate when the Agency receives an online license transfer application and the transfer fee authorized by ORS 696.270.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.020 & 696.022

Hist.: REA 7-2008, f. 12-15-08, cert. ef. 1-1-09; REA 3-2011(Temp), f. & cert. ef. 6-22-11 thru 12-1-11; REA 6-2011, f. 8-15-11, cert. ef. 9-1-11; REA 7-2011, f. & cert. ef. 11-15-11; REA 5-2014, f. 4-14-14, cert. ef. 4-28-14

863-024-0065

Inactive License, Change License Status to Active, License Reactivation

(1) A property manager licensee whose license is on inactive status may not engage in management of rental real estate.

(2) The commissioner may reprimand, suspend, revoke, or impose a civil penalty against an inactive licensee under ORS 696.301.

(3) The Agency will change an active property manager license to inactive license status when the Agency actually receives a request by the licensee submitted on an online inactivation application available through the Agency's website to change the license status to inactive.

(4) An inactive property manager licensee may renew such license under ORS 863-024-0050.

(5) For a period of 30 days after a property manager license becomes inactive, a property manager may change such license status from inactive to active under ORS 863-024-0063.

(6) If a property manager license has not been on active status for two or more consecutive years, the licensee must complete the following steps in the order listed to reactivate the license:

(a) Submit an online application for license reactivation and pay the fee to the Agency authorized by ORS 696.270; and

(b) Pass the property manager reactivation examination and pay the fee to the examination provider as required by ORS 863-024-0020.

(7) After the 30-day period in section (5) of this rule, and subject to the examination requirements in section (6) of this rule, a property manager may change the license status from inactive to active only by submitting to the Agency:

(a) An online application for license reactivation; and

(b) Payment of the reactivation fee authorized by ORS 696.270.

(8) Subject to the examination requirements in section (6) of this rule, if an inactive licensee renews a license and maintains inactive status, the licensee may, within 60 days of the date of renewal, change the license status to active by submitting to the Agency:

(a) An online application for license reactivation that includes certification that the licensee met the real estate continuing education renewal requirements under ORS 863-020-0010; and

(b) Payment of the active renewal fee authorized by ORS 696.270, less the amount of the inactive renewal fee already paid by the licensee.

(9) The change of license status, transfer of license, or the reactivation of a license is effective when the Agency actually receives all required forms and fees.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.020 & 696.022

Hist.: REA 7-2008, f. 12-15-08, cert. ef. 1-1-09; REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 3-2011(Temp), f. & cert. ef. 6-22-11 thru 12-1-11; REA 6-2011, f. 8-15-11, cert. ef. 9-1-11; REA 7-2011, f. & cert. ef. 11-15-11; REA 5-2014, f. 4-14-14, cert. ef. 4-28-14

863-024-0066

Licensee Name Change

A licensee may apply for a name change by submitting to the Agency:

(1) An online name change application and payment of the fee authorized under ORS 696.270; and

(2) Legal proof of the name change, which must be in the form of an official record such as a marriage certificate, divorce certificate, or a court order/decree.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.020 & 696.022

Hist.: REA 3-2011(Temp), f. & cert. ef. 6-22-11 thru 12-1-11; REA 6-2011, f. 8-15-11, cert. ef. 9-1-11; REA 7-2011, f. & cert. ef. 11-15-11; REA 5-2014, f. 4-14-14, cert. ef. 4-28-14

863-024-0095

Business Name Registration, Principal Broker Licensed Name Registration, and Property Manager Licensed Registration

(1) Before conducting business in a name other than the licensee's legal name, the property manager must register the business name with the Agency. For the purposes of this rule, "business name" means an assumed name or the name of a business entity, such as a corporation, partnership, limited liability company, or other business entity recognized by law. A licensee must maintain the registered business name with the Oregon Secretary of State's Corporation Division.

(2) To register a business name, the property manager must submit to the Agency, using an online application, the following:

(a) The business name in which the licensee wishes to conduct business, which must be the exact name on file with the Oregon Secretary of State;

(b) Written authority by which the licensee is authorized to use the business name;

(c) A copy of the registration on file with the Oregon Secretary of State Business Registry, showing the business name is active; and

(d) The fee authorized by ORS 696.270.

(3) A property manager who wishes to use a registered business name must submit to the Agency the following:

(a) The registered business name the licensee wishes to use; and

(b) Authorization from the property manager or principal broker who is responsible for the registered business name on the records of the Agency to use the name.

(4) Business names registered with the Agency do not expire and need not be renewed by the licensee. Any change in the business name registered with the Agency will be treated as the registration of a new business name,

ADMINISTRATIVE RULES

and the change in business name must be registered with the Agency together with the fee authorized by ORS 696.270.

(5) If a licensee wishes to transfer the right to use a business name that is registered with the Agency, the licensee acquiring the right to use the name must file a change of business name registration with the Agency together with the fee authorized by ORS 696.270. A licensee must notify the Agency in writing if the licensee terminates its use of a business name.

(6) A business name registration becomes void when the Agency receives notice of termination of the use of a business name. A business name registration becomes void when no licensees are affiliated with the registered business name. A business name registration may be reactivated within one year from the voiding of a registration, unless a new user has registered the business name, without paying the fee set forth in ORS 696.270.

(7) No real estate property manager may engage in professional real estate activities under more than one registered business name. An exception to this requirement is that a real estate property manager may engage in the management of rental real estate under more than one registered business name if the business entity is an affiliated or subsidiary organization as described in OAR 863-024-0061.

(8) If a principal broker or property manager wishes to conduct real estate business in the licensee's legal name, the principal broker or property manager must first register the principal broker's licensed name or property manager's licensed name with the Agency using an online application process available through the Agency's website.

(9) To register a principal broker's licensed name or property manager's licensed name, the principal broker or property manager must submit to the Agency using an online application, the following:

(a) The licensee's licensed name.

(b) The fee authorized by ORS 696.270.

(c) Authorization from the principal broker or property manager who is responsible for the principal broker's licensed name or property manager's licensed name on record with the Agency to use the name.

(10) Principal broker licensed name and property manager licensed name registrations do not expire and need not be renewed by the licensee. Any change in the principal broker's licensed name or property manager's licensed name registration with the Agency will be treated as the registration of a new business name, and an application for the change in business name must be submitted to the Agency together with the fee authorized in ORS 696.270.

(11) A principal broker's licensed name or property manager's licensed name registration becomes void when the Agency receives notice of termination.

(12) Except as provided in OAR 863-014-0085 and this section, no real estate broker, principal broker or property manager may engage in professional real estate activities under more than one registered business name, principal broker's licensed name registration or property manager's licensed name registration. A principal broker or property manager may engage in professional real estate activities under more than one registered business name, principal broker's licensed name registration or property manager's licensed name registration, if the business entity is an affiliated or subsidiary organization as described in OAR 863-014-0061.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.026

Hist.: REA 7-2008, f. 12-15-08, cert. ef. 1-1-09; REA 3-2011(Temp), f. & cert. ef. 6-22-11 thru 12-1-11; REA 6-2011, f. 8-15-11, cert. ef. 9-1-11; REA 7-2011, f. & cert. ef. 11-15-11; REA 5-2014, f. 4-14-14, cert. ef. 4-28-14

863-024-0100

Branch Office Registration

(1) Before a property manager may engage in the management of rental real estate from a branch office, the property manager must provide to the commissioner an online application available through the Agency's website the branch office street and mailing addresses and the fee authorized by ORS 696.270.

(2) For the purposes of ORS 696.270, a branch office registration does not require renewal.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.026 & 696.200

Hist.: REA 7-2008, f. 12-15-08, cert. ef. 1-1-09; REA 1-2009, f. 12-15-09, cert. ef. 1-1-10; REA 5-2014, f. 4-14-14, cert. ef. 4-28-14

.....

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

Adm. Order No.: REA 6-2014

Filed with Sec. of State: 4-14-2014

Certified to be Effective: 4-28-14

Notice Publication Date: 3-1-2014

Rules Amended: 863-020-0000, 863-020-0010, 863-020-0015, 863-020-0030, 863-020-0040, 863-020-0055, 863-020-0060

Subject: 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—(503) 378-4409

863-020-0000

Applicability and Purpose

(1) This division applies to licensed real estate brokers, principal real estate brokers, real estate property managers, continuing education providers, and instructors who teach courses for continuing education providers.

(2) For all real estate licensees, the purpose of this division is to set forth continuing education requirements for licensee renewals, including:

(a) Courses eligible for continuing education credit completed before January 1, 2011; and

(b) Courses eligible for continuing education credit completed on or after January 1, 2011 taken from continuing education course providers, including:

(A) Courses that meet the requirements for course topics and learning objectives in this division 20;

(B) A Board-approved three-hour law and rule required course on recent changes in rule and law, described in OAR 863-022-0055, required for all licensees;

(C) A 27-hour advanced course in real estate practices, described in OAR 863-022-0020, required for real estate brokers before the first active renewal of the broker's license or before the first license reactivation following an inactive first renewal;

(D) A 27-hour property manager advanced practices course described in OAR 863-022-0022, required for licensed real estate property managers before the first active renewal of the property manager's license or before the first license reactivation following an inactive first renewal;

(E) The 40-hour brokerage administration and sales supervision course, described in OAR 863-022-0025, for an initial principal real estate broker license application; and

(F) Continuing education record-keeping requirements for all licensees.

(3) For continuing education providers, the purpose of this division is to set forth:

(a) The application requirements for certification as a real estate continuing education course provider; and

(b) The responsibilities of continuing education course providers, including:

(A) Ensuring that courses offered by the provider meet the eligible course topics, learning objectives, and length of course requirements;

(B) Maintaining required records in paper or electronic format, as directed by the Agency.

ADMINISTRATIVE RULES

(C) Providing real estate licensees with certificates of completion for each course that meet the requirements for certificates of completion; and

(D) Ensuring that each instructor who will teach a course offered by a provider meets instructor qualifications and completes a continuing education instructor form.

(4) For instructors who teach courses for continuing education providers, the purpose of this division is to set forth the instructor qualifications, set out on the instructor form that is completed by the instructor and given to the continuing education provider.

Stat. Auth.: ORS 696.385

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

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13; REA 1-2013, f. 1-14-13, cert. ef. 2-1-13; REA 6-2014, f. 4-14-14, cert. ef. 4-28-14

863-020-0010

License Renewal Continuing Education Requirements

(1) This rule applies to all real estate licensees.

(2) To renew an active license, a real estate licensee must truthfully certify on an Agency-approved form under OAR 863-014-0050 (for real estate brokers and principal brokers) or 863-024-0050 (for licensed real estate property managers) that the licensee:

(a) Has completed at least 27 hours of real estate continuing education that are eligible for credit under OAR 863-020-0035 and 863-020-0040 during the two years preceding renewal and,

(b) Has completed the Board-approved three-hour law and rule required course on recent changes in real estate rule and law described in OAR 863-022-0055.

(3) To renew an active license for the first time or before the first license reactivation following an inactive first renewal, a real estate broker and a licensed real estate property manager must comply with the following:

(a) A real estate broker must complete the 27-hour advanced course in real estate practices described in OAR 863-022-0020. A real estate broker must also take the three-hour law and rule required course described in 863-022-0055.

(b) A licensed real estate property manager must complete the 27-hour property manager advanced practices course described in OAR 863-022-0022. A licensed real estate property manager must also take the three-hour law and rule required course described in 863-022-0055.

(4) A real estate licensee will not be given credit for repeating a continuing education course with the same content during a two-year renewal period.

(5) A licensee who falsely certifies that the licensee has completed the required continuing education violates section (2) of this rule and subject to discipline under ORS 696.301.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.022, 696.174 & 696.301

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13; REA 1-2013, f. 1-14-13, cert. ef. 2-1-13; REA 1-2013, f. 1-14-13, cert. ef. 2-1-13; REA 6-2014, f. 4-14-14, cert. ef. 4-28-14

863-020-0015

Licensee Records

(1) A real estate licensee must maintain the licensee's own continuing education records described in sections (3) and (4) of this rule for three years after the renewal date for which the continuing education credit applies.

(2) A principal broker is not required to maintain the continuing education records of a real estate broker or a property manager associated with the principal broker. However, the principal broker must maintain the continuing education records that pre-date January 1, 2011 as required by OAR 863-015-0260 and produce a copy of such records if the associated licensee or the Agency so requests.

(3) A real estate licensee must complete and maintain an Agency-approved form that contains the following information, taken from the certificate of completion provided by the continuing education provider:

(a) The licensee's name and license number;

(b) The name of the course;

(c) The name of the certified course provider and the provider number;

(d) The course identification number assigned by the course provider;

(e) The course eligibility for continuing education credit as one of the following:

(A) The specific course topic(s) that is eligible under OAR 863-020-0035,

(B) The course is the three-hour law and rule required course under OAR-863-022-0055,

(C) The course is the advanced course in real estate practices under OAR-863-022-0020,

(D) The course is the property manager advanced practices course under OAR 863-022-0022, or

(E) The course is the brokerage administration and sales supervision course under OAR-863-022-0025;

(f) The date and location of the course;

(g) The length of time of the course; and

(h) The name of the instructor who taught the course.

(4) A licensee must maintain all certificates of completion the licensee received from continuing education providers.

(5) Upon request by the Agency, a licensee must produce a copy of the records required under this rule.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.174

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13; REA 1-2013, f. 1-14-13, cert. ef. 2-1-13; REA 6-2014, f. 4-14-14, cert. ef. 4-28-14

863-020-0030

Application for Continuing Education Provider Certification and Renewal

(1) An applicant for certification as a continuing education provider must submit to the Agency an online application available through the Agency's website, containing the following information. No application fee is required.

(a) The applicant's name, mailing address, physical address, and phone number;

(b) The date of the application;

(c) The applicable qualification listed in OAR 863-020-0020(1) and, if the Real Estate Board approved the applicant's qualifications under 863-020-0025, the applicant must also submit the Agency's confirmation letter;

(d) The name and signature of the individual authorized by the applicant to submit the application;

(e) The applicant's authorized contact person, title, phone number, and e-mail address;

(f) The applicant's website address;

(g) Information concerning the course presentation formats, such as classroom instruction, online, etc.; and

(h) An affirmation that the applicant:

(A) Will comply with the statutory and administrative rule provisions applicable to continuing education providers, and

(B) Understands that the continuing education provider certification does not authorize the provider to offer an advanced course in real estate practices, the property manager advanced practices course, or the brokerage administration sales and supervision course. If the provider wishes to offer those courses, the provider may seek separate approval of the course under OAR chapter 863, division 22.

(2) The Agency will assign a provider number and mail a confirmation of certification to the applicant after review and approval of an application.

(3) The Agency will publish on its website and have available at the Agency a list of certified course providers and include the following information:

(a) The provider's name, mailing address, physical address, and phone number;

(b) The provider's authorized contact person, title, phone number, and e-mail address;

(c) The provider's website address;

(d) The course presentation formats offered by the provider, such as classroom instruction, online, etc.; and

(e) The date of certification and provider number.

(4) Once certified, the continuing education provider must submit any changes in the information provided on the application electronically, using an online process available through the Agency's website.

(5) If a provider no longer wishes to be certified or no longer meets the qualifications contained in OAR 863-020-0020, it must inform the Agency in writing within five business days.

(6) A continuing education provider certification expires on December 31, 2013, and annually thereafter on December 31 of each year. Effective November 1, 2013, continuing education providers must submit an application for renewal, prior to expiration, using an online renewal process that is available through the Agency's website.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.182

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13; REA 1-2013, f. 1-14-13, cert. ef. 2-1-13; REA 6-2013(Temp), f. 10-31-13,

ADMINISTRATIVE RULES

cert. ef. 11-1-13 thru 4-29-14; REA 1-2014, f. 4-14-14, cert. ef. 4-28-14; REA 6-2014, f. 4-14-14, cert. ef. 4-28-14

863-020-0040

Certain Courses Required for License Renewal that are Also Eligible for Continuing Education Credit

(1) In addition to the eligible courses under OAR 863-020-0035 the courses listed in subsection (2) through (4) of this rule are eligible for continuing education credit.

(2) An Agency-approved 27-hour advanced course in real estate practices that meets the requirements of OAR 863-022-0020.

(3) An Agency-approved 27-hour property manager advanced practices course that meets the requirements of OAR 863-022-0022.

(4) An Agency-approved 40-hour brokerage administration and sales supervision course that meets the requirements of OAR 863-022-0015.

(5) Certification as a continuing education provider does not authorize the provider to offer an advanced course in real estate practices, the property manager advanced practices course, or the brokerage administration sales and supervision course. If the provider wishes to offer those courses, the provider may seek separate course approval under OAR chapter 863, division 22.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.022, 696.174, & 696.184

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13; REA 1-2013, f. 1-14-13, cert. ef. 2-1-13; REA 6-2014, f. 4-14-14, cert. ef. 4-28-14

863-020-0055

Continuing Education Provider Record-keeping Requirements

(1) A real estate continuing education provider must keep records in paper or electronic form, as directed by the Agency, of each course provided for three years from the date the course was provided. These records must include:

(a) The name of the course,

(b) The course identification number assigned by the course provider,

(c) Identification of the course eligibility for continuing education credit as one of the following:

(A) A continuing education course under OAR 863-020-0035 and which course topic(s) the offered course covers,

(B) The course is a three-hour rule and law required course under OAR 862-022-0055,

(C) The course is the advanced course in real estate practices course under OAR 863-022-0020,

(D) The course is the property manager advanced practices course under OAR 863-022-0022, or

(E) The course is the brokerage administration and sales supervision course under OAR 863-022-0025;

(d) The date and location of the course,

(e) The length of time of each course,

(f) The name of the instructor who taught the course,

(g) The signed form required by OAR 863-020-0060 containing the statement of instructor qualifications, and

(h) The licensee's name and license number for each licensee attending the course on that date.

(2) All continuing education providers, whether located within or outside of this state, must keep the required records at the address provided on the application form.

(3) A real estate continuing education provider must produce records within 15 business days after the date of a request by the Agency.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.184

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13; REA 1-2013, f. 1-14-13, cert. ef. 2-1-13; REA 6-2014, f. 4-14-14, cert. ef. 4-28-14

863-020-0060

Continuing Education Instructor Form

(1) As provided in OAR 863-020-0050, a continuing education provider must ensure that the instructor who teaches a continuing education course offered for credit meets the requirements contained in ORS 696.186. The Agency does not certify instructors.

(2) A continuing education provider must ensure that the instructor completes and signs a form containing the following information:

(a) The instructor's name, address, and phone number;

(b) The continuing education provider name and provider number;

(c) A description of the instructor's qualifications in sufficient detail that would enable the reader to know how the instructor has met those qualifications; and

(d) An attestation signed and dated by the instructor, identifying the instructor's qualifications under section (4) of this rule and affirming that the instructor:

(A) Has not had a professional or occupational license related to the topic of the course revoked for disciplinary reasons;

(B) Has not had a professional or occupational license related to the topic of the course that is currently suspended for disciplinary reasons; and

(C) Has not been determined by a state court, an administrative law judge, or a final agency order to have violated any statute, rule, regulation, or order pertaining to real estate activity in this or any other state in the preceding five years.

(3) The instructor must indicate on the form which of the following qualifications applies to the instructor:

(a) A bachelor's degree and two years of experience working in a field related to the course topic;

(b) Six years of experience working in a field related to the topic of the course;

(c) A total of six years of any combination of college-level coursework and experience working in a field related to the topic of the course;

(d) A designation by a professional real estate organization, as defined in section (5) of this rule, and two years of college-level coursework;

(e) A designation as a Distinguished Real Estate Instructor by the Real Estate Educators' Association; or

(f) Certification or approval in good standing as a real estate instructor for the same or a similar course topic in any other state or jurisdiction.

(4) "Professional real estate organization," as used in section (4) of this rule, means a group of individuals with a formal membership whose membership includes real estate licensees or licensed escrow agents.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.184 & 696.186

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13; REA 1-2013, f. 1-14-13, cert. ef. 2-1-13; REA 6-2014, f. 4-14-14, cert. ef. 4-28-14

.....

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

Adm. Order No.: REA 7-2014

Filed with Sec. of State: 4-14-2014

Certified to be Effective: 4-28-14

Notice Publication Date: 3-1-2014

Rules Adopted: 863-015-0081

Rules Amended: 863-015-0003

Subject: 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—(503) 378-4409

863-015-0003

Definitions

As used in this division, unless the context requires otherwise, the following definitions apply:

(1) "Addendum" means additional material attached to and made part of a document. The addendum must refer to the document and be dated and signed or otherwise acknowledged by all the parties.

(2) "Agent" is defined in ORS 696.800.

(3) "Agency" is defined in ORS 696.010.

(4) "Bank" is defined in ORS 696.010.

(5) "Banking day" means each day a financial institution is required to be open for the normal conduct of its business but does not include Saturday, Sunday, or any legal holiday under ORS 187.010.

(6) "Board" means the Real Estate Board established pursuant to ORS 696.405.

(7) "Branch office" is defined in ORS 696.010.

(8) "Buyer" is defined in ORS 696.800.

ADMINISTRATIVE RULES

(9) "Clients' Trust Account" means an account in a "bank," as defined in ORS 696.010, that is subject to the provisions of ORS 696.241.

(10) "Closing" means the transfer of all property titles and the disbursement or distributions of all monies and documents for a real estate transaction.

(11) "Commissioner" is defined in ORS 696.010.

(12) "Compensation" is defined in ORS 696.010.

(13) "Competitive market analysis" is defined in ORS 696.010.

(14) "Compliance review" means an Agency review of a principal real estate broker's records and procedures for the purpose of educating the principal real estate broker on statutes and rules.

(15) "Confidential information" is defined in ORS 696.800.

(16) "Cure noncompliance" means a principal real estate broker's acts that resolve the principal real estate broker's failure to comply with statutory and rule requirements.

(17) "Day" or "days" means each calendar day, including legal holidays under ORS 187.010.

(18) "Disclosed limited agency" is defined in ORS 696.800.

(19) "First contact with a represented party" means the initial contact by a licensee, whether in person, by telephone, over the Internet, or by electronic mail, electronic bulletin board, or similar electronic method, with an individual who is represented by a real estate licensee or can reasonably be assumed from the circumstances to be represented or seeking representation.

(20) "Investigation" means an Agency-initiated investigation of a principal real estate broker that may result in administrative actions against the licensee.

(21) "Letter opinion" is defined in ORS 696.010.

(22) "Licensed Name" means the name of a real estate licensee as it appears on the current, valid real estate license issued to the licensee pursuant to ORS 696.020.

(23) "Listing agreement" is defined in ORS 696.800.

(24) "Mail-in audit" means an Agency audit of a clients' trust account based on information and documents prepared by a principal real estate broker and mailed to the Agency.

(25) "Offer" is defined in ORS 696.800.

(26) "Offering price" is defined in ORS 696.800.

(27) "Principal" is defined in ORS 696.800.

(28) "Principal broker" means "principal real estate broker," as defined in ORS 696.010.

(29) "Real estate" is defined in ORS 696.010.

(30) "Real estate activity," "professional real estate activity," and "real estate business" mean "professional real estate activity" as defined in ORS 696.010.

(31) "Real estate broker" is defined in ORS 696.010 and includes a principal real estate broker, as that term is defined in 696.010, unless the context requires otherwise.

(32) "Real estate licensee" and "licensee" mean a "real estate licensee" as defined in ORS 696.010, unless the context requires otherwise.

(33) "Real property" is defined in ORS 696.800.

(34) "Real property transaction" is defined in ORS 696.800.

(35) "Registered business name" is defined in ORS 696.010.

(36) "Sale" and "sold" are defined in ORS 696.800.

(37) "Seller" is defined in ORS 696.800.

(38) "Timely" means as soon as is practicable under the circumstances.

Stat. Auth.: ORS 696.385 & 183.335

Stats. Implemented: ORS 696.010

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03; Renumbered from 863-015-0120, REA 6-2008, f. 12-15-08, cert. ef. 1-1-09; REA 1-2009, f. 12-15-09, cert. ef. 1-1-10; REA 7-2014, f. 4-14-14, cert. ef. 4-28-14

863-015-0081

Compliance Reviews and Mail-in Audits

(1) The Agency will provide a principal real estate broker with written notice at least five business days before conducting a compliance review.

(2) A compliance review is completed when the Agency delivers a written notice of completion to the principal real estate broker.

(3) Except as provided in section (4) of this rule, if the Agency determines that a principal real estate broker is not in compliance with ORS 696.010 to 696.495, 696.600 to 696.785, 696.800 to 696.870, or OAR chapter 863 after the Agency completes a compliance review, the Agency will allow the principal real estate broker at least 30 days from the date the compliance review is completed to cure the noncompliance without sanction.

(4) Upon completion of a compliance review, if the Agency has reasonable grounds to believe that the funds belonging to others may be missing, funds may have been misappropriated, or that the principal real estate broker's records are in such a condition that the principal real estate broker is placing funds belonging to others at risk the Agency may immediately initiate an investigation without providing a principal real estate broker with an opportunity to cure noncompliance.

(5) The Agency will provide a principal real estate broker with written notice of a mail-in audit at least 30 days before required information and documentation must be provided to the Agency.

(6) After the Agency reviews the information and documents provided in a mail-in audit, the Agency will take one of the following actions:

(a) If the information and documents are in compliance with statutes and rules, the Agency will provide written notice to the principal real estate broker confirming compliance only as to the information and documents provided;

(b) If the information and documents indicate that the principal real estate broker may be subject to additional documentation and procedural requirements that were not part of the mail-in audit, the Agency will provide written notice to the principal real estate broker detailing the Agency's expectations for compliance on those matters;

(c) If the information and documents demonstrate that the principal real estate broker is not in compliance with ORS 696.010 to 696.495, 696.600 to 696.785, 696.800 to 696.870, or OAR chapter 863, the Agency will provide written notice to the principal real estate broker that includes:

(A) The principal real estate broker must cure all noncompliance issues and provide information and documentation to the Agency that the noncompliance has been cured within 30 days of the date of the notice; and

(B) If all noncompliance issues are not cured within 30 days, the Agency may impose sanctions on the principal real estate broker or may initiate an investigation and not allow additional time for the principal real estate broker to cure the noncompliance.

(d) If the Agency has reasonable grounds to believe that the funds belonging to others may be missing, funds may have been misappropriated, or that the principal real estate broker's records are in such a condition that the principal real estate broker is placing funds belonging to others at risk, the Agency may immediately initiate an investigation without providing a principal real estate broker with an opportunity to cure noncompliance.

(7) If a principal real estate broker does not respond to a mail-in audit within the time period required in the notice, the Agency may initiate an investigation.

(8) The Agency may conduct a mail-in audit of a principal real estate broker:

(a) As part of a regular, routine and random selection of principal real estate broker clients' trust accounts for mail-in audits;

(b) When the Agency has determined, after a compliance review, that the principal real estate broker was not in compliance and provided the principal real estate broker with an opportunity to cure the non-compliance; and

(c) After an investigation has been initiated.

Stat. Auth.: ORS 183.335 & 696.385

Stats. Implemented: ORS 696.280

Hist.: REA 7-2014, f. 4-14-14, cert. ef. 4-28-14

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

Adm. Order No.: REA 8-2014

Filed with Sec. of State: 4-14-2014

Certified to be Effective: 4-28-14

Notice Publication Date: 3-1-2014

Rules Amended: 863-025-0010

Subject: OAR 863-025-0010 Definitions

Added "property management agreement", which was defined by 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—(503) 378-4409

ADMINISTRATIVE RULES

863-025-0010

Definitions

In addition to the definitions used in ORS 696.010 and 863-015-0120, as used in OAR 863-025-0015 to 863-025-0080, unless the context requires otherwise:

(1) "Audit trail" means a documented history of a financial transaction by which the transaction can be traced to its source.

(2) "Bank account" is defined in ORS 696.010.

(3) "Banking day" means each day a bank is required to be open for the normal conduct of its business but does not include Saturday, Sunday, or any legal holiday under ORS 187.010.

(4) "Clients' Trust Account" means a federally insured bank account labeled as "Clients' Trust Account" on all bank records and checks that is established and maintained by a property manager, acting on behalf of an owner under a property management agreement, for depositing, holding and disbursing funds received by the property manager on behalf of an owner, including application fees and application screening fees.

(5) "Compliance review" means an Agency review of a property manager's records and procedures for the purpose of educating the property manager on statutes and rules.

(6) "Cure noncompliance" means a property manager's acts that resolve the property manager's failure to comply with statutory and rule requirements.

(7) "Employee" means a non-licensed individual employed by a property manager for wages or a salary.

(8) "Identifying code" means a unique series of letters and/or numbers assigned by a property manager to a property management agreement at the time the agreement is signed by the parties and used on all transactions and records to reference the agreement. A property manager may use a supplemental unique series of letters and/or numbers on transactions and records if the property manager establishes a clear audit trail to a specific property management agreement and to the original identifying code.

(9) "Investigation" means an Agency-initiated investigation of a property manager that may result in administrative actions against the licensee.

(10) "Mail-in audit" means an Agency audit of a clients' trust account based on information and documents prepared by a property manager and mailed to the Agency.

(11) "Owner" means a person or persons who own rental real estate that is managed by a property manager.

(12) "Property management agreement" is defined in ORS 696.010.

(13) "Property manager" is defined in ORS 696.010.

(14) "Records" and "property management records" mean a complete and adequate documentation of the management of rental real estate.

(15) "Security Deposit" means a conditionally refundable payment or deposit of money, however designated, the primary function of which is to secure the performance of a rental or lease agreement or any part of a rental or lease agreement.

(16) "Security Deposits Account" means a federally insured clients' trust account labeled as "Clients' Trust Account — Security Deposits" on all bank records and checks that is established and maintained by a property manager, acting in a fiduciary capacity on behalf of an owner under a property management agreement, for depositing, holding and disbursing security deposit funds.

(17) "Sufficient funds" or "sufficient credit balance" means an amount of funds on an owner's ledger or a tenant's ledger that is equal to or greater than the amount of a planned disbursement from a clients' trust account or a security deposits account but which must not include any security deposits in a security deposits trust account that are required to be held pending the termination of a rental agreement. Only funds belonging to the owner or tenant on whose behalf the disbursement is planned may be considered in determining if there are sufficient funds or a sufficient credit balance.

Stat. Auth.: ORS 183.335 & 696.385

Stats. Implemented: ORS 696.010

Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03; REA 1-2007, f. & cert. ef. 3-12-07; REA 8-2008, f.12-15-08, cert. ef. 1-1-09; REA 8-2014, f. 4-14-14, cert. ef. 4-28-14

.....

Rule Caption: Allowance for Agency to require a job applicant to submit to a criminal records check.

Adm. Order No.: REA 9-2014

Filed with Sec. of State: 4-14-2014

Certified to be Effective: 4-28-14

Notice Publication Date: 3-1-2014

Rules Adopted: 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

Subject: 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—(503) 378-4409

863-003-0000

Purpose

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 positions covered in OAR 863-003-0010(2). 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.

Stat. Auth.: ORS 181.534 & 696.385

Stats. Implemented: ORS 181.534 & 696.790

Hist.: REA 9-2014, f. 4-14-14, cert. ef. 4-28-14

863-003-0005

Definitions

As used in OAR chapter 863, division 3, unless the context of the rule requires otherwise, the following definitions apply:

(1) Agency: The Real Estate Agency as defined in ORS 696.010.

(2) Conviction: A final judgment on a verdict or finding of guilty, a plea of guilty, or a plea of nolo contendere (no contest) or any determination of guilt entered by a court of law against a subject individual in a criminal case, unless that judgment has been reversed or set aside by a subsequent court decision.

(3) Fitness determination: A determination made by the Agency, pursuant to the process established under OAR 863-003-0050, that a subject individual is fit or not fit to be an Agency employee, volunteer, contractor or vendor in a position covered by 863-003-0010(2).

(4) Criminal offender information: Records and related data concerning physical description and vital statistics, fingerprints received and compiled by the Oregon Department of State Police to identify criminal offenders and alleged offenders, records of arrests and the nature and disposition of criminal charges, including sentencing, confinement, parole and release records.

(5) Criminal records check: One or more of the following three processes undertaken by the Agency to check the criminal history of a subject individual:

(a) A name-based check of criminal offender information conducted through the Law Enforcement Data System (LEDS) maintained by the Oregon Department of State Police, in accordance with the rules adopted and procedures established by the Oregon Department of State Police;

(b) A check of Oregon criminal offender information, through fingerprint identification and other means, conducted by the Oregon Department of State Police at the Agency's request (Oregon Criminal Records Check); or

(c) A nationwide check of federal criminal offender information, through fingerprint identification and other means, conducted by the Oregon Department of State Police through the Federal Bureau of Investigation or otherwise at the Agency's request (Nationwide Criminal Records Check).

(6) Criminal records request form: An Agency-approved form, completed by a subject individual, requesting the Agency to conduct a criminal records check.

(7) False statement: In association with an activity governed by these rules, a subject individual either:

(a) Provided the Agency with false information about the subject individual's criminal history, including but not limited to false information about the individual's identity or conviction record; or

(b) Failed to provide the Agency information material to determining the individual's criminal history.

ADMINISTRATIVE RULES

(8) Subject Individual: An individual identified in OAR 863-003-0010 as someone from whom the Agency may require a criminal records check.

Stat. Auth.: ORS 181.534 & 696.385
Stats. Implemented: ORS 181.534 & 696.790
Hist.: REA 9-2014, f. 4-14-14, cert. ef. 4-28-14

863-003-0010

Subject Individual

The Agency may require a subject individual to complete a criminal records check pursuant to these rules because the person:

- (1)(a) Is employed by or applying for employment with the Agency; or
- (b) Provides services or seeks to provide services to the Agency as a volunteer, contractor, or vendor; and
- (2) Is, or will be, working or providing services in a position:
 - (a) In which the subject individual is providing information technology services and has control over, or access to, information technology systems that would allow the person to harm the information technology systems or the information contained in the systems;
 - (b) In which the subject individual has access to information that state or federal laws, rules or regulations prohibit disclosing or define as confidential;
 - (c) That has payroll functions;
 - (d) In which the subject individual has responsibility for receiving, receipting or depositing money or negotiable instruments;
 - (e) In which the subject individual has responsibility for billing, collections or other financial transactions;
 - (f) In which the subject individual has responsibility for purchasing or selling property or has access to property held in trust or to private property in the temporary custody of the state;
 - (g) That has mailroom duties as the primary duty or job function;
 - (h) That has personnel or human resources functions as one of the position's primary responsibilities;
 - (i) In which the subject individual has access to Social Security numbers, dates of birth or criminal background information of employees or members of the public;
 - (j) In which the individual has access to tax or financial information about individuals or business entities.

Stat. Auth.: ORS 181.534 & 696.385
Stats. Implemented: ORS 181.534 & 696.790
Hist.: REA 9-2014, f. 4-14-14, cert. ef. 4-28-14

863-003-0020

Criminal Records Check Process

- (1) Disclosure of Information by Subject Individual.
 - (a) Preliminary to a criminal records check, a subject individual must complete and sign the Agency criminal records request and a fingerprint card. Both forms ask for identifying information (e.g., name, birth date, social security number, physical characteristics, driver's license or identification card number and current address of the subject individual). The Agency criminal records request also requires information about the subject individual's prior residences in other states and any other identifying information deemed necessary by the Agency.
 - (b) A subject individual must complete and submit to the Agency the Criminal Records Request form and, if requested, a fingerprint card within three business days of receiving the forms. The Agency may extend the deadline for good cause.
 - (c) The Agency may require additional information from the subject individual as necessary to complete the criminal records check and fitness determination, such as, but not limited to, proof of identity; or additional criminal, judicial, or other background information.
 - (d) The Agency shall not request a fingerprint card from a subject individual under the age of 18 years unless the subject individual is emancipated pursuant to ORS 419B.550 et seq, or unless the Agency also requests the written consent of a parent or guardian. In such case, such parent or guardian and youth must be informed that they are not required to consent. Notwithstanding, failure to consent may be construed as a refusal to consent under OAR 863-003-0050(3).
- (2) When a Criminal Records Check is Required. The Agency may conduct, or request the Oregon State Police to conduct, a criminal records check when:
 - (a) An individual meets the definition of a subject individual; or
 - (b) Required by federal law or regulation, by state or administrative rule, or by contract or written agreement with the Agency.
- (3) Which Criminal Records Check is Conducted. When the Agency determines under section (2) of this rule that a criminal records check is

needed, the Agency may request or conduct a LEDS Criminal Records Check, an Oregon Criminal Records Check, a Nationwide Criminal Records Check, or any combination thereof.

Stat. Auth.: ORS 181.534 & 696.385
Stats. Implemented: ORS 181.534 & 696.790
Hist.: REA 9-2014, f. 4-14-14, cert. ef. 4-28-14

863-003-0040

Hiring or Appointing on a Preliminary Basis

(1) If the Agency elects to conduct a criminal records check pursuant to these rules, the Agency, in its sole discretion, may hire or appoint the subject individual on a preliminary basis pending completion of a criminal records check when:

- (a) The subject individual has provided all information (including a fingerprint card, if requested) as required by the Agency pursuant to OAR 863-003-0020; and
 - (b) The Agency, in its sole discretion, determines that preliminary hiring is in the Agency's best interests.
- (2) A subject individual hired or appointed on a preliminary basis under this rule may participate in training, orientation, and work activities as assigned by the Agency.
- (3) Nothing in this rule shall be construed as requiring the Agency to hire on a preliminary basis.
- (4) A subject individual hired on a preliminary basis is deemed to be on trial service.

Stat. Auth.: ORS 181.534 & 696.385
Stats. Implemented: ORS 181.534 & 696.790
Hist.: REA 9-2014, f. 4-14-14, cert. ef. 4-28-14

863-003-0050

Final Fitness Determination

- (1) If the Agency elects to conduct a criminal records check, the Agency shall make a fitness determination about a subject individual based on information provided by the subject individual under OAR 863-003-0020, the criminal records check(s) conducted, and any false statements made by the subject individual.
- (2) In making a fitness determination about a subject individual, the Agency will also consider the factors in subsections (a) through (f) below in relation to information provided by the subject individual under OAR 863-003-0020(1), any LEDS report or criminal offender information obtained through a criminal records check, and other information known by the Agency. To assist in considering these factors, the Agency may obtain any other information deemed relevant from the subject individual or any other source, including law enforcement and criminal justice agencies or courts within or outside of Oregon. To acquire other criminal offender information from the subject individual, the Agency may request to meet with the subject individual, and may request to receive written materials or authorization to obtain other relevant information, from him or her. The subject individual shall meet with the Agency if requested and provide additional information or authorization within a reasonable period of time, as established by the Agency. The Agency will use all collected information in considering:
 - (a) Whether the subject individual has been convicted, found guilty except for insanity (or a comparable disposition), or has a pending indictment for a crime listed in OAR 863-003-0060;
 - (b) The nature of any crime identified under section (2)(a) of this rule;
 - (c) The facts that support the conviction, finding of guilty except for insanity, or pending indictment;
 - (d) Any facts that indicate the subject individual made a false statement;
 - (e) The relevance, if any, of a crime identified under section (2)(a) of this rule or of a false statement made by the subject individual to the specific requirements of the subject individual's present or proposed position, services or employment; and
 - (f) The following intervening circumstances, to the extent that they are relevant to the responsibilities and circumstances of the services or employment for which the fitness determination is being made:
 - (A) The passage of time since the commission or alleged commission of a crime identified under section (2)(a) of this rule;
 - (B) The age of the subject individual at the time of the commission or alleged commission of a crime identified under section (2)(a) of this rule;
 - (C) The likelihood of a repetition of offenses or of the commission of another crime;
 - (D) The subsequent commission of another crime listed in OAR 863-003-0060;
 - (E) Whether a conviction identified under section (2)(a) of this rule has been set aside, and the legal effect of setting aside the conviction;

ADMINISTRATIVE RULES

(F) A recommendation of an employer;

(G) The disposition of a pending indictment identified under section (2)(a) of this rule;

(H) Whether the subject individual has been arrested for or charged with a crime listed under OAR 863-003-0060;

(I) Whether the subject individual is being investigated, or has an outstanding warrant, for a crime listed under OAR 863-003-0060;

(J) Whether the subject individual is currently on probation, parole or another form of post-prison supervision for a crime listed under OAR 863-003-0060;

(K) Whether the subject individual has a deferred sentence or conditional discharge in connection with a crime listed under OAR 863-003-0060;

(L) Whether the subject individual has been adjudicated in a juvenile court and found to be within the court's jurisdiction for an offense that would have constituted a crime listed in OAR 863-003-0060 if committed by an adult;

(M) Periods of incarceration of the subject individual;

(N) The education and work history (paid or volunteer) of the subject individual since the commission or alleged commission of a crime.

(3) Refusal to Consent. If a subject individual refuses to submit or consent to a criminal records check including fingerprint identification, the Agency will deny the employment of the subject individual or deny any applicable position or authority to provide services. A person may not appeal any determination made based on a refusal to consent.

(4) If a subject individual is determined to be not fit, the subject individual may not be employed by or provide services as a volunteer, contractor or vendor to the Agency in a position described in OAR 863-003-0010(2).

(5) Final Order. A completed final fitness determination is a final order of the Agency unless the affected subject individual appeals the determination by requesting a contested case hearing as provided by 863-003-0090(2) or an alternative appeals process as provided by 863-003-0090(6).

Stat. Auth.: ORS 181.534 & 696.385

Stats. Implemented: ORS 181.534 & 696.790

Hist.: REA 9-2014, f. 4-14-14, cert. ef. 4-28-14

863-003-0060

Potentially Disqualifying Crimes

(1) Crimes Relevant to A Fitness Determination:

(a) All felonies;

(b) All misdemeanors;

(c) Any United States Military crime or international crime;

(2) Evaluation of Crimes. The Agency shall evaluate a crime on the basis of the law of the jurisdiction in which the crime or offense occurred, as those laws are in effect at the time of the fitness determination.

(3) Expunged Juvenile Record. Under no circumstances shall a subject individual be determined to be not fit under these rules on the basis of the existence or contents of a juvenile record that has been expunged pursuant to ORS 419A.260 and 419A.262.

Stat. Auth.: ORS 181.534 & 696.385

Stats. Implemented: ORS 181.534 & 696.790

Hist.: REA 9-2014, f. 4-14-14, cert. ef. 4-28-14

863-003-0070

Incomplete Fitness Determination

(1) The Agency will close a preliminary or final fitness determination as incomplete when:

(a) Circumstances change so that a person no longer meets the definition of a "subject individual" under OAR 863-003-0010.

(b) The subject individual does not submit materials or information within the time required under OAR 863-003-0020(1);

(c) The Agency cannot locate or contact the subject individual;

(d) The subject individual fails or refuses to cooperate with the Agency's attempts to acquire other criminal records information under OAR 863-003-0050(2); or

(e) The Agency determines that the subject individual is not eligible or not qualified for the position (of employee, contractor, vendor or volunteer) for a reason unrelated to the fitness determination process.

(f) The position is no longer open.

(2) A subject individual does not have a right to a contested case hearing under OAR 863-003-0090(2) or a right to an alternative appeals process as provided by OAR 863-003-0090(6) to challenge the closing of a fitness determination as incomplete.

Stat. Auth.: ORS 181.534 & 696.385

Stats. Implemented: ORS 181.534 & 696.790

Hist.: REA 9-2014, f. 4-14-14, cert. ef. 4-28-14

863-003-0080

Notice to Subject Individual of Fitness Determination

The Agency shall inform the subject individual who has been determined not to be fit on the basis of a criminal records check, via personal service, or registered or certified mail to the most current address provided by the subject individual, of such disqualification.

Stat. Auth.: ORS 181.534 & 696.385

Stats. Implemented: ORS 181.534 & 696.790

Hist.: REA 9-2014, f. 4-14-14, cert. ef. 4-28-14

863-003-0090

Appealing a Fitness Determination

(1) Purpose. Sections (2) to (5) of this rule set forth the contested case hearing process a subject individual must use to appeal a completed final fitness determination made under OAR 863-003-0050 that the individual is not fit to hold a position with, or provide services to the Agency as an employee, volunteer, contractor, or vendor. Section (6) of this rule identifies an alternative appeal process available only to current Agency employees.

(2) Appeal process.

(a) To request a contested case hearing, the subject individual or the subject individual's legal representative must submit a written request for a contested case hearing to the address specified in the notice provided under OAR 863-003-0080. To be timely, the request must be received by the Agency at the specified address within 14 calendar days of the date stated on the notice. The Agency shall address a request received after expiration of the deadline as provided under OAR 137-003-0528.

(b) When a timely request is received by the Agency under subsection (a), a contested case hearing shall be conducted by an administrative law judge assigned by the Office of Administrative Hearings, pursuant to the Attorney General's Uniform and Model Rules, "Procedural Rules, Office of Administrative Hearings" OAR 137-003-0501 to 137-003-0700, as supplemented by the provisions of this rule.

(3) Discovery. The Agency or the administrative law judge may protect information made confidential by ORS 181.534(15) or other applicable law as provided under OAR 137-003-0570(7) or (8).

(4) No Public Attendance. Contested case hearings on fitness determinations are closed to non-participants.

(5) Proposed and Final Order:

(a) Proposed Order. After a hearing, the administrative law judge will issue a proposed order.

(b) Exceptions. Exceptions, if any, shall be filed within 14 calendar days after service of the proposed order. The proposed order shall provide an address to which exceptions must be sent.

(c) Default. A completed final fitness determination made under OAR 863-003-0050 becomes final:

(A) unless the subject individual makes a timely request for a hearing; or

(B) when a party withdraws a hearing request, notifies the Agency or the ALJ that the party will not appear, or fails to appear at the hearing.

(6) Alternative Process. A subject individual currently employed by the Agency may choose to appeal a fitness determination either under the process made available by this rule or through a process made available by applicable personnel rules, policies and collective bargaining provisions. A subject individual's decision to appeal a fitness determination through applicable personnel rules, policies, and collective bargaining provisions is an election of remedies as to the rights of the individual with respect to the fitness determination and is a waiver of the contested case process made available by this rule.

(7) Remedy. The only remedy that may be awarded is a determination that the subject individual is fit or not fit. Under no circumstances shall the Agency be required to place a subject individual in any position, nor shall the Agency be required to accept services or enter into a contractual agreement with a subject individual.

(8) Challenging Criminal Offender Information. A subject individual may not use the appeals process established by this rule to challenge the accuracy or completeness of information provided by the Oregon Department of State Police, the Federal Bureau of Investigation, or agencies reporting information to the Oregon Department of State Police or the Federal Bureau of Investigation.

(a) To challenge information identified in this section of the rule, a subject individual may use any process made available by the agency that provided the information.

(b) If the subject individual successfully challenges the accuracy or completeness of information provided by the Oregon Department of State Police, the Federal Bureau of Investigation, or an agency reporting infor-

ADMINISTRATIVE RULES

mation to the Oregon Department of State Police or the Federal Bureau of Investigation, the subject individual may request that the Agency conduct a new criminal records check and re-evaluate the original fitness determination made under OAR 863-003-0050 by submitting a new Agency criminal records request. This provision only applies if the position for which the original criminal history check was conducted is vacant and available.

(9) Appealing a fitness determination under section (2) or section (6) of this rule, challenging criminal offender information with the agency that provided the information, or requesting a new criminal records check and re-evaluation of the original fitness determination under section (8)(b) of this rule, will not delay or postpone the Agency's hiring process or employment decisions.

Stat. Auth.: ORS 181.534 & 696.385
Stats. Implemented: ORS 181.534 & 696.790
Hist.: REA 9-2014, f. 4-14-14, cert. ef. 4-28-14

863-003-0100

Recordkeeping and Confidentiality

Any information obtained in the criminal records check is confidential. The Agency must restrict the dissemination of information obtained in the criminal records check. Only those persons, as identified by the Agency, with a demonstrated and legitimate need to know the information, may have access to criminal records check records.

Stat. Auth.: ORS 181.534 & 696.385
Stats. Implemented: ORS 181.534 & 696.790
Hist.: REA 9-2014, f. 4-14-14, cert. ef. 4-28-14

863-003-0110

Fees

(1) The Agency may charge a fee for acquiring criminal offender information for use in making a fitness determination that will not exceed the fee charged the Agency by the Oregon Department of State Police and the Federal Bureau of Investigation to obtain such information.

(2) The Agency may charge the fee to the subject individual on whom criminal offender information is sought or, if the subject individual is an employee of an Agency contractor or vendor and is undergoing a fitness determination in that capacity, the Agency may charge the fee to the subject individual's employer.

Stat. Auth.: ORS 181.534 & 696.385
Stats. Implemented: ORS 181.534 & 696.790
Hist.: REA 9-2014, f. 4-14-14, cert. ef. 4-28-14

Teacher Standards and Practices Commission Chapter 584

Rule Caption: Adopts Knowledge, Skills and Abilities for Elementary Mathematics Instructional Leader Specialization

Adm. Order No.: TSPC 3-2014(Temp)

Filed with Sec. of State: 4-7-2014

Certified to be Effective: 4-8-14 thru 9-22-14

Notice Publication Date:

Rules Adopted: 584-066-0020

Subject: Adopts standards for licensure specialization Elementary Math Instructional Leader

Rules Coordinator: Victoria Chamberlain—(503) 378-6813

584-066-0020

Knowledge, Skills and Abilities for Elementary Mathematics Instructional Leader Specialization

(1) An Elementary Mathematics Instructional Leader specialization may be added to any TSPC Basic, Standard, Initial or Continuing Teaching License upon completion of the requirements and qualifications found in this rule.

(2) To be eligible for the Elementary Mathematics Instructional Leader (EMIL) specialization, the licensed teacher must have all of the following:

(a) A license authorized to teach in grades K–8 and holding the multiple subjects, basic elementary or standard elementary endorsements;

(b) Three complete years of teaching mathematics in grades K–8 as verified by a Professional Educator Experience Form (PEER) or other verifiable experience if the experience is obtained out of state; and

(c) Demonstrated competency in the following Elementary Math Specialist (EMS) standards as determined by a program approved to offer the Elementary Mathematics Instructional Leaders specialization as evidenced by completion of:

(A) Twenty-four quarter or sixteen semester hours of a TSPC-approved Elementary Mathematics Instructional Leader program; and

(B) An EMIL practicum working with a range of students and teachers.

(3) Elementary Mathematics Instructional Leaders specialist standards include:

(a) Content Knowledge: EMIL professionals must know and understand deeply the mathematics of elementary school as well as how mathematics concepts and skills develop through middle school. This knowledge includes specialized knowledge that teachers need in order to understand and support student learning of elementary mathematics.

(b) Pedagogical Knowledge for Teaching Mathematic: EMIL professionals are expected to have a foundation in pedagogical content knowledge (PCK) (Ball, Thames, & Phelps, 2008). This section is informed by and draws upon the 2003 NCATE/NCTM Program Standards: Standards for Elementary Mathematics Specialists.

(c) Leadership Knowledge and Skills: EMIL professionals need to be prepared to take on collegial non-evaluative leadership roles within their schools and districts. They must have a broad view of many aspects and resources needed to support and facilitate effective instruction and professional growth.

(4) Approval of any EMIL program must satisfy the full set of standards including specific objectives which may be found in the publication: Standards for Elementary Math Specialists: A Reference for Teacher Credentialing and Degree Programs; a publication of the Association of Mathematics Teacher Educators.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120–342.430, 342.455–342.495; 342.553
Hist.: TSPC 3-2014(Temp), f. 4-7-14, cert. ef. 4-8-14 thru 9-22-14

Water Resources Department Chapter 690

Rule Caption: Temporary Rule Granting Preference to Stock Watering and Human Consumption Water Use in Klamath County

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

Filed with Sec. of State: 3-25-2014

Certified to be Effective: 4-1-14 thru 9-27-14

Notice Publication Date:

Rules Adopted: 690-022-0020, 690-022-0025, 690-022-0030

Subject: Oregon Governor Kitzhaber declared a drought in Klamath County under Executive Order No. 14-01 on February 13, 2014. ORS 536.750 authorizes the Oregon Water Resources Commission, pursuant to a gubernatorial declaration of drought, to grant preference of water use for human consumption and stock watering over other uses of water regardless of priority date. Without the preference, the use of water for human consumption and stock watering would be subject to regulation, and as a result, surface water that would otherwise be used to meet these needs would not be available. For some water users, there are no readily available alternative sources of water for either stock watering or human consumption. These rules propose to grant a preference for the use of water for stock watering and human consumption in Klamath County for a period of 180 days, or for the duration of the declared drought, whichever is shorter.

Rules Coordinator: Nancy N. Pustis—(503) 986-0828

690-022-0020

Purpose and Statutory Authority

(1) The purpose of these rules is to implement ORS 536.750(1)(c), which authorizes the Commission, pursuant to a gubernatorial declaration that a severe, continuing drought exists, to grant a temporary preference to water rights for human consumption or stock watering use over other water uses regardless of priority date. These rules address an immediate threat to the health and welfare of the people of Oregon that would otherwise occur if regulation of senior water rights in Klamath County curtailed or prohibited use of surface water for human consumption and stock watering as defined in these rules.

(2) 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, was signed by Governor John A. Kitzhaber, M.D., on February 13, 2014.

(3) These rules become effective on April 1, 2014 and will remain in effect for 180 days from the effective date or for the term of Oregon Governor Kitzhaber's Executive Order No. 14 – 01, whichever is shorter.

Stat. Auth.: ORS 536.025, 536.027, 536.750, Other: 690-019-0070

ADMINISTRATIVE RULES

Stats. Implemented: ORS 536.750

Hist.: WRD 1-2014(Temp), f. 3-25-14, cert. ef. 4-1-14 thru 9-27-14

690-022-0025

Definitions

The words and phrases used in division 22 have the following meaning:

- (1) "Commission" means the Oregon Water Resources Commission.
- (2) "Department" means the Oregon Water Resources Department.
- (3) "Human Consumption" means the use of water for the purposes of drinking, cooking, and sanitation.
- (4) "Stock Watering Use" means the use of water for consumption by domesticated animals and wild animals held in captivity as pets or for profit.

Stat. Auth.: ORS 536.025, 536.027, 536.750, Other; 690-019-0070

Stats. Implemented: ORS 536.750

Hist.: WRD 1-2014(Temp), f. 3-25-14, cert. ef. 4-1-14 thru 9-27-14

690-022-0030

Applicability and Preference

Notwithstanding any provision of Oregon Administrative Rules Division 690 to the contrary:

- (1) These rules apply only to the diversion or use of surface water within Klamath County.
- (2) Uses of surface water for human consumption and stock watering, to the extent authorized under a water right certificate, permit, decree, or findings of fact and order of determination issued in an adjudication subject to ORS Chapter 539, are granted a preference over all other water uses regardless of the priority date of the underlying water right.
- (3) The Department will regulate water rights in Klamath County in accordance with the preference for water rights for human consumption and stock watering use granted in 690-022-0030(2) of these rules.
- (4) Political subdivisions exercising the human consumption or stock water preferences established in this rule shall assure curtailment of water uses unrelated to the preference consistent with this rule.

Stat. Auth.: ORS 536.025, 536.027, 536.750, Other; 690-019-0070

Stats. Implemented: ORS 536.750

Hist.: WRD 1-2014(Temp), f. 3-25-14, cert. ef. 4-1-14 thru 9-27-14

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
101-070-0001	12-17-2013	Adopt(T)	2-1-2014	123-006-0035	3-3-2014	Amend	4-1-2014
101-070-0005	12-17-2013	Adopt(T)	2-1-2014	123-015-0100	4-1-2014	Adopt	5-1-2014
104-020-0000	1-1-2014	Amend	2-1-2014	123-015-0200	4-1-2014	Adopt	5-1-2014
104-020-0010	1-1-2014	Amend	2-1-2014	123-015-0300	4-1-2014	Adopt	5-1-2014
104-020-0020	1-1-2014	Amend	2-1-2014	123-015-0400	4-1-2014	Adopt	5-1-2014
104-020-0030	1-1-2014	Amend	2-1-2014	123-015-0500	4-1-2014	Adopt	5-1-2014
104-020-0040	1-1-2014	Amend	2-1-2014	123-024-0011	3-3-2014	Amend	4-1-2014
105-010-0018	1-1-2014	Adopt(T)	2-1-2014	123-024-0031	3-3-2014	Amend	4-1-2014
111-010-0015	11-19-2013	Amend(T)	1-1-2014	123-025-0025	3-3-2014	Amend	4-1-2014
111-010-0015	12-27-2013	Amend	2-1-2014	123-043-0010	1-1-2014	Amend	2-1-2014
111-010-0015	12-27-2013	Amend(T)	2-1-2014	123-043-0015	1-1-2014	Amend	2-1-2014
111-010-0015	3-7-2014	Amend	4-1-2014	123-043-0025	1-1-2014	Amend	2-1-2014
111-010-0015(T)	12-27-2013	Repeal	2-1-2014	123-043-0035	1-1-2014	Amend	2-1-2014
111-010-0015(T)	3-7-2014	Repeal	4-1-2014	123-043-0041	1-1-2014	Amend	2-1-2014
111-020-0001	12-27-2013	Amend	2-1-2014	123-043-0055	1-1-2014	Amend	2-1-2014
111-020-0001(T)	12-27-2013	Repeal	2-1-2014	123-043-0075	1-1-2014	Amend	2-1-2014
111-020-0005	12-27-2013	Amend	2-1-2014	123-043-0102	1-1-2014	Amend	2-1-2014
111-020-0005(T)	12-27-2013	Repeal	2-1-2014	123-043-0115	1-1-2014	Amend	2-1-2014
111-020-0010	12-27-2013	Adopt	2-1-2014	123-051-0100	1-1-2014	Adopt	2-1-2014
111-020-0010(T)	12-27-2013	Repeal	2-1-2014	123-051-0200	1-1-2014	Adopt	2-1-2014
111-030-0050	12-27-2013	Amend	2-1-2014	123-051-0300	1-1-2014	Adopt	2-1-2014
111-030-0050(T)	12-27-2013	Repeal	2-1-2014	123-051-0400	1-1-2014	Adopt	2-1-2014
111-040-0001	12-27-2013	Amend(T)	2-1-2014	123-051-0500	1-1-2014	Adopt	2-1-2014
111-040-0001	3-7-2014	Amend	4-1-2014	123-051-0600	1-1-2014	Adopt	2-1-2014
111-040-0001(T)	3-7-2014	Repeal	4-1-2014	123-051-0700	1-1-2014	Adopt	2-1-2014
111-040-0005	12-27-2013	Amend(T)	2-1-2014	123-051-0800	1-1-2014	Adopt	2-1-2014
111-040-0005	3-7-2014	Amend	4-1-2014	123-051-0900	1-1-2014	Adopt	2-1-2014
111-040-0005(T)	3-7-2014	Repeal	4-1-2014	123-051-1000	1-1-2014	Adopt	2-1-2014
111-040-0010	12-27-2013	Amend(T)	2-1-2014	123-051-1100	1-1-2014	Adopt	2-1-2014
111-040-0010	3-7-2014	Amend	4-1-2014	123-051-1200	1-1-2014	Adopt	2-1-2014
111-040-0010(T)	3-7-2014	Repeal	4-1-2014	123-052-0010	4-1-2014	Adopt(T)	5-1-2014
111-040-0011	12-27-2013	Amend(T)	2-1-2014	123-052-0020	4-1-2014	Adopt(T)	5-1-2014
111-040-0011	3-7-2014	Amend	4-1-2014	123-052-0030	4-1-2014	Adopt(T)	5-1-2014
111-040-0011(T)	3-7-2014	Repeal	4-1-2014	123-052-0040	4-1-2014	Adopt(T)	5-1-2014
111-040-0015	12-27-2013	Amend(T)	2-1-2014	123-052-0050	4-1-2014	Adopt(T)	5-1-2014
111-040-0015	3-7-2014	Amend	4-1-2014	123-052-0060	4-1-2014	Adopt(T)	5-1-2014
111-040-0015(T)	3-7-2014	Repeal	4-1-2014	123-052-0070	4-1-2014	Adopt(T)	5-1-2014
111-040-0025	12-27-2013	Amend(T)	2-1-2014	123-052-0080	4-1-2014	Adopt(T)	5-1-2014
111-040-0025	3-7-2014	Amend	4-1-2014	123-052-0090	4-1-2014	Adopt(T)	5-1-2014
111-040-0025(T)	3-7-2014	Repeal	4-1-2014	123-052-0100	4-1-2014	Adopt(T)	5-1-2014
111-040-0030	12-27-2013	Amend(T)	2-1-2014	123-052-0110	4-1-2014	Adopt(T)	5-1-2014
111-040-0030	3-7-2014	Amend	4-1-2014	123-052-0120	4-1-2014	Adopt(T)	5-1-2014
111-040-0030(T)	3-7-2014	Repeal	4-1-2014	123-052-0130	4-1-2014	Adopt(T)	5-1-2014
111-040-0040	12-27-2013	Amend(T)	2-1-2014	123-052-0140	4-1-2014	Adopt(T)	5-1-2014
111-040-0040	3-7-2014	Amend	4-1-2014	123-052-0150	4-1-2014	Adopt(T)	5-1-2014
111-040-0040(T)	3-7-2014	Repeal	4-1-2014	123-095-0000	12-1-2013	Amend	1-1-2014
111-040-0050	12-27-2013	Amend(T)	2-1-2014	123-095-0000(T)	12-1-2013	Repeal	1-1-2014
111-040-0050	3-7-2014	Amend	4-1-2014	123-095-0010	12-1-2013	Amend	1-1-2014
111-040-0050(T)	3-7-2014	Repeal	4-1-2014	123-095-0010(T)	12-1-2013	Repeal	1-1-2014
115-025-0005	3-14-2014	Amend(T)	4-1-2014	123-095-0020	12-1-2013	Repeal	1-1-2014
115-025-0010	3-14-2014	Amend(T)	4-1-2014	123-095-0030	12-1-2013	Amend	1-1-2014
115-025-0030	3-14-2014	Amend(T)	4-1-2014	123-095-0030(T)	12-1-2013	Repeal	1-1-2014
115-025-0065	3-14-2014	Amend(T)	4-1-2014	123-095-0035	12-1-2013	Adopt	1-1-2014
115-025-0070	3-14-2014	Amend(T)	4-1-2014	123-095-0035(T)	12-1-2013	Repeal	1-1-2014
115-025-0075	3-14-2014	Amend(T)	4-1-2014	123-095-0040	12-1-2013	Amend	1-1-2014
123-006-0035	12-30-2013	Amend(T)	2-1-2014	123-095-0040(T)	12-1-2013	Repeal	1-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
123-630-0000	4-1-2014	Amend	5-1-2014	137-055-1100	4-1-2014	Amend	5-1-2014
123-630-0000(T)	4-1-2014	Repeal	5-1-2014	137-055-2170	1-13-2014	Amend(T)	2-1-2014
123-630-0010	4-1-2014	Amend	5-1-2014	137-055-3300	4-1-2014	Amend	5-1-2014
123-630-0010(T)	4-1-2014	Repeal	5-1-2014	137-055-3360	4-1-2014	Amend	5-1-2014
123-630-0020	4-1-2014	Amend	5-1-2014	137-055-3420	1-13-2014	Amend(T)	2-1-2014
123-630-0020(T)	4-1-2014	Repeal	5-1-2014	137-055-3435	4-1-2014	Amend	5-1-2014
123-630-0030	4-1-2014	Amend	5-1-2014	137-055-3660	4-1-2014	Amend	5-1-2014
123-630-0030(T)	4-1-2014	Repeal	5-1-2014	137-055-5510	4-1-2014	Amend	5-1-2014
123-630-0040	4-1-2014	Amend	5-1-2014	137-055-6120	4-1-2014	Amend	5-1-2014
123-630-0040(T)	4-1-2014	Repeal	5-1-2014	137-055-7180	4-1-2014	Amend	5-1-2014
123-630-0050	4-1-2014	Amend	5-1-2014	137-084-0500	4-1-2014	Amend	5-1-2014
123-630-0050(T)	4-1-2014	Repeal	5-1-2014	137-110-0001	1-31-2014	Repeal	3-1-2014
123-630-0060	4-1-2014	Amend	5-1-2014	137-110-0005	1-31-2014	Repeal	3-1-2014
123-630-0060(T)	4-1-2014	Repeal	5-1-2014	137-110-0010	1-31-2014	Amend	3-1-2014
123-630-0070	4-1-2014	Amend	5-1-2014	137-110-0020	1-31-2014	Repeal	3-1-2014
123-630-0070(T)	4-1-2014	Repeal	5-1-2014	137-110-0110	1-31-2014	Amend	3-1-2014
123-630-0080	4-1-2014	Amend	5-1-2014	137-110-0200	1-31-2014	Amend	3-1-2014
123-630-0080(T)	4-1-2014	Repeal	5-1-2014	137-110-0210	1-31-2014	Amend	3-1-2014
123-630-0090	4-1-2014	Amend	5-1-2014	137-110-0300	1-31-2014	Adopt	3-1-2014
123-630-0090(T)	4-1-2014	Repeal	5-1-2014	137-110-0410	1-31-2014	Amend	3-1-2014
123-630-0100	4-1-2014	Amend	5-1-2014	137-110-0420	1-31-2014	Amend	3-1-2014
123-630-0100(T)	4-1-2014	Repeal	5-1-2014	137-110-0430	1-31-2014	Repeal	3-1-2014
123-630-0110	4-1-2014	Adopt	5-1-2014	137-110-0500	1-31-2014	Repeal	3-1-2014
125-015-0200	4-9-2014	Adopt	5-1-2014	137-110-0510	1-31-2014	Repeal	3-1-2014
125-015-0200(T)	4-9-2014	Repeal	5-1-2014	137-110-0520	1-31-2014	Repeal	3-1-2014
125-045-0235	1-1-2014	Amend	2-1-2014	137-110-0600	1-31-2014	Amend	3-1-2014
125-055-0100	1-1-2014	Amend	2-1-2014	137-110-0605	1-31-2014	Adopt	3-1-2014
125-055-0105	1-1-2014	Amend	2-1-2014	137-110-0610	1-31-2014	Amend	3-1-2014
125-055-0115	1-1-2014	Amend	2-1-2014	137-110-0620	1-31-2014	Amend	3-1-2014
125-055-0120	1-1-2014	Amend	2-1-2014	137-110-0630	1-31-2014	Amend	3-1-2014
125-055-0125	1-1-2014	Amend	2-1-2014	137-110-0640	1-31-2014	Amend	3-1-2014
125-055-0130	1-1-2014	Amend	2-1-2014	137-110-0650	1-31-2014	Amend	3-1-2014
125-246-0100	1-1-2014	Amend	2-1-2014	137-110-0660	1-31-2014	Repeal	3-1-2014
125-246-0110	1-1-2014	Amend	2-1-2014	137-110-0670	1-31-2014	Amend	3-1-2014
125-246-0130	1-1-2014	Amend	2-1-2014	137-110-0675	1-31-2014	Adopt	3-1-2014
125-246-0165	1-1-2014	Amend	2-1-2014	137-120-0010	1-31-2014	Repeal	3-1-2014
125-246-0170	1-1-2014	Amend	2-1-2014	137-120-0020	1-31-2014	Amend	3-1-2014
125-246-0350	1-1-2014	Amend	2-1-2014	141-030-0015	2-1-2014	Amend	2-1-2014
125-246-0360	1-1-2014	Amend	2-1-2014	141-030-0025	2-1-2014	Amend	2-1-2014
125-246-0400	1-1-2014	Amend	2-1-2014	141-030-0036	2-1-2014	Repeal	2-1-2014
125-246-0500	1-1-2014	Amend	2-1-2014	141-030-0037	2-1-2014	Amend	2-1-2014
125-246-0556	1-1-2014	Amend	2-1-2014	141-035-0012	2-1-2014	Amend	2-1-2014
125-246-0570	1-1-2014	Amend	2-1-2014	141-035-0013	2-1-2014	Amend	2-1-2014
125-246-0900	1-1-2014	Amend	2-1-2014	141-035-0015	2-1-2014	Repeal	2-1-2014
125-247-0170	1-1-2014	Amend	2-1-2014	141-035-0016	2-1-2014	Amend	2-1-2014
125-247-0200	1-1-2014	Amend	2-1-2014	141-035-0018	2-1-2014	Amend	2-1-2014
125-247-0265	1-1-2014	Amend	2-1-2014	141-035-0020	2-1-2014	Amend	2-1-2014
125-247-0270	1-1-2014	Amend	2-1-2014	141-035-0025	2-1-2014	Amend	2-1-2014
125-247-0805	1-1-2014	Amend	2-1-2014	141-035-0030	2-1-2014	Amend	2-1-2014
125-248-0130	1-1-2014	Amend	2-1-2014	141-035-0035	2-1-2014	Amend	2-1-2014
137-003-0505	2-1-2014	Amend(T)	3-1-2014	141-035-0040	2-1-2014	Amend	2-1-2014
137-003-0505	4-1-2014	Amend	5-1-2014	141-035-0045	2-1-2014	Amend	2-1-2014
137-003-0505(T)	4-1-2014	Repeal	5-1-2014	141-035-0047	2-1-2014	Amend	2-1-2014
137-003-0640	2-1-2014	Amend(T)	3-1-2014	141-035-0048	2-1-2014	Amend	2-1-2014
137-003-0640	4-1-2014	Amend	5-1-2014	141-035-0050	2-1-2014	Amend	2-1-2014
137-003-0640(T)	4-1-2014	Repeal	5-1-2014	141-035-0065	2-1-2014	Amend	2-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
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
141-145-0090	2-1-2014	Adopt	2-1-2014	150-316.792	1-1-2014	Adopt	2-1-2014
150-118.005	12-26-2013	Adopt	2-1-2014	150-317.010(4)	1-1-2014	Amend	2-1-2014
150-118.010	12-26-2013	Adopt	2-1-2014	150-317.067	1-1-2014	Amend	2-1-2014
150-118.010(1)	12-26-2013	Amend	2-1-2014	150-457.440(9)	1-1-2014	Amend	2-1-2014
150-118.010(2)	12-26-2013	Amend	2-1-2014	160-010-0700	1-1-2014	Adopt	2-1-2014
150-118.010(3)	12-26-2013	Amend	2-1-2014	160-010-0700	1-3-2014	Adopt	2-1-2014
150-118.010(4)(b)	12-26-2013	Amend	2-1-2014	160-010-0701	1-1-2014	Adopt	2-1-2014
150-118.010(7)	12-26-2013	Amend	2-1-2014	160-010-0701	1-3-2014	Adopt	2-1-2014
150-118.010(8)	12-26-2013	Adopt	2-1-2014	160-010-0710	1-1-2014	Adopt	2-1-2014
150-118.100(1)	12-26-2013	Amend	2-1-2014	160-010-0710	1-3-2014	Adopt	2-1-2014
150-118.100(6)	12-26-2013	Adopt	2-1-2014	160-010-0720	1-1-2014	Adopt	2-1-2014
150-118.140	12-26-2013	Amend	2-1-2014	160-010-0720	1-3-2014	Adopt	2-1-2014
150-118.160	12-26-2013	Adopt	2-1-2014	160-100-0000	3-6-2014	Amend	4-1-2014
150-118.160-(B)	12-26-2013	Amend	2-1-2014	161-006-0155	1-1-2014	Amend(T)	2-1-2014
150-118.171	12-26-2013	Amend	2-1-2014	161-006-0160	1-1-2014	Amend(T)	2-1-2014
150-118.225	12-26-2013	Amend	2-1-2014	161-025-0060	1-1-2014	Amend(T)	2-1-2014
150-118.250(1)	12-26-2013	Am. & Ren.	2-1-2014	161-570-0025	1-1-2014	Amend(T)	2-1-2014
150-118.260	12-26-2013	Adopt	2-1-2014	161-570-0030	1-1-2014	Amend(T)	2-1-2014
150-118.260(6)	12-26-2013	Amend	2-1-2014	162-010-0000	2-13-2014	Amend	3-1-2014
150-118.265	12-26-2013	Adopt	2-1-2014	162-010-0010	2-13-2014	Amend	3-1-2014
150-118.300	12-26-2013	Amend	2-1-2014	162-010-0020	2-13-2014	Amend	3-1-2014
150-137.300(3)	12-26-2013	Am. & Ren.	2-1-2014	162-010-0030	2-13-2014	Amend	3-1-2014
150-305.145(3)	1-1-2014	Amend	2-1-2014	162-010-0050	2-13-2014	Amend	3-1-2014
150-305.230	1-1-2014	Amend	2-1-2014	162-010-0115	2-13-2014	Amend	3-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
162-010-0120	2-13-2014	Amend	3-1-2014	177-075-0040	12-1-2013	Amend	1-1-2014
162-010-0130	2-13-2014	Amend	3-1-2014	177-075-0040(T)	12-1-2013	Repeal	1-1-2014
162-010-0140	2-13-2014	Amend	3-1-2014	177-094-0100	4-6-2014	Adopt	5-1-2014
162-010-0160	2-13-2014	Repeal	3-1-2014	177-099-0095	1-1-2014	Amend	2-1-2014
162-010-0170	2-13-2014	Repeal	3-1-2014	177-099-0100	4-1-2014	Amend	5-1-2014
162-010-0190	2-13-2014	Amend	3-1-2014	213-003-0001	2-3-2014	Amend	3-1-2014
162-010-0200	2-13-2014	Amend	3-1-2014	213-008-0002	2-3-2014	Amend	3-1-2014
162-010-0230	2-13-2014	Amend	3-1-2014	213-017-0004	2-3-2014	Amend	3-1-2014
162-010-0260	2-13-2014	Amend	3-1-2014	213-017-0005	2-3-2014	Amend	3-1-2014
165-001-0050	1-2-2014	Amend	2-1-2014	213-017-0005(T)	2-3-2014	Repeal	3-1-2014
165-010-0005	1-2-2014	Amend	2-1-2014	213-017-0006	2-3-2014	Amend	3-1-2014
165-010-0080	1-2-2014	Repeal	2-1-2014	213-017-0006(T)	2-3-2014	Repeal	3-1-2014
165-012-0005	1-2-2014	Amend	2-1-2014	213-017-0008	2-3-2014	Amend	3-1-2014
165-012-0240	1-2-2014	Amend	2-1-2014	213-017-0008(T)	2-3-2014	Repeal	3-1-2014
165-013-0010	1-2-2014	Amend	2-1-2014	213-017-0009	2-3-2014	Amend	3-1-2014
165-014-0005	1-2-2014	Amend	2-1-2014	213-017-0009(T)	2-3-2014	Repeal	3-1-2014
165-014-0030	1-7-2014	Amend	2-1-2014	213-018-0012	2-3-2014	Adopt	3-1-2014
165-016-0000	3-11-2014	Adopt	4-1-2014	213-018-0012(T)	2-3-2014	Repeal	3-1-2014
165-016-0040	3-11-2014	Repeal	4-1-2014	213-018-0013	2-3-2014	Adopt	3-1-2014
165-016-0045	3-11-2014	Repeal	4-1-2014	213-018-0013(T)	2-3-2014	Repeal	3-1-2014
165-016-0050	3-11-2014	Repeal	4-1-2014	213-018-0036	2-3-2014	Adopt	3-1-2014
165-016-0055	3-11-2014	Repeal	4-1-2014	213-018-0036(T)	2-3-2014	Repeal	3-1-2014
165-016-0060	3-11-2014	Repeal	4-1-2014	213-019-0008	2-3-2014	Amend	3-1-2014
165-016-0070	3-11-2014	Repeal	4-1-2014	213-019-0008(T)	2-3-2014	Repeal	3-1-2014
165-016-0080	3-11-2014	Repeal	4-1-2014	213-019-0010	2-3-2014	Amend	3-1-2014
165-016-0100	3-11-2014	Repeal	4-1-2014	213-019-0012	2-3-2014	Amend	3-1-2014
165-016-0105	3-11-2014	Repeal	4-1-2014	213-019-0015	2-3-2014	Amend	3-1-2014
165-016-2014	2-13-2014	Adopt(T)	3-1-2014	250-001-0000	1-15-2014	Amend	2-1-2014
165-020-0025	1-2-2014	Repeal	2-1-2014	250-001-0005	1-15-2014	Amend	2-1-2014
166-005-0010	2-25-2014	Amend	4-1-2014	250-001-0040	1-15-2014	Adopt	2-1-2014
166-150-0005	2-25-2014	Amend	4-1-2014	250-001-0050	1-15-2014	Adopt	2-1-2014
166-150-0035	2-25-2014	Amend	4-1-2014	250-001-0060	1-15-2014	Adopt	2-1-2014
166-150-0040	2-25-2014	Amend	4-1-2014	250-015-0001	1-15-2014	Amend	2-1-2014
166-150-0095	2-25-2014	Amend	4-1-2014	250-015-0002	1-15-2014	Amend	2-1-2014
166-150-0135	2-25-2014	Amend	4-1-2014	250-015-0005	1-15-2014	Amend	2-1-2014
166-150-0210	2-25-2014	Amend	4-1-2014	250-015-0006	1-15-2014	Amend	2-1-2014
167-001-0007	3-1-2014	Amend	4-1-2014	250-015-0008	1-15-2014	Amend	2-1-2014
167-001-0020	3-1-2014	Amend	4-1-2014	250-015-0010	1-15-2014	Amend	2-1-2014
167-001-0030	3-1-2014	Amend	4-1-2014	250-015-0011	1-15-2014	Repeal	2-1-2014
167-001-0040	3-1-2014	Repeal	4-1-2014	250-015-0015	1-15-2014	Repeal	2-1-2014
167-001-0050	3-1-2014	Repeal	4-1-2014	250-015-0016	1-15-2014	Repeal	2-1-2014
167-001-0060	3-1-2014	Repeal	4-1-2014	250-015-0017	1-15-2014	Repeal	2-1-2014
167-001-0065	3-1-2014	Repeal	4-1-2014	250-015-0019	1-15-2014	Repeal	2-1-2014
167-001-0070	3-1-2014	Repeal	4-1-2014	250-015-0020	1-15-2014	Repeal	2-1-2014
167-001-0081	3-1-2014	Amend	4-1-2014	250-015-0021	1-15-2014	Repeal	2-1-2014
167-001-0085	3-1-2014	Repeal	4-1-2014	250-015-0022	1-15-2014	Amend	2-1-2014
167-001-0300	3-1-2014	Amend	4-1-2014	250-015-0023	1-15-2014	Repeal	2-1-2014
167-001-0360	3-1-2014	Amend	4-1-2014	250-015-0024	1-15-2014	Repeal	2-1-2014
167-001-0600	3-1-2014	Amend	4-1-2014	250-015-0025	1-15-2014	Repeal	2-1-2014
167-001-0620	3-1-2014	Amend	4-1-2014	250-015-0026	1-15-2014	Amend	2-1-2014
167-001-0625	3-1-2014	Repeal	4-1-2014	250-015-0027	1-15-2014	Repeal	2-1-2014
167-001-0635	3-1-2014	Amend	4-1-2014	250-015-0028	1-15-2014	Repeal	2-1-2014
170-063-0000	1-15-2014	Amend(T)	2-1-2014	250-015-0029	1-15-2014	Repeal	2-1-2014
170-063-0000	4-11-2014	Amend	5-1-2014	250-015-0031	1-15-2014	Repeal	2-1-2014
173-006-0005	12-19-2013	Amend	2-1-2014	250-015-0032	1-15-2014	Repeal	2-1-2014
173-008-0005	12-19-2013	Amend	2-1-2014	250-015-0033	1-15-2014	Repeal	2-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
250-015-0035	1-15-2014	Adopt	2-1-2014	259-009-0005	4-3-2014	Amend	5-1-2014
250-016-0080	1-15-2014	Amend	2-1-2014	259-009-0062	2-6-2014	Amend	3-1-2014
250-016-0090	1-15-2014	Adopt	2-1-2014	259-009-0062	4-3-2014	Amend	5-1-2014
250-019-0010	1-15-2014	Repeal	2-1-2014	259-009-0070	1-28-2014	Amend	3-1-2014
250-019-0020	1-15-2014	Repeal	2-1-2014	259-013-0000	1-2-2014	Amend	2-1-2014
250-019-0030	1-15-2014	Repeal	2-1-2014	259-013-0220	1-2-2014	Amend	2-1-2014
250-019-0040	1-15-2014	Repeal	2-1-2014	259-013-0230	1-2-2014	Amend	2-1-2014
250-019-0050	1-15-2014	Repeal	2-1-2014	259-060-0300	1-2-2014	Amend	2-1-2014
250-019-0060	1-15-2014	Repeal	2-1-2014	259-060-0300	1-28-2014	Amend	3-1-2014
250-019-0070	1-15-2014	Repeal	2-1-2014	259-060-0300	3-6-2014	Amend(T)	4-1-2014
250-019-0080	1-15-2014	Repeal	2-1-2014	274-015-0010	1-1-2014	Amend	2-1-2014
250-020-0032	1-15-2014	Amend	2-1-2014	274-015-0010(T)	1-1-2014	Repeal	2-1-2014
250-020-0033	3-10-2014	Amend(T)	4-1-2014	291-014-0100	12-13-2013	Amend	1-1-2014
250-020-0033(T)	3-13-2014	Suspend	4-1-2014	291-014-0100	1-14-2014	Amend	2-1-2014
250-020-0221	4-11-2014	Amend(T)	5-1-2014	291-014-0110	12-13-2013	Amend	1-1-2014
250-020-0385	1-15-2014	Amend	2-1-2014	291-014-0110	1-14-2014	Amend	2-1-2014
255-030-0010	11-27-2013	Amend	1-1-2014	291-014-0120	12-13-2013	Amend	1-1-2014
255-030-0013	11-27-2013	Amend	1-1-2014	291-014-0120	1-14-2014	Amend	2-1-2014
255-030-0021	11-27-2013	Amend	1-1-2014	291-041-0018	12-13-2013	Adopt(T)	1-1-2014
255-030-0023	11-27-2013	Amend	1-1-2014	291-041-0018	1-17-2014	Adopt(T)	3-1-2014
255-030-0024	11-27-2013	Amend	1-1-2014	291-041-0018	3-4-2014	Adopt	4-1-2014
255-030-0025	11-27-2013	Amend	1-1-2014	291-041-0018(T)	3-4-2014	Repeal	4-1-2014
255-030-0026	11-27-2013	Amend	1-1-2014	291-041-0020	12-13-2013	Amend(T)	1-1-2014
255-030-0027	11-27-2013	Amend	1-1-2014	291-041-0020	1-17-2014	Amend(T)	3-1-2014
255-030-0032	11-27-2013	Amend	1-1-2014	291-041-0020	3-4-2014	Amend	4-1-2014
255-030-0035	11-27-2013	Amend	1-1-2014	291-041-0020(T)	3-4-2014	Repeal	4-1-2014
255-030-0040	11-27-2013	Amend	1-1-2014	291-073-0100	3-3-2014	Adopt	4-1-2014
255-030-0046	11-27-2013	Adopt	1-1-2014	291-073-0110	3-3-2014	Adopt	4-1-2014
255-030-0055	11-27-2013	Amend	1-1-2014	291-077-0035	12-1-2013	Amend	1-1-2014
255-060-0012	1-17-2014	Amend(T)	3-1-2014	291-077-0035	1-14-2014	Amend	2-1-2014
255-062-0016	11-27-2013	Amend	1-1-2014	291-097-0231	12-13-2013	Adopt(T)	1-1-2014
255-075-0079	2-14-2014	Amend(T)	3-1-2014	291-097-0231	1-17-2014	Adopt(T)	3-1-2014
255-075-0079(T)	2-24-2014	Suspend	4-1-2014	291-104-0111	2-12-2014	Amend(T)	3-1-2014
255-080-0008	3-27-2014	Amend(T)	5-1-2014	291-104-0116	2-12-2014	Amend(T)	3-1-2014
255-080-0011	3-27-2014	Amend(T)	5-1-2014	291-104-0125	2-12-2014	Amend(T)	3-1-2014
259-008-0005	1-2-2014	Amend	2-1-2014	291-104-0135	2-12-2014	Amend(T)	3-1-2014
259-008-0005	1-29-2014	Amend	3-1-2014	291-104-0140	2-12-2014	Amend(T)	3-1-2014
259-008-0010	1-2-2014	Amend	2-1-2014	291-109-0125	12-13-2013	Suspend	1-1-2014
259-008-0020	1-2-2014	Amend	2-1-2014	291-109-0125	1-17-2014	Suspend	3-1-2014
259-008-0020	1-29-2014	Amend	3-1-2014	291-109-0125	3-3-2014	Repeal	4-1-2014
259-008-0025	1-2-2014	Amend	2-1-2014	291-109-0125(T)	3-3-2014	Repeal	4-1-2014
259-008-0025	1-2-2014	Amend	2-1-2014	291-109-0180	12-13-2013	Amend(T)	1-1-2014
259-008-0025	4-10-2014	Amend	5-1-2014	291-109-0180	1-17-2014	Amend(T)	3-1-2014
259-008-0060	1-2-2014	Amend	2-1-2014	291-109-0180	3-3-2014	Amend	4-1-2014
259-008-0067	1-29-2014	Amend	3-1-2014	291-109-0180(T)	3-3-2014	Repeal	4-1-2014
259-008-0069	1-2-2014	Amend	2-1-2014	291-109-0200	12-13-2013	Adopt(T)	1-1-2014
259-008-0070	1-2-2014	Amend	2-1-2014	291-109-0200	1-17-2014	Adopt(T)	3-1-2014
259-008-0070	1-28-2014	Amend	3-1-2014	291-109-0200	3-3-2014	Adopt	4-1-2014
259-008-0070	2-27-2014	Amend(T)	4-1-2014	291-109-0200(T)	3-3-2014	Repeal	4-1-2014
259-008-0075	1-2-2014	Amend	2-1-2014	309-011-0070	1-28-2014	Repeal	3-1-2014
259-008-0080	1-2-2014	Amend	2-1-2014	309-011-0075	1-28-2014	Repeal	3-1-2014
259-008-0080	1-29-2014	Amend	3-1-2014	309-011-0080	1-28-2014	Repeal	3-1-2014
259-008-0090	1-2-2014	Amend	2-1-2014	309-011-0085	1-28-2014	Repeal	3-1-2014
259-008-0090	1-29-2014	Amend	3-1-2014	309-011-0090	1-28-2014	Repeal	3-1-2014
259-008-0100	1-2-2014	Amend	2-1-2014	309-011-0095	1-28-2014	Repeal	3-1-2014
259-009-0005	2-6-2014	Amend	3-1-2014	309-012-0130	12-20-2013	Amend(T)	2-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
309-022-0125	2-3-2014	Adopt	3-1-2014	309-032-1555	2-3-2014	Repeal	3-1-2014
309-022-0125(T)	2-3-2014	Repeal	3-1-2014	309-032-1560	2-3-2014	Repeal	3-1-2014
309-022-0130	2-3-2014	Adopt	3-1-2014	309-032-1565	2-3-2014	Repeal	3-1-2014
309-022-0130(T)	2-3-2014	Repeal	3-1-2014	309-034-0400	2-3-2014	Repeal	3-1-2014
309-022-0135	2-3-2014	Adopt	3-1-2014	309-034-0410	2-3-2014	Repeal	3-1-2014
309-022-0135(T)	2-3-2014	Repeal	3-1-2014	309-034-0420	2-3-2014	Repeal	3-1-2014
309-022-0140	2-3-2014	Adopt	3-1-2014	309-034-0430	2-3-2014	Repeal	3-1-2014
309-022-0140(T)	2-3-2014	Repeal	3-1-2014	309-034-0440	2-3-2014	Repeal	3-1-2014
309-022-0145	2-3-2014	Adopt	3-1-2014	309-034-0450	2-3-2014	Repeal	3-1-2014
309-022-0145(T)	2-3-2014	Repeal	3-1-2014	309-034-0460	2-3-2014	Repeal	3-1-2014
309-022-0150	2-3-2014	Adopt	3-1-2014	309-034-0470	2-3-2014	Repeal	3-1-2014
309-022-0150(T)	2-3-2014	Repeal	3-1-2014	309-034-0480	2-3-2014	Repeal	3-1-2014
309-022-0155	2-3-2014	Adopt	3-1-2014	309-034-0490	2-3-2014	Repeal	3-1-2014
309-022-0155(T)	2-3-2014	Repeal	3-1-2014	309-034-0500	2-3-2014	Repeal	3-1-2014
309-022-0160	2-3-2014	Adopt	3-1-2014	309-039-0500	12-20-2013	Amend(T)	2-1-2014
309-022-0160(T)	2-3-2014	Repeal	3-1-2014	309-039-0510	12-20-2013	Amend(T)	2-1-2014
309-022-0165	2-3-2014	Adopt	3-1-2014	309-039-0520	12-20-2013	Amend(T)	2-1-2014
309-022-0165(T)	2-3-2014	Repeal	3-1-2014	309-039-0530	12-20-2013	Amend(T)	2-1-2014
309-022-0170	2-3-2014	Adopt	3-1-2014	309-039-0540	12-20-2013	Amend(T)	2-1-2014
309-022-0170(T)	2-3-2014	Repeal	3-1-2014	309-039-0570	12-20-2013	Amend(T)	2-1-2014
309-022-0175	2-3-2014	Adopt	3-1-2014	309-041-1190	4-1-2014	Repeal	5-1-2014
309-022-0175(T)	2-3-2014	Repeal	3-1-2014	309-041-1200	4-1-2014	Repeal	5-1-2014
309-022-0180	2-3-2014	Adopt	3-1-2014	309-041-1210	4-1-2014	Repeal	5-1-2014
309-022-0180(T)	2-3-2014	Repeal	3-1-2014	309-041-1220	4-1-2014	Repeal	5-1-2014
309-022-0185	2-3-2014	Adopt	3-1-2014	309-041-1230	4-1-2014	Repeal	5-1-2014
309-022-0185(T)	2-3-2014	Repeal	3-1-2014	309-041-1240	4-1-2014	Repeal	5-1-2014
309-022-0190	2-3-2014	Adopt	3-1-2014	309-041-1250	4-1-2014	Repeal	5-1-2014
309-022-0190(T)	2-3-2014	Repeal	3-1-2014	309-100-0000	1-28-2014	Repeal	3-1-2014
309-022-0192(T)	2-3-2014	Repeal	3-1-2014	325-005-0015	3-21-2014	Amend	5-1-2014
309-022-0195	2-3-2014	Adopt	3-1-2014	330-070-0014	1-1-2014	Amend	2-1-2014
309-022-0195(T)	2-3-2014	Repeal	3-1-2014	330-070-0019	1-1-2014	Repeal	2-1-2014
309-022-0200	2-3-2014	Adopt	3-1-2014	330-070-0020	1-1-2014	Amend	2-1-2014
309-022-0200(T)	2-3-2014	Repeal	3-1-2014	330-070-0021	1-1-2014	Amend	2-1-2014
309-022-0205	2-3-2014	Adopt	3-1-2014	330-070-0022	1-1-2014	Amend	2-1-2014
309-022-0205(T)	2-3-2014	Repeal	3-1-2014	330-070-0025	1-1-2014	Amend	2-1-2014
309-022-0210	2-3-2014	Adopt	3-1-2014	330-070-0026	1-1-2014	Amend	2-1-2014
309-022-0210(T)	2-3-2014	Repeal	3-1-2014	330-070-0029	1-1-2014	Amend	2-1-2014
309-022-0215	2-3-2014	Adopt	3-1-2014	330-070-0064	1-1-2014	Amend	2-1-2014
309-022-0215(T)	2-3-2014	Repeal	3-1-2014	330-070-0073	1-1-2014	Amend	2-1-2014
309-022-0220	2-3-2014	Adopt	3-1-2014	330-090-0133	4-1-2014	Amend	5-1-2014
309-022-0220(T)	2-3-2014	Repeal	3-1-2014	330-092-0005	1-1-2014	Amend	2-1-2014
309-022-0225	2-3-2014	Adopt	3-1-2014	330-092-0010	1-1-2014	Amend	2-1-2014
309-022-0225(T)	2-3-2014	Repeal	3-1-2014	330-092-0015	1-1-2014	Amend	2-1-2014
309-022-0230	2-3-2014	Adopt	3-1-2014	330-092-0020	1-1-2014	Amend	2-1-2014
309-022-0230(T)	2-3-2014	Repeal	3-1-2014	330-092-0025	1-1-2014	Amend	2-1-2014
309-032-1500	2-3-2014	Repeal	3-1-2014	330-092-0030	1-1-2014	Amend	2-1-2014
309-032-1505	2-3-2014	Repeal	3-1-2014	330-092-0035	1-1-2014	Amend	2-1-2014
309-032-1510	2-3-2014	Repeal	3-1-2014	330-092-0040	1-1-2014	Amend	2-1-2014
309-032-1515	2-3-2014	Repeal	3-1-2014	330-092-0045	1-1-2014	Amend	2-1-2014
309-032-1520	2-3-2014	Repeal	3-1-2014	330-092-0050	1-1-2014	Amend	2-1-2014
309-032-1525	2-3-2014	Repeal	3-1-2014	330-092-0055	1-1-2014	Amend	2-1-2014
309-032-1530	2-3-2014	Repeal	3-1-2014	330-092-0060	1-1-2014	Repeal	2-1-2014
309-032-1535	2-3-2014	Repeal	3-1-2014	330-092-0065	1-1-2014	Repeal	2-1-2014
309-032-1540	2-3-2014	Repeal	3-1-2014	330-092-0070	1-1-2014	Amend	2-1-2014
309-032-1545	2-3-2014	Repeal	3-1-2014	330-110-0010	12-12-2013	Amend	1-1-2014
309-032-1550	2-3-2014	Repeal	3-1-2014	330-110-0012	3-7-2014	Adopt	4-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
330-110-0040	12-12-2013	Amend	1-1-2014	331-900-0095	1-1-2014	Amend	2-1-2014
330-110-0040(T)	12-12-2013	Repeal	1-1-2014	331-900-0097	1-1-2014	Amend	2-1-2014
330-110-0060	12-12-2013	Adopt	1-1-2014	331-900-0098	1-1-2014	Amend	2-1-2014
330-135-0010	12-23-2013	Amend	2-1-2014	331-900-0099	1-1-2014	Amend	2-1-2014
330-135-0015	12-23-2013	Amend	2-1-2014	331-900-0115	1-1-2014	Amend	2-1-2014
330-135-0018	12-23-2013	Amend	2-1-2014	331-905-0020	1-1-2014	Amend	2-1-2014
330-135-0020	12-23-2013	Amend	2-1-2014	331-905-0030	1-1-2014	Amend	2-1-2014
330-135-0025	12-23-2013	Amend	2-1-2014	331-905-0052	1-1-2014	Amend	2-1-2014
330-135-0030	12-23-2013	Amend	2-1-2014	331-905-0058	1-1-2014	Amend	2-1-2014
330-135-0035	12-23-2013	Amend	2-1-2014	331-905-0095	1-1-2014	Amend	2-1-2014
330-135-0040	12-23-2013	Amend	2-1-2014	331-910-0005	1-1-2014	Amend	2-1-2014
330-135-0045	12-23-2013	Amend	2-1-2014	331-910-0010	1-1-2014	Amend	2-1-2014
330-135-0047	12-23-2013	Repeal	2-1-2014	331-910-0055	1-1-2014	Amend	2-1-2014
330-135-0048	12-23-2013	Am. & Ren.	2-1-2014	331-910-0060	1-1-2014	Amend	2-1-2014
330-135-0050	12-23-2013	Amend	2-1-2014	331-915-0020	1-1-2014	Amend	2-1-2014
330-135-0055	12-23-2013	Amend	2-1-2014	331-915-0055	1-1-2014	Amend	2-1-2014
330-135-0060	12-23-2013	Adopt	2-1-2014	331-915-0060	1-1-2014	Amend	2-1-2014
330-160-0015	2-10-2014	Amend	3-1-2014	331-915-0065	1-1-2014	Amend	2-1-2014
330-160-0020	2-10-2014	Amend	3-1-2014	331-915-0070	1-1-2014	Amend	2-1-2014
330-160-0025	2-10-2014	Amend	3-1-2014	331-925-0050	1-1-2014	Amend	2-1-2014
330-160-0030	2-10-2014	Amend	3-1-2014	331-940-0000	1-1-2014	Amend	2-1-2014
330-160-0035	2-10-2014	Adopt	3-1-2014	331-950-0040	1-1-2014	Amend	2-1-2014
330-160-0037	2-10-2014	Adopt	3-1-2014	332-020-0010	1-1-2014	Amend	2-1-2014
330-160-0038	2-10-2014	Adopt	3-1-2014	332-020-0015	1-1-2014	Amend	2-1-2014
330-160-0040	2-10-2014	Amend	3-1-2014	333-008-0010	1-13-2014	Amend	2-1-2014
330-160-0050	2-10-2014	Amend	3-1-2014	333-008-0010	1-15-2014	Amend(T)	2-1-2014
330-160-0060	2-10-2014	Adopt	3-1-2014	333-008-0020	1-13-2014	Amend	2-1-2014
330-160-0070	2-10-2014	Adopt	3-1-2014	333-008-0020	1-15-2014	Amend(T)	2-1-2014
330-170-0010	1-1-2014	Amend	2-1-2014	333-008-0020(T)	1-13-2014	Repeal	2-1-2014
330-170-0020	1-1-2014	Amend	2-1-2014	333-008-0025	1-15-2014	Amend(T)	2-1-2014
330-170-0030	1-1-2014	Amend	2-1-2014	333-008-0045	1-13-2014	Amend	2-1-2014
330-170-0040	1-1-2014	Amend	2-1-2014	333-008-0045	1-15-2014	Amend(T)	2-1-2014
330-170-0050	1-1-2014	Amend	2-1-2014	333-008-0050	1-15-2014	Amend(T)	2-1-2014
330-170-0060	1-1-2014	Amend	2-1-2014	333-008-0120	1-15-2014	Amend(T)	2-1-2014
331-010-0060	4-3-2014	Adopt(T)	5-1-2014	333-008-1000	1-15-2014	Adopt(T)	2-1-2014
331-010-0070	4-3-2014	Adopt(T)	5-1-2014	333-008-1010	1-15-2014	Adopt(T)	2-1-2014
331-440-0000	2-1-2014	Amend	2-1-2014	333-008-1020	1-15-2014	Adopt(T)	2-1-2014
331-710-0050	1-1-2014	Amend	2-1-2014	333-008-1030	1-15-2014	Adopt(T)	2-1-2014
331-710-0060	1-1-2014	Amend	2-1-2014	333-008-1040	1-15-2014	Adopt(T)	2-1-2014
331-710-0070	1-1-2014	Amend	2-1-2014	333-008-1050	1-15-2014	Adopt(T)	2-1-2014
331-710-0080	1-1-2014	Amend	2-1-2014	333-008-1060	1-15-2014	Adopt(T)	2-1-2014
331-710-0090	1-1-2014	Amend	2-1-2014	333-008-1070	1-15-2014	Adopt(T)	2-1-2014
331-710-0100	1-1-2014	Amend	2-1-2014	333-008-1080	1-15-2014	Adopt(T)	2-1-2014
331-710-0110	1-1-2014	Amend	2-1-2014	333-008-1090	1-15-2014	Adopt(T)	2-1-2014
331-720-0010	1-1-2014	Amend	2-1-2014	333-008-1100	1-15-2014	Adopt(T)	2-1-2014
331-720-0015	1-1-2014	Amend	2-1-2014	333-008-1110	1-15-2014	Adopt(T)	2-1-2014
331-720-0020	1-1-2014	Amend	2-1-2014	333-008-1120	1-15-2014	Adopt(T)	2-1-2014
331-810-0055	1-17-2014	Amend(T)	3-1-2014	333-008-1130	1-15-2014	Adopt(T)	2-1-2014
331-900-0010	1-1-2014	Amend	2-1-2014	333-008-1140	1-15-2014	Adopt(T)	2-1-2014
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	333-008-1190	2-21-2014	Adopt(T)	4-1-2014
331-900-0090	1-1-2014	Amend	2-1-2014	333-008-1190(T)	2-21-2014	Suspend	4-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
333-008-1200	1-15-2014	Adopt(T)	2-1-2014	333-011-0330	1-1-2014	Adopt	2-1-2014
333-008-1210	1-15-2014	Adopt(T)	2-1-2014	333-017-0000	1-1-2014	Amend	2-1-2014
333-008-1220	1-15-2014	Adopt(T)	2-1-2014	333-018-0005	1-1-2014	Amend	2-1-2014
333-008-1225	4-1-2014	Adopt(T)	5-1-2014	333-018-0010	1-1-2014	Amend	2-1-2014
333-008-1230	1-15-2014	Adopt(T)	2-1-2014	333-018-0015	1-1-2014	Amend	2-1-2014
333-008-1240	1-15-2014	Adopt(T)	2-1-2014	333-018-0018	1-1-2014	Amend	2-1-2014
333-008-1240(T)	4-1-2014	Suspend	5-1-2014	333-018-0020	1-1-2014	Amend	2-1-2014
333-008-1245	4-1-2014	Adopt(T)	5-1-2014	333-018-0035	1-1-2014	Amend	2-1-2014
333-008-1250	1-15-2014	Adopt(T)	2-1-2014	333-019-0010	1-1-2014	Amend	2-1-2014
333-008-1260	1-15-2014	Adopt(T)	2-1-2014	333-019-0014	1-1-2014	Amend	2-1-2014
333-008-1270	1-15-2014	Adopt(T)	2-1-2014	333-019-0031	1-1-2014	Amend	2-1-2014
333-008-1270(T)	4-1-2014	Suspend	5-1-2014	333-019-0046	1-1-2014	Repeal	2-1-2014
333-008-1275	4-1-2014	Adopt(T)	5-1-2014	333-019-0052	1-1-2014	Adopt	2-1-2014
333-008-1280	1-15-2014	Adopt(T)	2-1-2014	333-024-0205	5-1-2014	Amend	5-1-2014
333-008-1290	1-15-2014	Adopt(T)	2-1-2014	333-024-0210	5-1-2014	Amend	5-1-2014
333-008-1400	4-1-2014	Adopt(T)	5-1-2014	333-024-0215	5-1-2014	Amend	5-1-2014
333-011-0006	1-1-2014	Repeal	2-1-2014	333-024-0220	5-1-2014	Amend	5-1-2014
333-011-0011	1-1-2014	Repeal	2-1-2014	333-024-0225	5-1-2014	Amend	5-1-2014
333-011-0016	1-1-2014	Repeal	2-1-2014	333-024-0230	5-1-2014	Amend	5-1-2014
333-011-0021	1-1-2014	Repeal	2-1-2014	333-024-0231	5-1-2014	Amend	5-1-2014
333-011-0043	1-1-2014	Repeal	2-1-2014	333-024-0232	5-1-2014	Amend	5-1-2014
333-011-0047	1-1-2014	Am. & Ren.	2-1-2014	333-024-0235	5-1-2014	Amend	5-1-2014
333-011-0048	1-1-2014	Repeal	2-1-2014	333-024-0240	1-30-2014	Amend	3-1-2014
333-011-0061	1-1-2014	Repeal	2-1-2014	333-024-0240	5-1-2014	Amend	5-1-2014
333-011-0067	1-1-2014	Repeal	2-1-2014	333-024-0241	1-30-2014	Repeal	3-1-2014
333-011-0072	1-1-2014	Repeal	2-1-2014	333-028-0200	1-1-2014	Adopt	2-1-2014
333-011-0073	1-1-2014	Repeal	2-1-2014	333-028-0210	1-1-2014	Adopt	2-1-2014
333-011-0076	1-1-2014	Am. & Ren.	2-1-2014	333-028-0220	1-1-2014	Adopt	2-1-2014
333-011-0096	1-1-2014	Repeal	2-1-2014	333-028-0230	1-1-2014	Adopt	2-1-2014
333-011-0101	1-1-2014	Am. & Ren.	2-1-2014	333-028-0240	1-1-2014	Adopt	2-1-2014
333-011-0106	1-1-2014	Am. & Ren.	2-1-2014	333-028-0250	1-1-2014	Adopt	2-1-2014
333-011-0110	1-1-2014	Am. & Ren.	2-1-2014	333-028-0260	4-1-2014	Adopt	5-1-2014
333-011-0116	1-1-2014	Repeal	2-1-2014	333-028-0270	4-1-2014	Adopt	5-1-2014
333-011-0155	1-1-2014	Repeal	2-1-2014	333-028-0280	4-1-2014	Adopt	5-1-2014
333-011-0200	1-1-2014	Am. & Ren.	2-1-2014	333-050-0010	3-1-2014	Amend	3-1-2014
333-011-0205	1-1-2014	Adopt	2-1-2014	333-050-0020	3-1-2014	Amend	3-1-2014
333-011-0210	1-1-2014	Adopt	2-1-2014	333-050-0040	3-1-2014	Amend	3-1-2014
333-011-0215	1-1-2014	Adopt	2-1-2014	333-050-0050	3-1-2014	Amend	3-1-2014
333-011-0220	1-1-2014	Adopt	2-1-2014	333-050-0060	3-1-2014	Amend	3-1-2014
333-011-0225	1-1-2014	Adopt	2-1-2014	333-050-0070	3-1-2014	Amend	3-1-2014
333-011-0230	1-1-2014	Adopt	2-1-2014	333-050-0080	3-1-2014	Amend	3-1-2014
333-011-0235	1-1-2014	Adopt	2-1-2014	333-050-0100	3-1-2014	Amend	3-1-2014
333-011-0240	1-1-2014	Adopt	2-1-2014	333-050-0110	3-1-2014	Amend	3-1-2014
333-011-0245	1-1-2014	Adopt	2-1-2014	333-050-0120	3-1-2014	Amend	3-1-2014
333-011-0250	1-1-2014	Adopt	2-1-2014	333-050-0130	3-1-2014	Amend	3-1-2014
333-011-0255	1-1-2014	Adopt	2-1-2014	333-050-0140	3-1-2014	Amend	3-1-2014
333-011-0260	1-1-2014	Adopt	2-1-2014	333-052-0040	1-30-2014	Amend	3-1-2014
333-011-0265	1-1-2014	Adopt	2-1-2014	333-052-0043	1-30-2014	Amend	3-1-2014
333-011-0270	1-1-2014	Adopt	2-1-2014	333-052-0044	1-30-2014	Amend	3-1-2014
333-011-0280	1-1-2014	Adopt	2-1-2014	333-052-0120	1-30-2014	Amend	3-1-2014
333-011-0285	1-1-2014	Adopt	2-1-2014	333-053-0000	1-30-2014	Adopt	3-1-2014
333-011-0300	1-1-2014	Adopt	2-1-2014	333-054-0052	1-30-2014	Adopt	3-1-2014
333-011-0305	1-1-2014	Adopt	2-1-2014	333-055-0100	11-19-2013	Adopt	1-1-2014
333-011-0310	1-1-2014	Adopt	2-1-2014	333-055-0100(T)	11-19-2013	Repeal	1-1-2014
333-011-0320	1-1-2014	Adopt	2-1-2014	333-055-0105	11-19-2013	Adopt	1-1-2014
333-011-0325	1-1-2014	Adopt	2-1-2014	333-055-0105(T)	11-19-2013	Repeal	1-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
333-055-0110	11-19-2013	Adopt	1-1-2014	340-011-0310	1-6-2014	Amend	2-1-2014
333-055-0110(T)	11-19-2013	Repeal	1-1-2014	340-011-0330	1-6-2014	Amend	2-1-2014
333-055-0115	11-19-2013	Adopt	1-1-2014	340-011-0340	1-6-2014	Amend	2-1-2014
333-056-0020	1-1-2014	Amend	2-1-2014	340-011-0360	1-6-2014	Amend	2-1-2014
333-056-0030	1-1-2014	Amend	2-1-2014	340-011-0370	1-6-2014	Amend	2-1-2014
333-056-0040	1-1-2014	Amend	2-1-2014	340-011-0380	1-6-2014	Amend	2-1-2014
333-056-0045	1-1-2014	Adopt	2-1-2014	340-011-0390	1-6-2014	Amend	2-1-2014
333-056-0050	1-1-2014	Amend	2-1-2014	340-011-0500	1-6-2014	Amend	2-1-2014
333-076-0670	1-1-2014	Amend(T)	2-1-2014	340-011-0510	1-6-2014	Amend	2-1-2014
333-081-0000	2-1-2014	Adopt	3-1-2014	340-011-0515	1-6-2014	Amend	2-1-2014
333-081-0005	2-1-2014	Adopt	3-1-2014	340-011-0520	1-6-2014	Amend	2-1-2014
333-081-0010	2-1-2014	Adopt	3-1-2014	340-011-0525	1-6-2014	Amend	2-1-2014
333-081-0015	2-1-2014	Adopt	3-1-2014	340-011-0530	1-6-2014	Amend	2-1-2014
333-081-0020	2-1-2014	Adopt	3-1-2014	340-011-0535	1-6-2014	Amend	2-1-2014
333-081-0025	2-1-2014	Adopt	3-1-2014	340-011-0540	1-6-2014	Amend	2-1-2014
333-081-0030	2-1-2014	Adopt	3-1-2014	340-011-0545	1-6-2014	Amend	2-1-2014
333-081-0035	2-1-2014	Adopt	3-1-2014	340-011-0550	1-6-2014	Amend	2-1-2014
333-081-0040	2-1-2014	Adopt	3-1-2014	340-011-0555	1-6-2014	Amend	2-1-2014
333-081-0045	2-1-2014	Adopt	3-1-2014	340-011-0565	1-6-2014	Amend	2-1-2014
333-081-0050	2-1-2014	Adopt	3-1-2014	340-011-0570	1-6-2014	Amend	2-1-2014
333-081-0055	2-1-2014	Adopt	3-1-2014	340-011-0573	1-6-2014	Amend	2-1-2014
333-081-0060	2-1-2014	Adopt	3-1-2014	340-011-0575	1-6-2014	Amend	2-1-2014
333-081-0065	2-1-2014	Adopt	3-1-2014	340-011-0580	1-6-2014	Amend	2-1-2014
333-081-0070	2-1-2014	Adopt	3-1-2014	340-011-0585	1-6-2014	Amend	2-1-2014
333-081-0075	2-1-2014	Adopt	3-1-2014	340-011-0605	1-6-2014	Repeal	2-1-2014
333-081-0080	2-1-2014	Adopt	3-1-2014	340-012-0026	1-6-2014	Amend	2-1-2014
333-081-0085	2-1-2014	Adopt	3-1-2014	340-012-0027	1-6-2014	Repeal	2-1-2014
333-081-0090	2-1-2014	Adopt	3-1-2014	340-012-0028	1-6-2014	Amend	2-1-2014
333-106-0735	1-1-2014	Adopt	2-1-2014	340-012-0030	1-6-2014	Amend	2-1-2014
333-116-0660	1-1-2014	Amend	2-1-2014	340-012-0038	1-6-2014	Amend	2-1-2014
333-116-0680	1-1-2014	Amend	2-1-2014	340-012-0041	1-6-2014	Amend	2-1-2014
333-116-0683	1-1-2014	Amend	2-1-2014	340-012-0045	1-6-2014	Amend	2-1-2014
333-116-0687	1-1-2014	Amend	2-1-2014	340-012-0053	1-6-2014	Amend	2-1-2014
333-116-0690	1-1-2014	Amend	2-1-2014	340-012-0054	1-6-2014	Amend	2-1-2014
333-116-0700	1-1-2014	Amend	2-1-2014	340-012-0055	1-6-2014	Amend	2-1-2014
333-116-0715	1-1-2014	Amend	2-1-2014	340-012-0060	1-6-2014	Amend	2-1-2014
333-118-0040	1-1-2014	Amend	2-1-2014	340-012-0065	1-6-2014	Amend	2-1-2014
333-119-0010	1-1-2014	Amend	2-1-2014	340-012-0066	1-6-2014	Amend	2-1-2014
333-119-0090	1-1-2014	Amend	2-1-2014	340-012-0067	1-6-2014	Amend	2-1-2014
333-119-0110	1-1-2014	Amend	2-1-2014	340-012-0068	1-6-2014	Amend	2-1-2014
333-520-0060	1-1-2014	Amend(T)	2-1-2014	340-012-0071	1-6-2014	Amend	2-1-2014
334-010-0005	1-1-2014	Amend	1-1-2014	340-012-0072	1-6-2014	Amend	2-1-2014
334-010-0006	1-1-2014	Adopt	1-1-2014	340-012-0073	1-6-2014	Amend	2-1-2014
334-010-0010	1-1-2014	Amend	1-1-2014	340-012-0074	1-6-2014	Amend	2-1-2014
334-010-0033	1-1-2014	Amend	1-1-2014	340-012-0079	1-6-2014	Amend	2-1-2014
334-010-0050	1-1-2014	Amend	1-1-2014	340-012-0081	1-6-2014	Amend	2-1-2014
334-020-0005	1-1-2014	Amend	1-1-2014	340-012-0082	1-6-2014	Amend	2-1-2014
334-040-0010	1-1-2014	Amend	1-1-2014	340-012-0083	1-6-2014	Amend	2-1-2014
335-060-0007	3-7-2014	Amend	4-1-2014	340-012-0097	1-6-2014	Amend	2-1-2014
340-011-0005	1-6-2014	Amend	2-1-2014	340-012-0130	1-6-2014	Amend	2-1-2014
340-011-0010	1-6-2014	Amend	2-1-2014	340-012-0135	1-6-2014	Amend	2-1-2014
340-011-0024	1-6-2014	Amend	2-1-2014	340-012-0140	1-6-2014	Amend	2-1-2014
340-011-0029	1-6-2014	Amend	2-1-2014	340-012-0145	1-6-2014	Amend	2-1-2014
340-011-0046	1-6-2014	Amend	2-1-2014	340-012-0150	1-6-2014	Amend	2-1-2014
340-011-0053	1-6-2014	Amend	2-1-2014	340-012-0155	1-6-2014	Amend	2-1-2014
340-011-0061	1-6-2014	Amend	2-1-2014	340-012-0160	1-6-2014	Amend	2-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
340-012-0162	1-6-2014	Amend	2-1-2014	340-253-0100	1-1-2014	Amend(T)	2-1-2014
340-012-0165	1-6-2014	Amend	2-1-2014	340-253-0250	1-1-2014	Amend(T)	2-1-2014
340-012-0170	1-6-2014	Amend	2-1-2014	340-253-0310	1-1-2014	Amend(T)	2-1-2014
340-018-0030	1-2-2014	Amend	2-1-2014	340-253-0320	1-1-2014	Amend(T)	2-1-2014
340-040-0020	12-23-2013	Amend	2-1-2014	340-253-0340	1-1-2014	Amend(T)	2-1-2014
340-040-0080	12-23-2013	Amend	2-1-2014	340-253-0400	1-1-2014	Amend(T)	2-1-2014
340-041-0009	12-23-2013	Amend	2-1-2014	340-253-0500	1-1-2014	Amend(T)	2-1-2014
340-041-0033	4-18-2014	Amend	2-1-2014	340-253-0600	1-1-2014	Amend(T)	2-1-2014
340-054-0010	2-3-2014	Amend	3-1-2014	340-253-0630	1-1-2014	Amend(T)	2-1-2014
340-054-0011	2-3-2014	Amend	3-1-2014	340-253-0650	1-1-2014	Amend(T)	2-1-2014
340-054-0071	2-3-2014	Adopt	3-1-2014	340-253-3000	1-1-2014	Amend(T)	2-1-2014
340-054-0072	2-3-2014	Adopt	3-1-2014	340-253-3010	1-1-2014	Amend(T)	2-1-2014
340-071-0100	1-2-2014	Amend	2-1-2014	340-253-3020	1-1-2014	Amend(T)	2-1-2014
340-071-0115	1-2-2014	Amend	2-1-2014	340-257-0010	12-19-2013	Amend	2-1-2014
340-071-0120	1-2-2014	Amend	2-1-2014	340-257-0020	12-19-2013	Amend	2-1-2014
340-071-0130	1-2-2014	Amend	2-1-2014	340-257-0030	12-19-2013	Amend	2-1-2014
340-071-0131	1-2-2014	Repeal	2-1-2014	340-257-0050	12-19-2013	Amend	2-1-2014
340-071-0135	1-2-2014	Amend	2-1-2014	340-257-0070	12-19-2013	Amend	2-1-2014
340-071-0140	1-2-2014	Amend	2-1-2014	340-257-0080	12-19-2013	Amend	2-1-2014
340-071-0150	1-2-2014	Amend	2-1-2014	340-257-0090	12-19-2013	Amend	2-1-2014
340-071-0155	1-2-2014	Amend	2-1-2014	340-257-0100	12-19-2013	Amend	2-1-2014
340-071-0160	1-2-2014	Amend	2-1-2014	340-257-0110	12-19-2013	Amend	2-1-2014
340-071-0162	1-2-2014	Amend	2-1-2014	340-257-0120	12-19-2013	Amend	2-1-2014
340-071-0165	1-2-2014	Amend	2-1-2014	340-259-0010	3-31-2014	Amend	5-1-2014
340-071-0170	1-2-2014	Amend	2-1-2014	407-025-0010	2-14-2014	Adopt	3-1-2014
340-071-0205	1-2-2014	Amend	2-1-2014	407-025-0050	2-14-2014	Adopt	3-1-2014
340-071-0215	1-2-2014	Amend	2-1-2014	409-022-0050	2-24-2014	Amend	4-1-2014
340-071-0220	1-2-2014	Amend	2-1-2014	409-023-0000	1-1-2014	Am. & Ren.	2-1-2014
340-071-0260	1-2-2014	Amend	2-1-2014	409-023-0005	1-1-2014	Am. & Ren.	2-1-2014
340-071-0265	1-2-2014	Amend	2-1-2014	409-023-0010	1-1-2014	Am. & Ren.	2-1-2014
340-071-0270	1-2-2014	Repeal	2-1-2014	409-023-0012	1-1-2014	Am. & Ren.	2-1-2014
340-071-0275	1-2-2014	Amend	2-1-2014	409-023-0013	1-1-2014	Am. & Ren.	2-1-2014
340-071-0290	1-2-2014	Amend	2-1-2014	409-023-0015	1-1-2014	Am. & Ren.	2-1-2014
340-071-0295	1-2-2014	Amend	2-1-2014	409-023-0020	1-1-2014	Am. & Ren.	2-1-2014
340-071-0302	1-2-2014	Amend	2-1-2014	409-023-0025	1-1-2014	Am. & Ren.	2-1-2014
340-071-0325	1-2-2014	Amend	2-1-2014	409-023-0030	1-1-2014	Am. & Ren.	2-1-2014
340-071-0335	1-2-2014	Amend	2-1-2014	409-023-0035	1-1-2014	Am. & Ren.	2-1-2014
340-071-0340	1-2-2014	Amend	2-1-2014	409-045-0105	1-1-2014	Adopt(T)	2-1-2014
340-071-0345	1-2-2014	Amend	2-1-2014	409-045-0110	1-1-2014	Adopt(T)	2-1-2014
340-071-0360	1-2-2014	Amend	2-1-2014	409-045-0115	1-1-2014	Adopt(T)	2-1-2014
340-071-0400	1-2-2014	Amend	2-1-2014	409-045-0120	1-1-2014	Adopt(T)	2-1-2014
340-071-0415	1-2-2014	Amend	2-1-2014	409-045-0125	1-1-2014	Adopt(T)	2-1-2014
340-071-0420	1-2-2014	Amend	2-1-2014	409-045-0130	1-1-2014	Adopt(T)	2-1-2014
340-071-0425	1-2-2014	Amend	2-1-2014	409-045-0135	1-1-2014	Adopt(T)	2-1-2014
340-071-0435	1-2-2014	Amend	2-1-2014	409-110-0000	2-24-2014	Repeal	4-1-2014
340-071-0445	1-2-2014	Amend	2-1-2014	409-110-0005	2-24-2014	Repeal	4-1-2014
340-071-0520	1-2-2014	Amend	2-1-2014	409-110-0010	2-24-2014	Repeal	4-1-2014
340-071-0600	1-2-2014	Amend	2-1-2014	409-110-0015	2-24-2014	Repeal	4-1-2014
340-071-0650	1-2-2014	Amend	2-1-2014	409-110-0020	2-24-2014	Repeal	4-1-2014
340-200-0040	12-19-2013	Amend	2-1-2014	410-050-0100	4-1-2014	Repeal	5-1-2014
340-200-0040	1-6-2014	Amend	2-1-2014	410-050-0110	4-1-2014	Repeal	5-1-2014
340-200-0040	3-31-2014	Amend	5-1-2014	410-050-0120	4-1-2014	Repeal	5-1-2014
340-200-0040	3-31-2014	Amend	5-1-2014	410-050-0130	4-1-2014	Repeal	5-1-2014
340-200-0040	3-31-2014	Amend	5-1-2014	410-050-0140	4-1-2014	Repeal	5-1-2014
340-253-0040	1-1-2014	Amend(T)	2-1-2014	410-050-0150	4-1-2014	Repeal	5-1-2014
340-253-0060	1-1-2014	Amend(T)	2-1-2014	410-050-0160	4-1-2014	Repeal	5-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
410-050-0170	4-1-2014	Repeal	5-1-2014	410-123-1200	4-1-2014	Amend(T)	5-1-2014
410-050-0180	4-1-2014	Repeal	5-1-2014	410-123-1200(T)	4-1-2014	Suspend	5-1-2014
410-050-0190	4-1-2014	Repeal	5-1-2014	410-123-1260	12-23-2013	Amend	1-1-2014
410-050-0200	4-1-2014	Repeal	5-1-2014	410-123-1260	1-1-2014	Amend(T)	2-1-2014
410-050-0210	4-1-2014	Repeal	5-1-2014	410-123-1260	2-28-2014	Amend(T)	4-1-2014
410-050-0220	4-1-2014	Repeal	5-1-2014	410-123-1260	4-1-2014	Amend(T)	5-1-2014
410-050-0230	4-1-2014	Repeal	5-1-2014	410-123-1260(T)	4-1-2014	Suspend	5-1-2014
410-050-0240	4-1-2014	Repeal	5-1-2014	410-123-1540	1-1-2014	Amend(T)	2-1-2014
410-050-0250	4-1-2014	Repeal	5-1-2014	410-123-1670	1-1-2014	Suspend	2-1-2014
410-050-0870	3-25-2014	Amend	5-1-2014	410-123-1670	4-4-2014	Repeal	5-1-2014
410-050-0870(T)	3-25-2014	Repeal	5-1-2014	410-125-0020	1-1-2014	Amend(T)	2-1-2014
410-120-0000	12-27-2013	Amend	2-1-2014	410-125-0020	4-4-2014	Amend	5-1-2014
410-120-0000(T)	12-27-2013	Repeal	2-1-2014	410-125-0020(T)	4-4-2014	Repeal	5-1-2014
410-120-0003	1-1-2014	Adopt	2-1-2014	410-125-0047	1-1-2014	Suspend	2-1-2014
410-120-0006	2-1-2014	Amend(T)	3-1-2014	410-125-0047	4-4-2014	Repeal	5-1-2014
410-120-0006	3-31-2014	Amend	5-1-2014	410-125-0080	1-1-2014	Amend(T)	2-1-2014
410-120-0006(T)	2-1-2014	Suspend	3-1-2014	410-125-0080	4-4-2014	Amend	5-1-2014
410-120-0006(T)	3-31-2014	Repeal	5-1-2014	410-125-0080(T)	4-4-2014	Repeal	5-1-2014
410-120-0030	12-3-2013	Amend	1-1-2014	410-125-0085	1-1-2014	Amend(T)	2-1-2014
410-120-0030	1-1-2014	Amend(T)	2-1-2014	410-125-0085	4-4-2014	Amend	5-1-2014
410-120-0030	4-4-2014	Amend	5-1-2014	410-125-0085(T)	4-4-2014	Repeal	5-1-2014
410-120-0030(T)	4-4-2014	Repeal	5-1-2014	410-127-0050	1-1-2014	Suspend	2-1-2014
410-120-0045	12-27-2013	Amend	2-1-2014	410-127-0055	4-4-2014	Repeal	5-1-2014
410-120-0045(T)	12-27-2013	Repeal	2-1-2014	410-129-0020	4-2-2014	Amend	5-1-2014
410-120-1160	12-27-2013	Amend	2-1-2014	410-129-0065	4-2-2014	Amend	5-1-2014
410-120-1160(T)	12-27-2013	Repeal	2-1-2014	410-129-0070	4-2-2014	Amend	5-1-2014
410-120-1200	12-27-2013	Amend	2-1-2014	410-129-0195	1-1-2014	Suspend	2-1-2014
410-120-1200(T)	12-27-2013	Repeal	2-1-2014	410-129-0195	4-4-2014	Repeal	5-1-2014
410-120-1210	12-27-2013	Amend	2-1-2014	410-130-0015	1-1-2014	Adopt	2-1-2014
410-120-1210	1-1-2014	Amend(T)	2-1-2014	410-130-0163	1-1-2014	Suspend	2-1-2014
410-120-1210	4-4-2014	Amend	5-1-2014	410-130-0163	4-4-2014	Repeal	5-1-2014
410-120-1210(T)	12-27-2013	Repeal	2-1-2014	410-130-0240	1-1-2014	Amend(T)	2-1-2014
410-120-1210(T)	4-4-2014	Repeal	5-1-2014	410-130-0240	4-4-2014	Amend	5-1-2014
410-120-1230	1-1-2014	Amend(T)	2-1-2014	410-130-0240(T)	4-4-2014	Repeal	5-1-2014
410-120-1230	4-4-2014	Amend	5-1-2014	410-130-0255	3-13-2014	Amend	4-1-2014
410-120-1230(T)	4-4-2014	Repeal	5-1-2014	410-131-0120	1-1-2014	Amend(T)	2-1-2014
410-120-1340	12-30-2013	Amend(T)	2-1-2014	410-131-0120	4-4-2014	Amend	5-1-2014
410-120-1340	4-4-2014	Amend	5-1-2014	410-131-0120(T)	4-4-2014	Repeal	5-1-2014
410-120-1340(T)	4-4-2014	Repeal	5-1-2014	410-132-0055	1-1-2014	Suspend	2-1-2014
410-120-1855	12-27-2013	Amend	2-1-2014	410-132-0055	4-4-2014	Repeal	5-1-2014
410-120-1855(T)	12-27-2013	Repeal	2-1-2014	410-136-3000	1-1-2014	Amend(T)	2-1-2014
410-121-0030	1-1-2014	Amend(T)	2-1-2014	410-136-3020	1-1-2014	Amend(T)	2-1-2014
410-121-0030	1-10-2014	Amend(T)	2-1-2014	410-136-3060	1-1-2014	Amend(T)	2-1-2014
410-121-0030	3-21-2014	Amend(T)	5-1-2014	410-136-3140	1-1-2014	Amend(T)	2-1-2014
410-121-0030(T)	1-10-2014	Suspend	2-1-2014	410-136-3220	1-1-2014	Amend(T)	2-1-2014
410-121-0040	1-1-2014	Amend(T)	2-1-2014	410-136-3240	1-1-2014	Amend(T)	2-1-2014
410-121-0040	3-21-2014	Amend(T)	5-1-2014	410-136-3260	3-11-2014	Amend	4-1-2014
410-121-0111	1-28-2014	Amend	3-1-2014	410-136-3260(T)	3-11-2014	Repeal	4-1-2014
410-121-4005	11-19-2013	Amend	1-1-2014	410-138-0000	1-1-2014	Amend(T)	2-1-2014
410-121-4010	11-19-2013	Amend	1-1-2014	410-138-0000	4-4-2014	Amend	5-1-2014
410-121-4020	11-19-2013	Amend	1-1-2014	410-138-0007	1-1-2014	Amend(T)	2-1-2014
410-122-0055	1-1-2014	Suspend	2-1-2014	410-138-0007	4-4-2014	Amend	5-1-2014
410-122-0055	4-4-2014	Repeal	5-1-2014	410-138-0007(T)	4-4-2014	Repeal	5-1-2014
410-122-0186	2-1-2014	Amend(T)	2-1-2014	410-138-0009	1-1-2014	Amend(T)	2-1-2014
410-123-1060	1-1-2014	Amend(T)	2-1-2014	410-138-0009	4-4-2014	Amend	5-1-2014
410-123-1200	1-1-2014	Amend(T)	2-1-2014	410-138-0009(T)	4-4-2014	Repeal	5-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
410-141-0065	1-31-2014	Adopt	3-1-2014	410-180-0380(T)	12-3-2013	Repeal	1-1-2014
410-141-0080	2-1-2014	Amend(T)	3-1-2014	410-200-0010	1-15-2014	Adopt(T)	2-1-2014
410-141-0520	1-31-2014	Amend	3-1-2014	410-200-0010	3-28-2014	Adopt	5-1-2014
410-141-0520	4-1-2014	Amend(T)	5-1-2014	410-200-0010(T)	1-15-2014	Suspend	2-1-2014
410-141-0860	1-1-2014	Amend(T)	2-1-2014	410-200-0010(T)	3-28-2014	Repeal	5-1-2014
410-141-0860	4-4-2014	Amend	5-1-2014	410-200-0015	1-15-2014	Adopt(T)	2-1-2014
410-141-0860(T)	4-4-2014	Repeal	5-1-2014	410-200-0015	3-28-2014	Adopt	5-1-2014
410-141-3060	11-29-2013	Amend	1-1-2014	410-200-0015(T)	1-15-2014	Suspend	2-1-2014
410-141-3065	1-31-2014	Adopt	3-1-2014	410-200-0015(T)	3-28-2014	Repeal	5-1-2014
410-141-3070	4-1-2014	Amend(T)	5-1-2014	410-200-0100	1-15-2014	Adopt(T)	2-1-2014
410-141-3080	11-29-2013	Amend	1-1-2014	410-200-0100	3-28-2014	Adopt	5-1-2014
410-141-3080	2-1-2014	Amend(T)	3-1-2014	410-200-0100(T)	1-15-2014	Suspend	2-1-2014
410-141-3220	11-29-2013	Amend	1-1-2014	410-200-0100(T)	3-28-2014	Repeal	5-1-2014
410-141-3268	1-1-2014	Amend(T)	2-1-2014	410-200-0105	1-15-2014	Adopt(T)	2-1-2014
410-141-3420	11-29-2013	Amend	1-1-2014	410-200-0105	3-28-2014	Adopt	5-1-2014
410-142-0040	1-1-2014	Amend(T)	2-1-2014	410-200-0105(T)	1-15-2014	Suspend	2-1-2014
410-142-0040	4-4-2014	Amend	5-1-2014	410-200-0105(T)	3-28-2014	Repeal	5-1-2014
410-142-0040(T)	4-4-2014	Repeal	5-1-2014	410-200-0110	1-15-2014	Adopt(T)	2-1-2014
410-146-0022	1-1-2014	Suspend	2-1-2014	410-200-0110	3-28-2014	Adopt	5-1-2014
410-146-0022	4-4-2014	Repeal	5-1-2014	410-200-0110(T)	1-15-2014	Suspend	2-1-2014
410-146-0380	1-1-2014	Suspend	2-1-2014	410-200-0110(T)	3-28-2014	Repeal	5-1-2014
410-146-0380	4-4-2014	Repeal	5-1-2014	410-200-0111	1-15-2014	Adopt(T)	2-1-2014
410-147-0125	1-1-2014	Suspend	2-1-2014	410-200-0111	3-28-2014	Adopt	5-1-2014
410-147-0125	4-4-2014	Repeal	5-1-2014	410-200-0111(T)	1-15-2014	Suspend	2-1-2014
410-148-0090	1-1-2014	Suspend	2-1-2014	410-200-0111(T)	3-28-2014	Repeal	5-1-2014
410-148-0090	4-4-2014	Repeal	5-1-2014	410-200-0115	1-15-2014	Adopt(T)	2-1-2014
410-180-0300	12-3-2013	Adopt	1-1-2014	410-200-0115	3-28-2014	Adopt	5-1-2014
410-180-0300(T)	12-3-2013	Repeal	1-1-2014	410-200-0115(T)	1-15-2014	Suspend	2-1-2014
410-180-0305	12-3-2013	Adopt	1-1-2014	410-200-0115(T)	3-28-2014	Repeal	5-1-2014
410-180-0305(T)	12-3-2013	Repeal	1-1-2014	410-200-0120	1-15-2014	Adopt(T)	2-1-2014
410-180-0310	12-3-2013	Adopt	1-1-2014	410-200-0120	3-28-2014	Adopt	5-1-2014
410-180-0310(T)	12-3-2013	Repeal	1-1-2014	410-200-0120(T)	1-15-2014	Suspend	2-1-2014
410-180-0312	12-3-2013	Adopt	1-1-2014	410-200-0120(T)	3-28-2014	Repeal	5-1-2014
410-180-0315	12-3-2013	Adopt	1-1-2014	410-200-0125	1-15-2014	Adopt(T)	2-1-2014
410-180-0315(T)	12-3-2013	Repeal	1-1-2014	410-200-0125	3-28-2014	Adopt	5-1-2014
410-180-0320	12-3-2013	Adopt	1-1-2014	410-200-0125(T)	1-15-2014	Suspend	2-1-2014
410-180-0320(T)	12-3-2013	Repeal	1-1-2014	410-200-0125(T)	3-28-2014	Repeal	5-1-2014
410-180-0325	1-15-2014	Adopt	2-1-2014	410-200-0130	1-15-2014	Adopt(T)	2-1-2014
410-180-0325(T)	1-15-2014	Repeal	2-1-2014	410-200-0130	3-28-2014	Adopt	5-1-2014
410-180-0326	1-15-2014	Adopt	2-1-2014	410-200-0130(T)	1-15-2014	Suspend	2-1-2014
410-180-0327	12-3-2013	Adopt	1-1-2014	410-200-0130(T)	3-28-2014	Repeal	5-1-2014
410-180-0327(T)	12-3-2013	Repeal	1-1-2014	410-200-0135	1-15-2014	Adopt(T)	2-1-2014
410-180-0340	12-3-2013	Adopt	1-1-2014	410-200-0135	3-28-2014	Adopt	5-1-2014
410-180-0340(T)	12-3-2013	Repeal	1-1-2014	410-200-0135(T)	1-15-2014	Suspend	2-1-2014
410-180-0345	12-3-2013	Adopt	1-1-2014	410-200-0135(T)	3-28-2014	Repeal	5-1-2014
410-180-0345(T)	12-3-2013	Repeal	1-1-2014	410-200-0140	1-15-2014	Adopt(T)	2-1-2014
410-180-0350	12-3-2013	Adopt	1-1-2014	410-200-0140	3-28-2014	Adopt	5-1-2014
410-180-0350(T)	12-3-2013	Repeal	1-1-2014	410-200-0140(T)	1-15-2014	Suspend	2-1-2014
410-180-0355	12-3-2013	Adopt	1-1-2014	410-200-0140(T)	3-28-2014	Repeal	5-1-2014
410-180-0355(T)	12-3-2013	Repeal	1-1-2014	410-200-0145	1-15-2014	Adopt(T)	2-1-2014
410-180-0360	12-3-2013	Adopt	1-1-2014	410-200-0145	3-28-2014	Adopt	5-1-2014
410-180-0370	12-3-2013	Adopt	1-1-2014	410-200-0145(T)	1-15-2014	Suspend	2-1-2014
410-180-0370(T)	12-3-2013	Repeal	1-1-2014	410-200-0145(T)	3-28-2014	Repeal	5-1-2014
410-180-0375	12-3-2013	Adopt	1-1-2014	410-200-0146	1-15-2014	Adopt(T)	2-1-2014
410-180-0375(T)	12-3-2013	Repeal	1-1-2014	410-200-0146	3-28-2014	Adopt	5-1-2014
410-180-0380	12-3-2013	Adopt	1-1-2014	410-200-0146(T)	1-15-2014	Suspend	2-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
410-200-0146(T)	3-28-2014	Repeal	5-1-2014	410-200-0405(T)	1-15-2014	Suspend	2-1-2014
410-200-0200	1-15-2014	Adopt(T)	2-1-2014	410-200-0405(T)	3-28-2014	Repeal	5-1-2014
410-200-0200	3-28-2014	Adopt	5-1-2014	410-200-0406(T)	1-15-2014	Suspend	2-1-2014
410-200-0200(T)	1-15-2014	Suspend	2-1-2014	410-200-0406(T)	3-28-2014	Repeal	5-1-2014
410-200-0200(T)	3-28-2014	Repeal	5-1-2014	410-200-0410	1-15-2014	Adopt(T)	2-1-2014
410-200-0205	1-15-2014	Adopt(T)	2-1-2014	410-200-0410	3-28-2014	Adopt	5-1-2014
410-200-0205	3-28-2014	Adopt	5-1-2014	410-200-0410(T)	1-15-2014	Suspend	2-1-2014
410-200-0205(T)	1-15-2014	Suspend	2-1-2014	410-200-0410(T)	3-28-2014	Repeal	5-1-2014
410-200-0205(T)	3-28-2014	Repeal	5-1-2014	410-200-0415	1-15-2014	Adopt(T)	2-1-2014
410-200-0210	1-15-2014	Adopt(T)	2-1-2014	410-200-0415	3-28-2014	Adopt	5-1-2014
410-200-0210	3-28-2014	Adopt	5-1-2014	410-200-0415(T)	1-15-2014	Suspend	2-1-2014
410-200-0210(T)	1-15-2014	Suspend	2-1-2014	410-200-0415(T)	3-28-2014	Repeal	5-1-2014
410-200-0210(T)	3-28-2014	Repeal	5-1-2014	410-200-0420	1-15-2014	Adopt(T)	2-1-2014
410-200-0215	1-15-2014	Adopt(T)	2-1-2014	410-200-0420	3-28-2014	Adopt	5-1-2014
410-200-0215	3-28-2014	Adopt	5-1-2014	410-200-0420(T)	1-15-2014	Suspend	2-1-2014
410-200-0215(T)	1-15-2014	Suspend	2-1-2014	410-200-0420(T)	3-28-2014	Repeal	5-1-2014
410-200-0215(T)	3-28-2014	Repeal	5-1-2014	410-200-0425	1-15-2014	Adopt(T)	2-1-2014
410-200-0220	1-15-2014	Adopt(T)	2-1-2014	410-200-0425	3-28-2014	Adopt	5-1-2014
410-200-0220	3-28-2014	Adopt	5-1-2014	410-200-0425(T)	1-15-2014	Suspend	2-1-2014
410-200-0220(T)	1-15-2014	Suspend	2-1-2014	410-200-0425(T)	3-28-2014	Repeal	5-1-2014
410-200-0220(T)	3-28-2014	Repeal	5-1-2014	410-200-0435	1-15-2014	Adopt(T)	2-1-2014
410-200-0225	1-15-2014	Adopt(T)	2-1-2014	410-200-0435	3-28-2014	Adopt	5-1-2014
410-200-0225	3-28-2014	Adopt	5-1-2014	410-200-0435(T)	1-15-2014	Suspend	2-1-2014
410-200-0225(T)	1-15-2014	Suspend	2-1-2014	410-200-0435(T)	3-28-2014	Repeal	5-1-2014
410-200-0225(T)	3-28-2014	Repeal	5-1-2014	410-200-0440	1-15-2014	Adopt(T)	2-1-2014
410-200-0230	1-15-2014	Adopt(T)	2-1-2014	410-200-0440	3-28-2014	Adopt	5-1-2014
410-200-0230	3-28-2014	Adopt	5-1-2014	410-200-0440(T)	1-15-2014	Suspend	2-1-2014
410-200-0230(T)	1-15-2014	Suspend	2-1-2014	410-200-0440(T)	3-28-2014	Repeal	5-1-2014
410-200-0230(T)	3-28-2014	Repeal	5-1-2014	410-200-0500	1-15-2014	Adopt(T)	2-1-2014
410-200-0235	1-15-2014	Adopt(T)	2-1-2014	410-200-0500	3-28-2014	Adopt	5-1-2014
410-200-0235	3-28-2014	Adopt	5-1-2014	410-200-0500(T)	1-15-2014	Suspend	2-1-2014
410-200-0235(T)	1-15-2014	Suspend	2-1-2014	410-200-0500(T)	3-28-2014	Repeal	5-1-2014
410-200-0235(T)	3-28-2014	Repeal	5-1-2014	410-200-0505	1-15-2014	Adopt(T)	2-1-2014
410-200-0240	1-15-2014	Adopt(T)	2-1-2014	410-200-0505	3-28-2014	Adopt	5-1-2014
410-200-0240	3-28-2014	Adopt	5-1-2014	410-200-0505(T)	1-15-2014	Suspend	2-1-2014
410-200-0240(T)	1-15-2014	Suspend	2-1-2014	410-200-0505(T)	3-28-2014	Repeal	5-1-2014
410-200-0240(T)	3-28-2014	Repeal	5-1-2014	410-200-0510	1-15-2014	Adopt(T)	2-1-2014
410-200-0305	1-15-2014	Adopt(T)	2-1-2014	410-200-0510	3-28-2014	Adopt	5-1-2014
410-200-0305	3-28-2014	Adopt	5-1-2014	410-200-0510(T)	1-15-2014	Suspend	2-1-2014
410-200-0305(T)	1-15-2014	Suspend	2-1-2014	410-200-0510(T)	3-28-2014	Repeal	5-1-2014
410-200-0305(T)	3-28-2014	Repeal	5-1-2014	410-200-0515(T)	1-15-2014	Suspend	2-1-2014
410-200-0310	1-15-2014	Adopt(T)	2-1-2014	410-200-0515(T)	3-28-2014	Repeal	5-1-2014
410-200-0310	3-28-2014	Adopt	5-1-2014	411-001-0100	1-1-2014	Amend	2-1-2014
410-200-0310(T)	1-15-2014	Suspend	2-1-2014	411-001-0110	1-1-2014	Amend	2-1-2014
410-200-0310(T)	3-28-2014	Repeal	5-1-2014	411-001-0118	1-1-2014	Amend	2-1-2014
410-200-0315	1-15-2014	Adopt(T)	2-1-2014	411-001-0120	1-1-2014	Amend	2-1-2014
410-200-0315	3-28-2014	Adopt	5-1-2014	411-001-0510	12-15-2013	Amend	1-1-2014
410-200-0315	4-14-2014	Amend(T)	5-1-2014	411-001-0510(T)	12-15-2013	Repeal	1-1-2014
410-200-0315(T)	1-15-2014	Suspend	2-1-2014	411-015-0005	12-15-2013	Amend	1-1-2014
410-200-0315(T)	3-28-2014	Repeal	5-1-2014	411-015-0005(T)	12-15-2013	Repeal	1-1-2014
410-200-0400	1-15-2014	Adopt(T)	2-1-2014	411-015-0008	12-15-2013	Amend	1-1-2014
410-200-0400	3-28-2014	Adopt	5-1-2014	411-015-0008(T)	12-15-2013	Repeal	1-1-2014
410-200-0400(T)	1-15-2014	Suspend	2-1-2014	411-015-0015	12-15-2013	Amend	1-1-2014
410-200-0400(T)	3-28-2014	Repeal	5-1-2014	411-015-0015(T)	12-15-2013	Repeal	1-1-2014
410-200-0405	1-15-2014	Adopt(T)	2-1-2014	411-015-0100	12-15-2013	Amend	1-1-2014
410-200-0405	3-28-2014	Adopt	5-1-2014	411-015-0100(T)	12-15-2013	Repeal	1-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
411-027-0005	3-20-2014	Amend(T)	5-1-2014	411-050-0602	4-1-2014	Amend	5-1-2014
411-027-0020	3-20-2014	Amend(T)	5-1-2014	411-050-0610	4-1-2014	Amend	5-1-2014
411-027-0025	3-20-2014	Amend(T)	5-1-2014	411-050-0625	4-1-2014	Amend	5-1-2014
411-028-0000	12-15-2013	Adopt	1-1-2014	411-050-0630	4-1-2014	Amend	5-1-2014
411-028-0000(T)	12-15-2013	Repeal	1-1-2014	411-050-0640	4-1-2014	Amend	5-1-2014
411-028-0010	12-15-2013	Adopt	1-1-2014	411-050-0640(T)	4-1-2014	Repeal	5-1-2014
411-028-0010(T)	12-15-2013	Repeal	1-1-2014	411-050-0642	4-1-2014	Amend	5-1-2014
411-028-0020	12-15-2013	Adopt	1-1-2014	411-050-0645	4-1-2014	Amend	5-1-2014
411-028-0020(T)	12-15-2013	Repeal	1-1-2014	411-050-0650	4-1-2014	Amend	5-1-2014
411-028-0030	12-15-2013	Adopt	1-1-2014	411-050-0660	4-1-2014	Amend	5-1-2014
411-028-0030(T)	12-15-2013	Repeal	1-1-2014	411-050-0685	4-1-2014	Amend	5-1-2014
411-028-0040	12-15-2013	Adopt	1-1-2014	411-065-0000	12-15-2013	Amend	1-1-2014
411-028-0040(T)	12-15-2013	Repeal	1-1-2014	411-065-0000(T)	12-15-2013	Repeal	1-1-2014
411-028-0050	12-15-2013	Adopt	1-1-2014	411-069-0000	4-1-2014	Amend	5-1-2014
411-028-0050(T)	12-15-2013	Repeal	1-1-2014	411-069-0000(T)	4-1-2014	Repeal	5-1-2014
411-030-0070	12-15-2013	Amend	1-1-2014	411-069-0010	4-1-2014	Amend	5-1-2014
411-030-0070(T)	12-15-2013	Repeal	1-1-2014	411-069-0010(T)	4-1-2014	Repeal	5-1-2014
411-030-0100	12-15-2013	Amend	1-1-2014	411-069-0020	4-1-2014	Amend	5-1-2014
411-030-0100(T)	12-15-2013	Repeal	1-1-2014	411-069-0020(T)	4-1-2014	Repeal	5-1-2014
411-031-0020	12-15-2013	Amend	1-1-2014	411-069-0030	4-1-2014	Amend	5-1-2014
411-031-0020(T)	12-15-2013	Repeal	1-1-2014	411-069-0030(T)	4-1-2014	Repeal	5-1-2014
411-031-0040	12-15-2013	Amend	1-1-2014	411-069-0040	4-1-2014	Amend	5-1-2014
411-031-0040(T)	12-15-2013	Repeal	1-1-2014	411-069-0040(T)	4-1-2014	Repeal	5-1-2014
411-031-0050	12-15-2013	Amend	1-1-2014	411-069-0050	4-1-2014	Amend	5-1-2014
411-034-0000	12-15-2013	Amend	1-1-2014	411-069-0050(T)	4-1-2014	Repeal	5-1-2014
411-034-0000(T)	12-15-2013	Repeal	1-1-2014	411-069-0060	4-1-2014	Amend	5-1-2014
411-034-0010	12-15-2013	Amend	1-1-2014	411-069-0060(T)	4-1-2014	Repeal	5-1-2014
411-034-0010(T)	12-15-2013	Repeal	1-1-2014	411-069-0070	4-1-2014	Amend	5-1-2014
411-034-0020	12-15-2013	Amend	1-1-2014	411-069-0070(T)	4-1-2014	Repeal	5-1-2014
411-034-0020(T)	12-15-2013	Repeal	1-1-2014	411-069-0080	4-1-2014	Amend	5-1-2014
411-034-0030	12-15-2013	Amend	1-1-2014	411-069-0080(T)	4-1-2014	Repeal	5-1-2014
411-034-0030(T)	12-15-2013	Repeal	1-1-2014	411-069-0090	4-1-2014	Amend	5-1-2014
411-034-0035	12-15-2013	Amend	1-1-2014	411-069-0090(T)	4-1-2014	Repeal	5-1-2014
411-034-0035(T)	12-15-2013	Repeal	1-1-2014	411-069-0100	4-1-2014	Amend	5-1-2014
411-034-0040	12-15-2013	Amend	1-1-2014	411-069-0100(T)	4-1-2014	Repeal	5-1-2014
411-034-0040(T)	12-15-2013	Repeal	1-1-2014	411-069-0110	4-1-2014	Amend	5-1-2014
411-034-0050	12-15-2013	Amend	1-1-2014	411-069-0110(T)	4-1-2014	Repeal	5-1-2014
411-034-0050(T)	12-15-2013	Repeal	1-1-2014	411-069-0120	4-1-2014	Amend	5-1-2014
411-034-0055	12-15-2013	Amend	1-1-2014	411-069-0120(T)	4-1-2014	Repeal	5-1-2014
411-034-0055(T)	12-15-2013	Repeal	1-1-2014	411-069-0130	4-1-2014	Amend	5-1-2014
411-034-0070	12-15-2013	Amend	1-1-2014	411-069-0130(T)	4-1-2014	Repeal	5-1-2014
411-034-0070(T)	12-15-2013	Repeal	1-1-2014	411-069-0140	4-1-2014	Amend	5-1-2014
411-034-0090	12-15-2013	Amend	1-1-2014	411-069-0140(T)	4-1-2014	Repeal	5-1-2014
411-034-0090(T)	12-15-2013	Repeal	1-1-2014	411-069-0150	4-1-2014	Amend	5-1-2014
411-040-0000	12-15-2013	Amend	1-1-2014	411-069-0150(T)	4-1-2014	Repeal	5-1-2014
411-040-0000(T)	12-15-2013	Repeal	1-1-2014	411-069-0160	4-1-2014	Amend	5-1-2014
411-045-0010	12-15-2013	Amend	1-1-2014	411-069-0160(T)	4-1-2014	Repeal	5-1-2014
411-045-0010(T)	12-15-2013	Repeal	1-1-2014	411-069-0170	4-1-2014	Amend	5-1-2014
411-045-0050	12-15-2013	Amend	1-1-2014	411-069-0170(T)	4-1-2014	Repeal	5-1-2014
411-045-0050(T)	12-15-2013	Repeal	1-1-2014	411-070-0005	4-1-2014	Amend	4-1-2014
411-048-0150	12-15-2013	Amend	1-1-2014	411-070-0005(T)	4-1-2014	Repeal	4-1-2014
411-048-0150(T)	12-15-2013	Repeal	1-1-2014	411-070-0033	12-15-2013	Amend	1-1-2014
411-048-0160	12-15-2013	Amend	1-1-2014	411-070-0033(T)	12-15-2013	Repeal	1-1-2014
411-048-0160(T)	12-15-2013	Repeal	1-1-2014	411-070-0300	4-1-2014	Amend	4-1-2014
411-048-0170	12-15-2013	Amend	1-1-2014	411-070-0300(T)	4-1-2014	Repeal	4-1-2014
411-048-0170(T)	12-15-2013	Repeal	1-1-2014	411-070-0437	4-1-2014	Adopt	4-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
411-070-0437(T)	4-1-2014	Repeal	4-1-2014	411-308-0100	12-28-2013	Amend	2-1-2014
411-070-0442	4-1-2014	Amend	4-1-2014	411-308-0100(T)	12-28-2013	Repeal	2-1-2014
411-070-0442(T)	4-1-2014	Repeal	4-1-2014	411-308-0110	12-28-2013	Amend	2-1-2014
411-070-0452	12-28-2013	Amend	2-1-2014	411-308-0120	12-28-2013	Amend	2-1-2014
411-070-0452(T)	12-28-2013	Repeal	2-1-2014	411-308-0120(T)	12-28-2013	Repeal	2-1-2014
411-085-0005	4-1-2014	Amend	5-1-2014	411-308-0130	12-28-2013	Amend	2-1-2014
411-085-0025	4-1-2014	Amend	5-1-2014	411-308-0140	12-28-2013	Amend	2-1-2014
411-085-0025(T)	4-1-2014	Repeal	5-1-2014	411-308-0150	12-28-2013	Amend	2-1-2014
411-085-0210	4-1-2014	Amend	5-1-2014	411-320-0010	12-28-2013	Amend	2-1-2014
411-085-0210(T)	4-1-2014	Repeal	5-1-2014	411-320-0020	12-28-2013	Amend	2-1-2014
411-086-0100	3-31-2014	Amend	5-1-2014	411-320-0020(T)	12-28-2013	Repeal	2-1-2014
411-086-0100(T)	3-31-2014	Repeal	5-1-2014	411-320-0030	12-28-2013	Amend	2-1-2014
411-088-0020	4-1-2014	Amend	5-1-2014	411-320-0030(T)	12-28-2013	Repeal	2-1-2014
411-088-0070	4-1-2014	Amend	5-1-2014	411-320-0040	12-28-2013	Amend	2-1-2014
411-088-0070(T)	4-1-2014	Repeal	5-1-2014	411-320-0040(T)	12-28-2013	Repeal	2-1-2014
411-088-0080	4-1-2014	Amend	5-1-2014	411-320-0045	12-28-2013	Amend	2-1-2014
411-089-0030	4-1-2014	Amend	5-1-2014	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
411-200-0035	2-1-2014	Amend	3-1-2014	411-320-0070(T)	12-28-2013	Repeal	2-1-2014
411-200-0040	2-1-2014	Amend	3-1-2014	411-320-0080	12-28-2013	Amend	2-1-2014
411-300-0100	12-28-2013	Amend	2-1-2014	411-320-0090	12-28-2013	Amend	2-1-2014
411-300-0110	12-28-2013	Amend	2-1-2014	411-320-0090(T)	12-28-2013	Repeal	2-1-2014
411-300-0110(T)	12-28-2013	Repeal	2-1-2014	411-320-0100	12-28-2013	Amend	2-1-2014
411-300-0120	12-28-2013	Amend	2-1-2014	411-320-0100(T)	12-28-2013	Repeal	2-1-2014
411-300-0120(T)	12-28-2013	Repeal	2-1-2014	411-320-0110	12-28-2013	Amend	2-1-2014
411-300-0130	12-28-2013	Amend	2-1-2014	411-320-0110(T)	12-28-2013	Repeal	2-1-2014
411-300-0130(T)	12-28-2013	Repeal	2-1-2014	411-320-0120	12-28-2013	Amend	2-1-2014
411-300-0140	12-28-2013	Amend	2-1-2014	411-320-0120(T)	12-28-2013	Repeal	2-1-2014
411-300-0140(T)	12-28-2013	Repeal	2-1-2014	411-320-0130	12-28-2013	Amend	2-1-2014
411-300-0150	12-28-2013	Amend	2-1-2014	411-320-0130(T)	12-28-2013	Repeal	2-1-2014
411-300-0150(T)	12-28-2013	Repeal	2-1-2014	411-320-0140	12-28-2013	Amend	2-1-2014
411-300-0155	12-28-2013	Amend	2-1-2014	411-320-0150	12-28-2013	Amend	2-1-2014
411-300-0170	12-28-2013	Amend	2-1-2014	411-320-0160	12-28-2013	Amend	2-1-2014
411-300-0190	12-28-2013	Amend	2-1-2014	411-320-0170	12-28-2013	Amend	2-1-2014
411-300-0200	12-28-2013	Amend	2-1-2014	411-320-0175	12-28-2013	Amend	2-1-2014
411-300-0205	12-28-2013	Amend	2-1-2014	411-320-0180	12-28-2013	Amend	2-1-2014
411-300-0210	12-28-2013	Amend	2-1-2014	411-320-0190	12-28-2013	Amend	2-1-2014
411-300-0220	12-28-2013	Amend	2-1-2014	411-320-0200	12-28-2013	Amend	2-1-2014
411-308-0010	12-28-2013	Amend	2-1-2014	411-325-0010	12-28-2013	Amend	2-1-2014
411-308-0010(T)	12-28-2013	Repeal	2-1-2014	411-325-0020	12-28-2013	Amend	2-1-2014
411-308-0020	12-28-2013	Amend	2-1-2014	411-325-0020(T)	12-28-2013	Repeal	2-1-2014
411-308-0020(T)	12-28-2013	Repeal	2-1-2014	411-325-0030	12-28-2013	Amend	2-1-2014
411-308-0030	12-28-2013	Amend	2-1-2014	411-325-0040	12-28-2013	Amend	2-1-2014
411-308-0030(T)	12-28-2013	Repeal	2-1-2014	411-325-0050	12-28-2013	Amend	2-1-2014
411-308-0040	12-28-2013	Amend	2-1-2014	411-325-0060	12-28-2013	Amend	2-1-2014
411-308-0050	12-28-2013	Amend	2-1-2014	411-325-0070	12-28-2013	Amend	2-1-2014
411-308-0050(T)	12-28-2013	Repeal	2-1-2014	411-325-0090	12-28-2013	Amend	2-1-2014
411-308-0060	12-28-2013	Amend	2-1-2014	411-325-0110	12-28-2013	Amend	2-1-2014
411-308-0060(T)	12-28-2013	Repeal	2-1-2014	411-325-0120	12-28-2013	Amend	2-1-2014
411-308-0070	12-28-2013	Amend	2-1-2014	411-325-0130	12-28-2013	Amend	2-1-2014
411-308-0070(T)	12-28-2013	Repeal	2-1-2014	411-325-0140	12-28-2013	Amend	2-1-2014
411-308-0080	12-28-2013	Amend	2-1-2014	411-325-0150	12-28-2013	Amend	2-1-2014
411-308-0080(T)	12-28-2013	Repeal	2-1-2014	411-325-0170	12-28-2013	Amend	2-1-2014
411-308-0090	12-28-2013	Amend	2-1-2014	411-325-0180	12-28-2013	Amend	2-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
411-325-0185	12-28-2013	Amend	2-1-2014	411-330-0020	12-28-2013	Amend	2-1-2014
411-325-0190	12-28-2013	Amend	2-1-2014	411-330-0020(T)	12-28-2013	Repeal	2-1-2014
411-325-0200	12-28-2013	Amend	2-1-2014	411-330-0030	12-28-2013	Amend	2-1-2014
411-325-0220	12-28-2013	Amend	2-1-2014	411-330-0030(T)	12-28-2013	Repeal	2-1-2014
411-325-0230	12-28-2013	Amend	2-1-2014	411-330-0040	12-28-2013	Amend	2-1-2014
411-325-0240	12-28-2013	Amend	2-1-2014	411-330-0040(T)	12-28-2013	Repeal	2-1-2014
411-325-0250	12-28-2013	Amend	2-1-2014	411-330-0050	12-28-2013	Amend	2-1-2014
411-325-0260	12-28-2013	Amend	2-1-2014	411-330-0050(T)	12-28-2013	Repeal	2-1-2014
411-325-0270	12-28-2013	Amend	2-1-2014	411-330-0060	12-28-2013	Amend	2-1-2014
411-325-0280	12-28-2013	Amend	2-1-2014	411-330-0060(T)	12-28-2013	Repeal	2-1-2014
411-325-0290	12-28-2013	Amend	2-1-2014	411-330-0065	12-28-2013	Amend	2-1-2014
411-325-0300	12-28-2013	Amend	2-1-2014	411-330-0070	12-28-2013	Amend	2-1-2014
411-325-0320	12-28-2013	Amend	2-1-2014	411-330-0070(T)	12-28-2013	Repeal	2-1-2014
411-325-0330	12-28-2013	Amend	2-1-2014	411-330-0080	12-28-2013	Amend	2-1-2014
411-325-0340	12-28-2013	Amend	2-1-2014	411-330-0080(T)	12-28-2013	Repeal	2-1-2014
411-325-0350	12-28-2013	Amend	2-1-2014	411-330-0090	12-28-2013	Amend	2-1-2014
411-325-0360	12-28-2013	Amend	2-1-2014	411-330-0090(T)	12-28-2013	Repeal	2-1-2014
411-325-0370	12-28-2013	Amend	2-1-2014	411-330-0100	12-28-2013	Amend	2-1-2014
411-325-0380	12-28-2013	Amend	2-1-2014	411-330-0110	12-28-2013	Amend	2-1-2014
411-325-0390	12-28-2013	Amend	2-1-2014	411-330-0110(T)	12-28-2013	Repeal	2-1-2014
411-325-0390(T)	12-28-2013	Repeal	2-1-2014	411-330-0120	12-28-2013	Amend	2-1-2014
411-325-0400	12-28-2013	Amend	2-1-2014	411-330-0130	12-28-2013	Amend	2-1-2014
411-325-0400(T)	12-28-2013	Repeal	2-1-2014	411-330-0140	12-28-2013	Amend	2-1-2014
411-325-0410	12-28-2013	Amend	2-1-2014	411-330-0150	12-28-2013	Amend	2-1-2014
411-325-0420	12-28-2013	Amend	2-1-2014	411-330-0160	12-28-2013	Amend	2-1-2014
411-325-0430	12-28-2013	Amend	2-1-2014	411-330-0170	12-28-2013	Amend	2-1-2014
411-325-0440	12-28-2013	Amend	2-1-2014	411-335-0010	1-1-2014	Suspend	2-1-2014
411-325-0440(T)	12-28-2013	Repeal	2-1-2014	411-335-0010	4-1-2014	Repeal	5-1-2014
411-325-0460	12-28-2013	Amend	2-1-2014	411-335-0020	1-1-2014	Suspend	2-1-2014
411-325-0470	12-28-2013	Amend	2-1-2014	411-335-0020	4-1-2014	Repeal	5-1-2014
411-325-0480	12-28-2013	Amend	2-1-2014	411-335-0030	1-1-2014	Suspend	2-1-2014
411-328-0550	12-28-2013	Amend	2-1-2014	411-335-0030	4-1-2014	Repeal	5-1-2014
411-328-0560	12-28-2013	Amend	2-1-2014	411-335-0040	1-1-2014	Suspend	2-1-2014
411-328-0560(T)	12-28-2013	Repeal	2-1-2014	411-335-0040	4-1-2014	Repeal	5-1-2014
411-328-0570	12-28-2013	Amend	2-1-2014	411-335-0060	1-1-2014	Suspend	2-1-2014
411-328-0620	12-28-2013	Amend	2-1-2014	411-335-0060	4-1-2014	Repeal	5-1-2014
411-328-0630	12-28-2013	Amend	2-1-2014	411-335-0120	1-1-2014	Suspend	2-1-2014
411-328-0640	12-28-2013	Amend	2-1-2014	411-335-0120	4-1-2014	Repeal	5-1-2014
411-328-0650	12-28-2013	Amend	2-1-2014	411-335-0130	1-1-2014	Suspend	2-1-2014
411-328-0660	12-28-2013	Amend	2-1-2014	411-335-0130	4-1-2014	Repeal	5-1-2014
411-328-0680	12-28-2013	Amend	2-1-2014	411-335-0150	1-1-2014	Suspend	2-1-2014
411-328-0690	12-28-2013	Amend	2-1-2014	411-335-0150	4-1-2014	Repeal	5-1-2014
411-328-0700	12-28-2013	Amend	2-1-2014	411-335-0160	1-1-2014	Suspend	2-1-2014
411-328-0710	12-28-2013	Amend	2-1-2014	411-335-0160	4-1-2014	Repeal	5-1-2014
411-328-0715	12-28-2013	Amend	2-1-2014	411-335-0170	1-1-2014	Suspend	2-1-2014
411-328-0720	12-28-2013	Amend	2-1-2014	411-335-0170	4-1-2014	Repeal	5-1-2014
411-328-0740	12-28-2013	Amend	2-1-2014	411-335-0180	1-1-2014	Suspend	2-1-2014
411-328-0750	12-28-2013	Amend	2-1-2014	411-335-0180	4-1-2014	Repeal	5-1-2014
411-328-0760	12-28-2013	Amend	2-1-2014	411-335-0190	1-1-2014	Suspend	2-1-2014
411-328-0770	12-28-2013	Amend	2-1-2014	411-335-0190	4-1-2014	Repeal	5-1-2014
411-328-0780	12-28-2013	Amend	2-1-2014	411-335-0200	1-1-2014	Suspend	2-1-2014
411-328-0790	12-28-2013	Amend	2-1-2014	411-335-0200	4-1-2014	Repeal	5-1-2014
411-328-0790(T)	12-28-2013	Repeal	2-1-2014	411-335-0210	1-1-2014	Suspend	2-1-2014
411-328-0800	12-28-2013	Amend	2-1-2014	411-335-0210	4-1-2014	Repeal	5-1-2014
411-328-0800(T)	12-28-2013	Repeal	2-1-2014	411-335-0220	1-1-2014	Suspend	2-1-2014
411-330-0010	12-28-2013	Amend	2-1-2014	411-335-0220	4-1-2014	Repeal	5-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
411-335-0230	1-1-2014	Suspend	2-1-2014	411-345-0110	12-28-2013	Amend	2-1-2014
411-335-0230	4-1-2014	Repeal	5-1-2014	411-345-0130	12-28-2013	Amend	2-1-2014
411-335-0240	1-1-2014	Suspend	2-1-2014	411-345-0140	12-28-2013	Amend	2-1-2014
411-335-0240	4-1-2014	Repeal	5-1-2014	411-345-0140(T)	12-28-2013	Repeal	2-1-2014
411-335-0250	1-1-2014	Suspend	2-1-2014	411-345-0160	12-28-2013	Amend	2-1-2014
411-335-0250	4-1-2014	Repeal	5-1-2014	411-345-0170	12-28-2013	Amend	2-1-2014
411-335-0260	1-1-2014	Suspend	2-1-2014	411-345-0180	12-28-2013	Amend	2-1-2014
411-335-0260	4-1-2014	Repeal	5-1-2014	411-345-0190	12-28-2013	Amend	2-1-2014
411-335-0270	1-1-2014	Suspend	2-1-2014	411-345-0200	12-28-2013	Amend	2-1-2014
411-335-0270	4-1-2014	Repeal	5-1-2014	411-345-0230	12-28-2013	Amend	2-1-2014
411-335-0280	1-1-2014	Suspend	2-1-2014	411-345-0240	12-28-2013	Amend	2-1-2014
411-335-0280	4-1-2014	Repeal	5-1-2014	411-345-0250	12-28-2013	Amend	2-1-2014
411-335-0290	1-1-2014	Suspend	2-1-2014	411-345-0260	12-28-2013	Amend	2-1-2014
411-335-0290	4-1-2014	Repeal	5-1-2014	411-345-0270	12-28-2013	Amend	2-1-2014
411-335-0310	1-1-2014	Suspend	2-1-2014	411-346-0100	12-28-2013	Amend	2-1-2014
411-335-0310	4-1-2014	Repeal	5-1-2014	411-346-0110	12-28-2013	Amend	2-1-2014
411-335-0320	1-1-2014	Suspend	2-1-2014	411-346-0110(T)	12-28-2013	Repeal	2-1-2014
411-335-0320	4-1-2014	Repeal	5-1-2014	411-346-0120	12-28-2013	Amend	2-1-2014
411-335-0330	1-1-2014	Suspend	2-1-2014	411-346-0130	12-28-2013	Amend	2-1-2014
411-335-0330	4-1-2014	Repeal	5-1-2014	411-346-0140	12-28-2013	Amend	2-1-2014
411-335-0340	1-1-2014	Suspend	2-1-2014	411-346-0150	12-28-2013	Amend	2-1-2014
411-335-0340	4-1-2014	Repeal	5-1-2014	411-346-0160	12-28-2013	Amend	2-1-2014
411-335-0350	1-1-2014	Suspend	2-1-2014	411-346-0165	12-28-2013	Amend	2-1-2014
411-335-0350	4-1-2014	Repeal	5-1-2014	411-346-0170	12-28-2013	Amend	2-1-2014
411-335-0360	1-1-2014	Suspend	2-1-2014	411-346-0180	12-28-2013	Amend	2-1-2014
411-335-0360	4-1-2014	Repeal	5-1-2014	411-346-0180(T)	12-28-2013	Repeal	2-1-2014
411-340-0010	12-28-2013	Amend	2-1-2014	411-346-0190	12-28-2013	Amend	2-1-2014
411-340-0020	12-28-2013	Amend	2-1-2014	411-346-0200	12-28-2013	Amend	2-1-2014
411-340-0020(T)	12-28-2013	Repeal	2-1-2014	411-346-0210	12-28-2013	Amend	2-1-2014
411-340-0030	12-28-2013	Amend	2-1-2014	411-346-0220	12-28-2013	Amend	2-1-2014
411-340-0040	12-28-2013	Amend	2-1-2014	411-346-0230	12-28-2013	Amend	2-1-2014
411-340-0050	12-28-2013	Amend	2-1-2014	411-350-0010	12-28-2013	Amend	2-1-2014
411-340-0060	12-28-2013	Amend	2-1-2014	411-350-0020	12-28-2013	Amend	2-1-2014
411-340-0070	12-28-2013	Amend	2-1-2014	411-350-0020(T)	12-28-2013	Repeal	2-1-2014
411-340-0080	12-28-2013	Amend	2-1-2014	411-350-0030	12-28-2013	Amend	2-1-2014
411-340-0090	12-28-2013	Amend	2-1-2014	411-350-0030(T)	12-28-2013	Repeal	2-1-2014
411-340-0100	12-28-2013	Amend	2-1-2014	411-350-0040	12-28-2013	Amend	2-1-2014
411-340-0100(T)	12-28-2013	Repeal	2-1-2014	411-350-0040(T)	12-28-2013	Repeal	2-1-2014
411-340-0110	12-28-2013	Amend	2-1-2014	411-350-0050	12-28-2013	Amend	2-1-2014
411-340-0110(T)	12-28-2013	Repeal	2-1-2014	411-350-0050(T)	12-28-2013	Repeal	2-1-2014
411-340-0120	12-28-2013	Amend	2-1-2014	411-350-0080	12-28-2013	Amend	2-1-2014
411-340-0120(T)	12-28-2013	Repeal	2-1-2014	411-350-0100	12-28-2013	Amend	2-1-2014
411-340-0125	12-28-2013	Amend	2-1-2014	411-350-0110	12-28-2013	Amend	2-1-2014
411-340-0125(T)	12-28-2013	Repeal	2-1-2014	411-350-0115	12-28-2013	Amend	2-1-2014
411-340-0130	12-28-2013	Amend	2-1-2014	411-350-0118	12-28-2013	Amend	2-1-2014
411-340-0130(T)	12-28-2013	Repeal	2-1-2014	411-350-0120	12-28-2013	Amend	2-1-2014
411-340-0140	12-28-2013	Amend	2-1-2014	411-355-0000	12-28-2013	Amend	2-1-2014
411-340-0150	12-28-2013	Amend	2-1-2014	411-355-0010	12-28-2013	Amend	2-1-2014
411-340-0150(T)	12-28-2013	Repeal	2-1-2014	411-355-0010(T)	12-28-2013	Repeal	2-1-2014
411-340-0160	12-28-2013	Amend	2-1-2014	411-355-0020	12-28-2013	Amend	2-1-2014
411-340-0170	12-28-2013	Amend	2-1-2014	411-355-0020(T)	12-28-2013	Repeal	2-1-2014
411-340-0180	12-28-2013	Amend	2-1-2014	411-355-0030	12-28-2013	Amend	2-1-2014
411-345-0010	12-28-2013	Amend	2-1-2014	411-355-0030(T)	12-28-2013	Repeal	2-1-2014
411-345-0020	12-28-2013	Amend	2-1-2014	411-355-0040	12-28-2013	Amend	2-1-2014
411-345-0020(T)	12-28-2013	Repeal	2-1-2014	411-355-0040(T)	12-28-2013	Repeal	2-1-2014
411-345-0095	12-28-2013	Amend	2-1-2014	411-355-0050	12-28-2013	Amend	2-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
411-355-0060	12-28-2013	Amend	2-1-2014	413-100-0450	1-1-2014	Suspend	2-1-2014
411-355-0070	12-28-2013	Amend	2-1-2014	413-100-0455	1-1-2014	Amend(T)	2-1-2014
411-355-0080	12-28-2013	Amend	2-1-2014	413-100-0457	2-4-2014	Adopt(T)	3-1-2014
411-355-0090	12-28-2013	Amend	2-1-2014	413-100-0460	1-1-2014	Amend(T)	2-1-2014
411-355-0100	12-28-2013	Amend	2-1-2014	413-100-0470	1-1-2014	Suspend	2-1-2014
411-355-0110	12-28-2013	Amend	2-1-2014	413-100-0480	1-1-2014	Suspend	2-1-2014
411-355-0120	12-28-2013	Amend	2-1-2014	413-100-0490	1-1-2014	Suspend	2-1-2014
413-010-0000	1-1-2014	Amend	2-1-2014	413-100-0500	1-1-2014	Suspend	2-1-2014
413-010-0010	1-1-2014	Amend	2-1-2014	413-100-0510	1-1-2014	Suspend	2-1-2014
413-010-0030	1-1-2014	Amend	2-1-2014	413-100-0520	1-1-2014	Suspend	2-1-2014
413-010-0035	1-1-2014	Amend	2-1-2014	413-100-0530	1-1-2014	Amend(T)	2-1-2014
413-010-0045	1-1-2014	Amend	2-1-2014	413-100-0540	1-1-2014	Suspend	2-1-2014
413-010-0055	1-1-2014	Amend	2-1-2014	413-100-0550	1-1-2014	Suspend	2-1-2014
413-010-0065	1-1-2014	Amend	2-1-2014	413-100-0560	1-1-2014	Suspend	2-1-2014
413-010-0068	1-1-2014	Amend	2-1-2014	413-100-0580	12-31-2013	Renumber	2-1-2014
413-010-0075	1-1-2014	Amend	2-1-2014	413-100-0590	12-31-2013	Renumber	2-1-2014
413-010-0170	1-1-2014	Amend	2-1-2014	413-100-0600	1-1-2014	Suspend	2-1-2014
413-010-0175	1-1-2014	Amend	2-1-2014	413-100-0610	1-1-2014	Suspend	2-1-2014
413-010-0180	1-1-2014	Amend	2-1-2014	413-130-0000	2-1-2014	Amend	3-1-2014
413-010-0185	1-1-2014	Adopt	2-1-2014	413-130-0010	2-1-2014	Amend	3-1-2014
413-010-0300	1-1-2014	Amend	2-1-2014	413-130-0015	2-1-2014	Amend	3-1-2014
413-010-0310	1-1-2014	Amend	2-1-2014	413-130-0020	2-1-2014	Amend	3-1-2014
413-010-0320	1-1-2014	Amend	2-1-2014	413-130-0040	2-1-2014	Amend	3-1-2014
413-010-0330	1-1-2014	Amend	2-1-2014	413-130-0050	2-1-2014	Amend	3-1-2014
413-010-0340	1-1-2014	Amend	2-1-2014	413-130-0055	2-1-2014	Amend	3-1-2014
413-040-0370	4-1-2014	Repeal	5-1-2014	413-130-0070	2-1-2014	Amend	3-1-2014
413-040-0380	4-1-2014	Repeal	5-1-2014	413-130-0075	2-1-2014	Amend	3-1-2014
413-040-0390	4-1-2014	Repeal	5-1-2014	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	413-310-0000	4-1-2014	Repeal	5-1-2014
413-100-0410	1-1-2014	Amend(T)	2-1-2014	413-310-0010	4-1-2014	Repeal	5-1-2014
413-100-0420	1-1-2014	Amend(T)	2-1-2014	413-310-0020	4-1-2014	Repeal	5-1-2014
413-100-0430	1-1-2014	Amend(T)	2-1-2014	413-310-0030	4-1-2014	Repeal	5-1-2014
413-100-0435	1-1-2014	Adopt(T)	2-1-2014	413-310-0040	4-1-2014	Repeal	5-1-2014
413-100-0440	1-1-2014	Suspend	2-1-2014	413-310-0050	4-1-2014	Repeal	5-1-2014
413-100-0445	1-1-2014	Amend(T)	2-1-2014	413-310-0060	4-1-2014	Repeal	5-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
413-310-0070	4-1-2014	Repeal	5-1-2014	413-330-0800	4-1-2014	Repeal	5-1-2014
413-310-0080	4-1-2014	Repeal	5-1-2014	413-330-0810	4-1-2014	Repeal	5-1-2014
413-310-0090	4-1-2014	Repeal	5-1-2014	413-330-0820	4-1-2014	Repeal	5-1-2014
413-310-0095	4-1-2014	Repeal	5-1-2014	413-330-0830	4-1-2014	Repeal	5-1-2014
413-310-0100	4-1-2014	Repeal	5-1-2014	414-002-0005	1-15-2014	Adopt	2-1-2014
413-310-0110	4-1-2014	Repeal	5-1-2014	414-002-0010	1-15-2014	Adopt	2-1-2014
413-310-0120	4-1-2014	Repeal	5-1-2014	414-800-0005	1-15-2014	Adopt(T)	2-1-2014
413-310-0130	4-1-2014	Repeal	5-1-2014	414-800-0010	1-15-2014	Adopt(T)	2-1-2014
413-330-0000	1-1-2014	Suspend	2-1-2014	414-800-0015	1-15-2014	Adopt(T)	2-1-2014
413-330-0000	4-1-2014	Repeal	5-1-2014	414-800-0020	1-15-2014	Adopt(T)	2-1-2014
413-330-0010	1-1-2014	Suspend	2-1-2014	414-800-0025	1-15-2014	Adopt(T)	2-1-2014
413-330-0010	4-1-2014	Repeal	5-1-2014	414-800-0030	1-15-2014	Adopt(T)	2-1-2014
413-330-0020	1-1-2014	Suspend	2-1-2014	414-800-0105	1-15-2014	Adopt(T)	2-1-2014
413-330-0020	4-1-2014	Repeal	5-1-2014	414-800-0110	1-15-2014	Adopt(T)	2-1-2014
413-330-0030	1-1-2014	Suspend	2-1-2014	414-800-0115	1-15-2014	Adopt(T)	2-1-2014
413-330-0030	4-1-2014	Repeal	5-1-2014	414-800-0120	1-15-2014	Adopt(T)	2-1-2014
413-330-0040	1-1-2014	Suspend	2-1-2014	414-800-0125	1-15-2014	Adopt(T)	2-1-2014
413-330-0040	4-1-2014	Repeal	5-1-2014	414-800-0130	1-15-2014	Adopt(T)	2-1-2014
413-330-0050	1-1-2014	Suspend	2-1-2014	414-900-0005	1-15-2014	Adopt	2-1-2014
413-330-0050	4-1-2014	Repeal	5-1-2014	414-900-0010	1-15-2014	Adopt	2-1-2014
413-330-0060	1-1-2014	Suspend	2-1-2014	414-900-0015	1-15-2014	Adopt	2-1-2014
413-330-0060	4-1-2014	Repeal	5-1-2014	414-900-0020	1-15-2014	Adopt	2-1-2014
413-330-0080	1-1-2014	Suspend	2-1-2014	415-012-0000	1-28-2014	Amend(T)	3-1-2014
413-330-0080	4-1-2014	Repeal	5-1-2014	415-012-0057	12-20-2013	Adopt(T)	2-1-2014
413-330-0085	4-1-2014	Repeal	5-1-2014	415-012-0058	12-20-2013	Adopt(T)	2-1-2014
413-330-0087	4-1-2014	Repeal	5-1-2014	416-530-0000	1-15-2014	Amend	2-1-2014
413-330-0090	4-1-2014	Repeal	5-1-2014	416-530-0010	1-15-2014	Amend	2-1-2014
413-330-0095	4-1-2014	Repeal	5-1-2014	416-530-0020	1-15-2014	Amend	2-1-2014
413-330-0097	4-1-2014	Repeal	5-1-2014	416-530-0030	1-15-2014	Amend	2-1-2014
413-330-0098	4-1-2014	Repeal	5-1-2014	416-530-0035	1-15-2014	Amend	2-1-2014
413-330-0100	4-1-2014	Repeal	5-1-2014	416-530-0040	1-15-2014	Amend	2-1-2014
413-330-0200	4-1-2014	Repeal	5-1-2014	416-530-0050	1-15-2014	Amend	2-1-2014
413-330-0210	4-1-2014	Repeal	5-1-2014	416-530-0060	1-15-2014	Amend	2-1-2014
413-330-0220	4-1-2014	Repeal	5-1-2014	416-530-0070	1-15-2014	Amend	2-1-2014
413-330-0230	4-1-2014	Repeal	5-1-2014	416-530-0080	1-15-2014	Amend	2-1-2014
413-330-0240	4-1-2014	Repeal	5-1-2014	416-530-0090	1-15-2014	Amend	2-1-2014
413-330-0250	4-1-2014	Repeal	5-1-2014	416-530-0100	1-15-2014	Amend	2-1-2014
413-330-0260	4-1-2014	Repeal	5-1-2014	416-530-0110	1-15-2014	Amend	2-1-2014
413-330-0270	4-1-2014	Repeal	5-1-2014	416-530-0125	1-15-2014	Amend	2-1-2014
413-330-0280	4-1-2014	Repeal	5-1-2014	416-530-0130	1-15-2014	Amend	2-1-2014
413-330-0290	4-1-2014	Repeal	5-1-2014	416-530-0140	1-15-2014	Amend	2-1-2014
413-330-0300	4-1-2014	Repeal	5-1-2014	416-530-0150	1-15-2014	Amend	2-1-2014
413-330-0310	4-1-2014	Repeal	5-1-2014	416-530-0160	1-15-2014	Amend	2-1-2014
413-330-0320	4-1-2014	Repeal	5-1-2014	416-530-0170	1-15-2014	Amend	2-1-2014
413-330-0330	4-1-2014	Repeal	5-1-2014	416-530-0200	1-15-2014	Amend	2-1-2014
413-330-0340	4-1-2014	Repeal	5-1-2014	436-001-0030	3-28-2014	Amend	4-1-2014
413-330-0350	4-1-2014	Repeal	5-1-2014	436-009-0001	4-1-2014	Amend	4-1-2014
413-330-0360	4-1-2014	Repeal	5-1-2014	436-009-0002	4-1-2014	Repeal	4-1-2014
413-330-0500	4-1-2014	Repeal	5-1-2014	436-009-0003	4-1-2014	Repeal	4-1-2014
413-330-0510	4-1-2014	Repeal	5-1-2014	436-009-0004	4-1-2014	Amend	4-1-2014
413-330-0520	4-1-2014	Repeal	5-1-2014	436-009-0005	4-1-2014	Amend	4-1-2014
413-330-0530	4-1-2014	Repeal	5-1-2014	436-009-0006	4-1-2014	Repeal	4-1-2014
413-330-0540	4-1-2014	Repeal	5-1-2014	436-009-0008	4-1-2014	Amend	4-1-2014
413-330-0600	4-1-2014	Repeal	5-1-2014	436-009-0010	4-1-2014	Amend	4-1-2014
413-330-0610	4-1-2014	Repeal	5-1-2014	436-009-0010	4-15-2014	Amend(T)	5-1-2014
413-330-0700	4-1-2014	Repeal	5-1-2014	436-009-0015	4-1-2014	Repeal	4-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
436-009-0018	4-1-2014	Amend	4-1-2014	436-010-0290	4-1-2014	Amend	4-1-2014
436-009-0020	4-1-2014	Amend	4-1-2014	436-010-0330	4-1-2014	Amend	4-1-2014
436-009-0020	4-15-2014	Amend(T)	5-1-2014	436-160-0410	7-1-2014	Amend	3-1-2014
436-009-0023	4-1-2014	Adopt	4-1-2014	437-002-0005	12-12-2013	Amend	1-1-2014
436-009-0025	4-1-2014	Amend	4-1-2014	437-002-0080	12-12-2013	Amend	1-1-2014
436-009-0030	4-1-2014	Amend	4-1-2014	437-002-0140	12-12-2013	Amend	1-1-2014
436-009-0035	4-1-2014	Amend	4-1-2014	437-002-0312	12-12-2013	Amend	1-1-2014
436-009-0040	4-1-2014	Amend	4-1-2014	437-003-0001	12-12-2013	Amend	1-1-2014
436-009-0050	4-1-2014	Repeal	4-1-2014	438-005-0035	4-1-2014	Amend	1-1-2014
436-009-0060	4-1-2014	Amend	4-1-2014	438-005-0046	4-1-2014	Amend	1-1-2014
436-009-0070	4-1-2014	Repeal	4-1-2014	438-006-0020	4-1-2014	Amend	1-1-2014
436-009-0080	4-1-2014	Amend	4-1-2014	438-006-0031	4-1-2014	Amend	1-1-2014
436-009-0090	4-1-2014	Amend	4-1-2014	438-006-0036	4-1-2014	Amend	1-1-2014
436-009-0095	4-1-2014	Repeal	4-1-2014	438-006-0045	4-1-2014	Amend	1-1-2014
436-009-0110	4-1-2014	Amend	4-1-2014	438-006-0062	4-1-2014	Amend	1-1-2014
436-009-0114	4-1-2014	Repeal	4-1-2014	438-006-0075	4-1-2014	Amend	1-1-2014
436-009-0115	4-1-2014	Repeal	4-1-2014	438-006-0105	4-1-2014	Repeal	1-1-2014
436-009-0120	4-1-2014	Repeal	4-1-2014	438-007-0005	4-1-2014	Amend	1-1-2014
436-009-0125	4-1-2014	Repeal	4-1-2014	438-007-0018	4-1-2014	Amend	1-1-2014
436-009-0130	4-1-2014	Repeal	4-1-2014	438-007-0020	4-1-2014	Amend	1-1-2014
436-009-0135	4-1-2014	Repeal	4-1-2014	438-009-0020	4-1-2014	Amend	1-1-2014
436-009-0140	4-1-2014	Repeal	4-1-2014	438-011-0055	4-1-2014	Adopt	1-1-2014
436-009-0145	4-1-2014	Repeal	4-1-2014	441-505-2000	2-12-2014	Adopt	3-1-2014
436-009-0155	4-1-2014	Repeal	4-1-2014	441-730-0010	1-1-2014	Amend(T)	2-1-2014
436-009-0160	4-1-2014	Repeal	4-1-2014	441-730-0025	1-1-2014	Amend(T)	2-1-2014
436-009-0165	4-1-2014	Repeal	4-1-2014	441-730-0030	1-1-2014	Amend(T)	2-1-2014
436-009-0170	4-1-2014	Repeal	4-1-2014	441-910-0096	4-8-2014	Adopt	5-1-2014
436-009-0175	4-1-2014	Repeal	4-1-2014	442-001-0000	1-2-2014	Repeal	2-1-2014
436-009-0177	4-1-2014	Repeal	4-1-2014	442-001-0005	1-2-2014	Repeal	2-1-2014
436-009-0180	4-1-2014	Repeal	4-1-2014	442-001-0050	1-2-2014	Repeal	2-1-2014
436-009-0185	4-1-2014	Repeal	4-1-2014	442-001-0060	1-2-2014	Repeal	2-1-2014
436-009-0200	4-1-2014	Repeal	4-1-2014	442-001-0070	1-2-2014	Repeal	2-1-2014
436-009-0205	4-1-2014	Repeal	4-1-2014	442-001-0080	1-2-2014	Repeal	2-1-2014
436-009-0206	4-1-2014	Repeal	4-1-2014	442-001-0090	1-2-2014	Repeal	2-1-2014
436-009-0207	4-1-2014	Repeal	4-1-2014	442-001-0100	1-2-2014	Repeal	2-1-2014
436-009-0210	4-1-2014	Repeal	4-1-2014	442-001-0110	1-2-2014	Repeal	2-1-2014
436-009-0215	4-1-2014	Repeal	4-1-2014	442-001-0120	1-2-2014	Repeal	2-1-2014
436-009-0220	4-1-2014	Repeal	4-1-2014	442-001-0130	1-2-2014	Repeal	2-1-2014
436-009-0225	4-1-2014	Repeal	4-1-2014	442-001-0140	1-2-2014	Repeal	2-1-2014
436-009-0230	4-1-2014	Repeal	4-1-2014	442-001-0150	1-2-2014	Repeal	2-1-2014
436-009-0235	4-1-2014	Repeal	4-1-2014	442-001-0160	1-2-2014	Repeal	2-1-2014
436-009-0240	4-1-2014	Repeal	4-1-2014	442-005-0000	2-1-2014	Repeal	3-1-2014
436-009-0245	4-1-2014	Repeal	4-1-2014	442-005-0010	2-1-2014	Repeal	3-1-2014
436-009-0255	4-1-2014	Repeal	4-1-2014	442-005-0020	2-1-2014	Repeal	3-1-2014
436-009-0260	4-1-2014	Repeal	4-1-2014	442-005-0030	2-1-2014	Repeal	3-1-2014
436-009-0265	4-1-2014	Repeal	4-1-2014	442-005-0040	2-1-2014	Repeal	3-1-2014
436-009-0270	4-1-2014	Repeal	4-1-2014	442-005-0050	2-1-2014	Repeal	3-1-2014
436-009-0275	4-1-2014	Repeal	4-1-2014	442-005-0060	2-1-2014	Repeal	3-1-2014
436-009-0285	4-1-2014	Repeal	4-1-2014	442-005-0070	2-1-2014	Repeal	3-1-2014
436-009-0290	4-1-2014	Repeal	4-1-2014	442-005-0080	2-1-2014	Repeal	3-1-2014
436-009-0998	4-1-2014	Amend	4-1-2014	442-005-0090	2-1-2014	Repeal	3-1-2014
436-010-0005	4-1-2014	Amend	4-1-2014	442-005-0100	2-1-2014	Repeal	3-1-2014
436-010-0230	4-1-2014	Amend	4-1-2014	442-005-0110	2-1-2014	Repeal	3-1-2014
436-010-0240	4-1-2014	Amend	4-1-2014	442-005-0120	2-1-2014	Repeal	3-1-2014
436-010-0270	4-1-2014	Amend	4-1-2014	442-005-0130	2-1-2014	Repeal	3-1-2014
436-010-0280	4-1-2014	Amend	4-1-2014	442-005-0140	2-1-2014	Repeal	3-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
442-005-0150	2-1-2014	Repeal	3-1-2014	443-003-0010	1-1-2014	Adopt(T)	2-1-2014
442-005-0160	2-1-2014	Repeal	3-1-2014	443-003-0015	1-1-2014	Adopt(T)	2-1-2014
442-005-0170	2-1-2014	Repeal	3-1-2014	443-003-0015	2-26-2014	Adopt(T)	4-1-2014
442-005-0180	2-1-2014	Repeal	3-1-2014	443-003-0020	1-1-2014	Adopt(T)	2-1-2014
442-005-0190	2-1-2014	Repeal	3-1-2014	443-003-0020	2-26-2014	Adopt(T)	4-1-2014
442-005-0200	2-1-2014	Repeal	3-1-2014	443-003-0025	1-1-2014	Adopt(T)	2-1-2014
442-005-0210	2-1-2014	Repeal	3-1-2014	443-003-0025	2-26-2014	Adopt(T)	4-1-2014
442-005-0220	2-1-2014	Repeal	3-1-2014	443-003-0030	1-1-2014	Adopt(T)	2-1-2014
442-005-0230	2-1-2014	Repeal	3-1-2014	443-003-0035	1-1-2014	Adopt(T)	2-1-2014
442-005-0235	2-1-2014	Repeal	3-1-2014	443-003-0035	2-26-2014	Adopt(T)	4-1-2014
442-005-0240	2-1-2014	Repeal	3-1-2014	443-003-0040	1-1-2014	Adopt(T)	2-1-2014
442-005-0250	2-1-2014	Repeal	3-1-2014	443-003-0045	1-1-2014	Adopt(T)	2-1-2014
442-005-0260	2-1-2014	Repeal	3-1-2014	443-003-0050	1-1-2014	Adopt(T)	2-1-2014
442-005-0270	2-1-2014	Repeal	3-1-2014	443-003-0055	1-1-2014	Adopt(T)	2-1-2014
442-005-0275	2-1-2014	Repeal	3-1-2014	443-003-0060	1-1-2014	Adopt(T)	2-1-2014
442-005-0280	2-1-2014	Repeal	3-1-2014	443-003-0065	1-1-2014	Adopt(T)	2-1-2014
442-005-0290	2-1-2014	Repeal	3-1-2014	443-003-0070	1-1-2014	Adopt(T)	2-1-2014
442-005-0300	2-1-2014	Repeal	3-1-2014	443-003-0070	2-26-2014	Adopt(T)	4-1-2014
442-005-0310	2-1-2014	Repeal	3-1-2014	443-003-0075	1-1-2014	Adopt(T)	2-1-2014
442-005-0320	2-1-2014	Repeal	3-1-2014	443-003-0080	1-1-2014	Adopt(T)	2-1-2014
442-005-0330	2-1-2014	Repeal	3-1-2014	443-003-0085	1-1-2014	Adopt(T)	2-1-2014
442-005-0340	2-1-2014	Repeal	3-1-2014	443-003-0090	1-1-2014	Adopt(T)	2-1-2014
442-006-0000	1-2-2014	Repeal	2-1-2014	443-003-0095	1-1-2014	Adopt(T)	2-1-2014
442-006-0010	1-2-2014	Repeal	2-1-2014	443-003-0100	1-1-2014	Adopt(T)	2-1-2014
442-006-0020	1-2-2014	Repeal	2-1-2014	443-003-0105	1-1-2014	Adopt(T)	2-1-2014
442-006-0030	1-2-2014	Repeal	2-1-2014	443-003-0110	1-1-2014	Adopt(T)	2-1-2014
442-006-0040	1-2-2014	Repeal	2-1-2014	443-003-0115	1-1-2014	Adopt(T)	2-1-2014
442-010-0010	2-1-2014	Repeal	3-1-2014	443-003-0120	1-1-2014	Adopt(T)	2-1-2014
442-010-0020	2-1-2014	Repeal	3-1-2014	443-003-0125	1-1-2014	Adopt(T)	2-1-2014
442-010-0030	2-1-2014	Repeal	3-1-2014	459-001-0005	3-31-2014	Amend	5-1-2014
442-010-0040	2-1-2014	Repeal	3-1-2014	459-001-0030	1-31-2014	Amend	3-1-2014
442-010-0050	2-1-2014	Repeal	3-1-2014	459-005-0220	3-31-2014	Amend	5-1-2014
442-010-0055	2-1-2014	Repeal	3-1-2014	459-005-0510	3-31-2014	Adopt	5-1-2014
442-010-0060	2-1-2014	Repeal	3-1-2014	459-005-0520	3-31-2014	Adopt	5-1-2014
442-010-0070	2-1-2014	Repeal	3-1-2014	459-005-0525	1-31-2014	Amend	3-1-2014
442-010-0075	2-1-2014	Repeal	3-1-2014	459-005-0545	1-31-2014	Amend	3-1-2014
442-010-0080	2-1-2014	Repeal	3-1-2014	459-005-0610	11-22-2013	Amend	1-1-2014
442-010-0085	2-1-2014	Repeal	3-1-2014	459-017-0060	1-31-2014	Amend	3-1-2014
442-010-0090	2-1-2014	Repeal	3-1-2014	459-035-0001	3-31-2014	Amend	5-1-2014
442-010-0100	2-1-2014	Repeal	3-1-2014	459-035-0050	3-31-2014	Amend	5-1-2014
442-010-0120	2-1-2014	Repeal	3-1-2014	459-040-0060	11-22-2013	Amend	1-1-2014
442-010-0130	2-1-2014	Repeal	3-1-2014	459-040-0070	11-22-2013	Amend	1-1-2014
442-010-0140	2-1-2014	Repeal	3-1-2014	459-045-0010	11-22-2013	Amend	1-1-2014
442-010-0150	2-1-2014	Repeal	3-1-2014	459-070-0100	1-31-2014	Amend	3-1-2014
442-010-0160	2-1-2014	Repeal	3-1-2014	459-080-0500	1-31-2014	Amend	3-1-2014
442-010-0170	2-1-2014	Repeal	3-1-2014	461-001-0000	1-1-2014	Amend	2-1-2014
442-010-0180	2-1-2014	Repeal	3-1-2014	461-001-0000	1-1-2014	Amend(T)	2-1-2014
442-010-0190	2-1-2014	Repeal	3-1-2014	461-001-0000	4-1-2014	Amend	5-1-2014
442-010-0210	2-1-2014	Repeal	3-1-2014	461-001-0000(T)	1-1-2014	Repeal	2-1-2014
442-010-0215	2-1-2014	Repeal	3-1-2014	461-001-0000(T)	4-1-2014	Repeal	5-1-2014
442-010-0220	2-1-2014	Repeal	3-1-2014	461-001-0030	1-1-2014	Amend	2-1-2014
442-010-0230	2-1-2014	Repeal	3-1-2014	461-025-0310	4-1-2014	Amend	5-1-2014
442-010-0240	2-1-2014	Repeal	3-1-2014	461-025-0315	1-1-2014	Amend	2-1-2014
442-010-0260	2-1-2014	Repeal	3-1-2014	461-025-0316	4-1-2014	Amend	5-1-2014
442-010-0270	2-1-2014	Repeal	3-1-2014	461-025-0375	1-1-2014	Amend	2-1-2014
443-003-0005	1-1-2014	Adopt(T)	2-1-2014	461-101-0010	1-1-2014	Amend	2-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
461-101-0010(T)	1-1-2014	Repeal	2-1-2014	461-135-0080	1-1-2014	Amend	2-1-2014
461-105-0100	1-1-2014	Amend	2-1-2014	461-135-0080(T)	1-1-2014	Repeal	2-1-2014
461-105-0130	1-1-2014	Amend	2-1-2014	461-135-0095	1-1-2014	Repeal	2-1-2014
461-110-0210	1-1-2014	Amend	2-1-2014	461-135-0096	1-1-2014	Repeal	2-1-2014
461-110-0210(T)	1-1-2014	Repeal	2-1-2014	461-135-0170	1-1-2014	Repeal	2-1-2014
461-110-0330	1-1-2014	Amend	2-1-2014	461-135-0405	4-10-2014	Amend(T)	5-1-2014
461-110-0330(T)	1-1-2014	Repeal	2-1-2014	461-135-0505	1-1-2014	Amend	2-1-2014
461-110-0340	1-1-2014	Amend	2-1-2014	461-135-0505	1-1-2014	Amend(T)	2-1-2014
461-110-0340(T)	1-1-2014	Repeal	2-1-2014	461-135-0505	4-1-2014	Amend	5-1-2014
461-110-0350	1-8-2014	Amend(T)	2-1-2014	461-135-0505(T)	4-1-2014	Repeal	5-1-2014
461-110-0400(T)	1-1-2014	Repeal	2-1-2014	461-135-0750	4-1-2014	Amend	5-1-2014
461-110-0530	1-1-2014	Amend	2-1-2014	461-135-0780	1-1-2014	Amend	2-1-2014
461-110-0530(T)	1-1-2014	Repeal	2-1-2014	461-135-0832	1-1-2014	Amend	2-1-2014
461-110-0630	1-1-2014	Amend	2-1-2014	461-135-0835	1-1-2014	Amend	2-1-2014
461-110-0630(T)	1-1-2014	Repeal	2-1-2014	461-135-0841	1-1-2014	Amend	2-1-2014
461-115-0016	1-1-2014	Amend(T)	2-1-2014	461-135-0845	1-1-2014	Amend	2-1-2014
461-115-0030	1-1-2014	Amend	2-1-2014	461-135-0875	1-1-2014	Amend	2-1-2014
461-115-0030(T)	1-1-2014	Repeal	2-1-2014	461-135-0875(T)	1-1-2014	Repeal	2-1-2014
461-115-0050	1-1-2014	Amend	2-1-2014	461-135-0900	1-1-2014	Amend	2-1-2014
461-115-0050(T)	1-1-2014	Repeal	2-1-2014	461-135-0900(T)	1-1-2014	Repeal	2-1-2014
461-115-0071	1-1-2014	Amend	2-1-2014	461-135-0930	1-1-2014	Amend	2-1-2014
461-115-0071(T)	1-1-2014	Repeal	2-1-2014	461-135-0930(T)	1-1-2014	Repeal	2-1-2014
461-115-0150	1-1-2014	Amend	2-1-2014	461-135-0950	1-1-2014	Amend	2-1-2014
461-115-0430	1-1-2014	Amend	2-1-2014	461-135-0950	4-1-2014	Amend	5-1-2014
461-115-0430(T)	1-1-2014	Repeal	2-1-2014	461-135-0950(T)	1-1-2014	Repeal	2-1-2014
461-115-0530	1-1-2014	Repeal	2-1-2014	461-135-1060	1-1-2014	Repeal	2-1-2014
461-115-0705	1-1-2014	Repeal	2-1-2014	461-135-1070	1-1-2014	Amend	2-1-2014
461-120-0030	1-1-2014	Amend	2-1-2014	461-135-1070(T)	1-1-2014	Repeal	2-1-2014
461-120-0030(T)	1-1-2014	Repeal	2-1-2014	461-135-1100	1-1-2014	Repeal	2-1-2014
461-120-0050	1-1-2014	Amend	2-1-2014	461-135-1101	1-1-2014	Repeal	2-1-2014
461-120-0050(T)	1-1-2014	Repeal	2-1-2014	461-135-1102	1-1-2014	Repeal	2-1-2014
461-120-0125	1-1-2014	Amend	2-1-2014	461-135-1120	1-1-2014	Repeal	2-1-2014
461-120-0125(T)	1-1-2014	Repeal	2-1-2014	461-135-1125	1-1-2014	Repeal	2-1-2014
461-120-0210	1-1-2014	Amend	2-1-2014	461-135-1149	1-1-2014	Repeal	2-1-2014
461-120-0210(T)	1-1-2014	Repeal	2-1-2014	461-140-0020	1-1-2014	Amend	2-1-2014
461-120-0310	1-1-2014	Amend	2-1-2014	461-140-0040	1-1-2014	Amend	2-1-2014
461-120-0310(T)	1-1-2014	Repeal	2-1-2014	461-140-0040(T)	1-1-2014	Repeal	2-1-2014
461-120-0315	1-1-2014	Amend	2-1-2014	461-140-0120	1-1-2014	Amend	2-1-2014
461-120-0315(T)	1-1-2014	Repeal	2-1-2014	461-140-0120(T)	1-1-2014	Repeal	2-1-2014
461-120-0330	1-1-2014	Amend	2-1-2014	461-140-0210	1-1-2014	Amend	2-1-2014
461-120-0345	1-1-2014	Amend	2-1-2014	461-140-0210(T)	1-1-2014	Repeal	2-1-2014
461-120-0345(T)	1-1-2014	Repeal	2-1-2014	461-140-0270	1-1-2014	Amend	2-1-2014
461-120-0350	1-1-2014	Amend	2-1-2014	461-140-0270(T)	1-1-2014	Repeal	2-1-2014
461-120-0350(T)	1-1-2014	Repeal	2-1-2014	461-140-0300	1-1-2014	Amend	2-1-2014
461-120-0510	1-1-2014	Amend	2-1-2014	461-145-0040	1-1-2014	Amend	2-1-2014
461-120-0510(T)	1-1-2014	Repeal	2-1-2014	461-145-0040(T)	1-1-2014	Repeal	2-1-2014
461-120-0630	1-1-2014	Amend	2-1-2014	461-145-0050	1-1-2014	Amend	2-1-2014
461-120-0630(T)	1-1-2014	Repeal	2-1-2014	461-145-0050(T)	1-1-2014	Repeal	2-1-2014
461-125-0150	1-1-2014	Amend	2-1-2014	461-145-0080	1-1-2014	Amend	2-1-2014
461-125-0150(T)	1-1-2014	Repeal	2-1-2014	461-145-0080(T)	1-1-2014	Repeal	2-1-2014
461-130-0328	1-1-2014	Amend	2-1-2014	461-145-0086	1-1-2014	Amend	2-1-2014
461-130-0328(T)	1-1-2014	Repeal	2-1-2014	461-145-0086(T)	1-1-2014	Repeal	2-1-2014
461-135-0010	1-1-2014	Amend	2-1-2014	461-145-0090	1-1-2014	Amend	2-1-2014
461-135-0010(T)	1-1-2014	Repeal	2-1-2014	461-145-0090(T)	1-1-2014	Repeal	2-1-2014
461-135-0070	1-1-2014	Amend	2-1-2014	461-145-0110	1-1-2014	Amend	2-1-2014
461-135-0070(T)	1-1-2014	Repeal	2-1-2014	461-145-0110(T)	1-1-2014	Repeal	2-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
461-145-0120	1-1-2014	Amend	2-1-2014	461-145-0820(T)	1-1-2014	Repeal	2-1-2014
461-145-0120(T)	1-1-2014	Repeal	2-1-2014	461-145-0830	1-1-2014	Amend	2-1-2014
461-145-0130	1-1-2014	Amend	2-1-2014	461-145-0830(T)	1-1-2014	Repeal	2-1-2014
461-145-0130(T)	1-1-2014	Repeal	2-1-2014	461-145-0860	1-1-2014	Amend	2-1-2014
461-145-0150	1-1-2014	Amend	2-1-2014	461-145-0860(T)	1-1-2014	Repeal	2-1-2014
461-145-0150(T)	1-1-2014	Repeal	2-1-2014	461-145-0870	1-1-2014	Repeal	2-1-2014
461-145-0220	1-1-2014	Amend	2-1-2014	461-145-0910	1-1-2014	Amend	2-1-2014
461-145-0220(T)	1-1-2014	Repeal	2-1-2014	461-145-0910(T)	1-1-2014	Repeal	2-1-2014
461-145-0230	1-1-2014	Amend	2-1-2014	461-145-0920	1-1-2014	Amend	2-1-2014
461-145-0230(T)	1-1-2014	Repeal	2-1-2014	461-145-0920(T)	1-1-2014	Repeal	2-1-2014
461-145-0250	1-1-2014	Amend	2-1-2014	461-145-0930	1-1-2014	Amend	2-1-2014
461-145-0250(T)	1-1-2014	Repeal	2-1-2014	461-145-0930(T)	1-1-2014	Repeal	2-1-2014
461-145-0280	1-1-2014	Amend(T)	2-1-2014	461-150-0020	1-1-2014	Amend	2-1-2014
461-145-0280	4-1-2014	Amend	5-1-2014	461-150-0020(T)	1-1-2014	Repeal	2-1-2014
461-145-0280(T)	4-1-2014	Repeal	5-1-2014	461-150-0055	1-1-2014	Repeal	2-1-2014
461-145-0300	1-1-2014	Amend	2-1-2014	461-150-0060	1-1-2014	Amend	2-1-2014
461-145-0300(T)	1-1-2014	Repeal	2-1-2014	461-150-0060(T)	1-1-2014	Repeal	2-1-2014
461-145-0330	1-1-2014	Amend	2-1-2014	461-150-0070	1-1-2014	Amend	2-1-2014
461-145-0330(T)	1-1-2014	Repeal	2-1-2014	461-150-0070(T)	1-1-2014	Repeal	2-1-2014
461-145-0340	1-1-2014	Amend	2-1-2014	461-150-0080	1-1-2014	Amend	2-1-2014
461-145-0340(T)	1-1-2014	Repeal	2-1-2014	461-150-0080(T)	1-1-2014	Repeal	2-1-2014
461-145-0360	1-1-2014	Amend	2-1-2014	461-150-0090	1-1-2014	Amend	2-1-2014
461-145-0360(T)	1-1-2014	Repeal	2-1-2014	461-150-0090(T)	1-1-2014	Repeal	2-1-2014
461-145-0365	1-1-2014	Amend	2-1-2014	461-155-0030	1-1-2014	Amend	2-1-2014
461-145-0365(T)	1-1-2014	Repeal	2-1-2014	461-155-0030(T)	1-1-2014	Repeal	2-1-2014
461-145-0380	1-1-2014	Amend	2-1-2014	461-155-0150	3-31-2014	Amend	5-1-2014
461-145-0380(T)	1-1-2014	Repeal	2-1-2014	461-155-0180	1-1-2014	Amend	2-1-2014
461-145-0410	1-1-2014	Amend	2-1-2014	461-155-0180	2-1-2014	Amend	3-1-2014
461-145-0410(T)	1-1-2014	Repeal	2-1-2014	461-155-0180(T)	1-1-2014	Repeal	2-1-2014
461-145-0420	1-1-2014	Amend	2-1-2014	461-155-0225	1-1-2014	Amend	2-1-2014
461-145-0420(T)	1-1-2014	Repeal	2-1-2014	461-155-0225(T)	1-1-2014	Repeal	2-1-2014
461-145-0430	1-1-2014	Amend	2-1-2014	461-155-0235	1-1-2014	Repeal	2-1-2014
461-145-0430(T)	1-1-2014	Repeal	2-1-2014	461-155-0250	1-1-2014	Amend	2-1-2014
461-145-0433	1-1-2014	Amend	2-1-2014	461-155-0270	1-1-2014	Amend	2-1-2014
461-145-0433(T)	1-1-2014	Repeal	2-1-2014	461-155-0290	3-1-2014	Amend(T)	3-1-2014
461-145-0440	1-1-2014	Amend	2-1-2014	461-155-0290	3-7-2014	Amend	4-1-2014
461-145-0440(T)	1-1-2014	Repeal	2-1-2014	461-155-0290(T)	3-7-2014	Repeal	4-1-2014
461-145-0455	1-1-2014	Amend	2-1-2014	461-155-0291	3-1-2014	Amend(T)	3-1-2014
461-145-0455(T)	1-1-2014	Repeal	2-1-2014	461-155-0291	3-7-2014	Amend	4-1-2014
461-145-0460	1-1-2014	Amend	2-1-2014	461-155-0291(T)	3-7-2014	Repeal	4-1-2014
461-145-0460(T)	1-1-2014	Repeal	2-1-2014	461-155-0295	3-1-2014	Amend(T)	3-1-2014
461-145-0470	1-1-2014	Amend	2-1-2014	461-155-0295	3-7-2014	Amend	4-1-2014
461-145-0470(T)	1-1-2014	Repeal	2-1-2014	461-155-0295(T)	3-7-2014	Repeal	4-1-2014
461-145-0505	1-1-2014	Amend	2-1-2014	461-155-0300	1-1-2014	Amend	2-1-2014
461-145-0505(T)	1-1-2014	Repeal	2-1-2014	461-155-0350	1-1-2014	Amend	2-1-2014
461-145-0510	1-1-2014	Amend	2-1-2014	461-155-0350(T)	1-1-2014	Repeal	2-1-2014
461-145-0510(T)	1-1-2014	Repeal	2-1-2014	461-155-0670	1-1-2014	Amend	2-1-2014
461-145-0540	1-1-2014	Amend	2-1-2014	461-155-0670(T)	1-1-2014	Repeal	2-1-2014
461-145-0540(T)	1-1-2014	Repeal	2-1-2014	461-160-0015	1-1-2014	Amend	2-1-2014
461-145-0580	1-1-2014	Amend	2-1-2014	461-160-0015(T)	1-1-2014	Repeal	2-1-2014
461-145-0580(T)	1-1-2014	Repeal	2-1-2014	461-160-0040	1-1-2014	Amend	2-1-2014
461-145-0590	1-1-2014	Amend	2-1-2014	461-160-0040(T)	1-1-2014	Repeal	2-1-2014
461-145-0590(T)	1-1-2014	Repeal	2-1-2014	461-160-0060	1-1-2014	Amend	2-1-2014
461-145-0600	1-1-2014	Amend	2-1-2014	461-160-0060(T)	1-1-2014	Repeal	2-1-2014
461-145-0600(T)	1-1-2014	Repeal	2-1-2014	461-160-0100	1-1-2014	Amend	2-1-2014
461-145-0820	1-1-2014	Amend	2-1-2014	461-160-0100(T)	1-1-2014	Repeal	2-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
461-160-0120	1-1-2014	Repeal	2-1-2014	461-180-0120(T)	1-1-2014	Repeal	2-1-2014
461-160-0125	1-1-2014	Repeal	2-1-2014	461-180-0140	1-1-2014	Amend	2-1-2014
461-160-0160	1-1-2014	Amend	2-1-2014	461-180-0140(T)	1-1-2014	Repeal	2-1-2014
461-160-0160(T)	1-1-2014	Repeal	2-1-2014	461-185-0050	1-1-2014	Amend	2-1-2014
461-160-0190	1-1-2014	Repeal	2-1-2014	461-190-0211	3-5-2014	Amend(T)	4-1-2014
461-160-0200	1-1-2014	Repeal	2-1-2014	461-195-0301	1-1-2014	Amend	2-1-2014
461-160-0580	1-1-2014	Amend	2-1-2014	461-195-0310	1-1-2014	Amend	2-1-2014
461-160-0620	1-1-2014	Amend	2-1-2014	461-195-0501	4-1-2014	Amend	5-1-2014
461-160-0620	2-1-2014	Amend	3-1-2014	461-195-0501(T)	4-1-2014	Repeal	5-1-2014
461-160-0630	1-1-2014	Amend	2-1-2014	461-195-0521	4-1-2014	Amend	5-1-2014
461-160-0630(T)	1-1-2014	Repeal	2-1-2014	461-195-0521(T)	4-1-2014	Repeal	5-1-2014
461-160-0700	1-1-2014	Repeal	2-1-2014	461-195-0541	4-1-2014	Amend	5-1-2014
461-160-0780	1-1-2014	Amend	2-1-2014	461-195-0541(T)	4-1-2014	Repeal	5-1-2014
461-165-0030	1-1-2014	Amend	2-1-2014	461-195-0551	1-1-2014	Amend	2-1-2014
461-165-0030(T)	1-1-2014	Repeal	2-1-2014	461-195-0561	4-1-2014	Amend	5-1-2014
461-165-0070	1-1-2014	Amend	2-1-2014	461-195-0561(T)	4-1-2014	Repeal	5-1-2014
461-165-0120	1-1-2014	Amend	2-1-2014	462-120-0060	2-13-2014	Amend	3-1-2014
461-165-0120(T)	1-1-2014	Repeal	2-1-2014	462-200-0635	2-13-2014	Adopt	3-1-2014
461-165-0180	3-1-2014	Amend(T)	3-1-2014	471-020-0010	2-28-2014	Amend	4-1-2014
461-165-0180	4-1-2014	Amend(T)	5-1-2014	471-020-0010(T)	2-28-2014	Repeal	4-1-2014
461-165-0180(T)	4-1-2014	Suspend	5-1-2014	471-020-0035	2-28-2014	Amend	4-1-2014
461-170-0011	1-1-2014	Amend	2-1-2014	471-020-0035(T)	2-28-2014	Repeal	4-1-2014
461-170-0011(T)	1-1-2014	Repeal	2-1-2014	471-030-0036	2-23-2014	Amend	2-1-2014
461-170-0130	1-1-2014	Amend	2-1-2014	471-030-0036	2-23-2014	Amend	2-1-2014
461-170-0130(T)	1-1-2014	Repeal	2-1-2014	471-030-0040	2-23-2014	Amend	2-1-2014
461-170-0200	1-1-2014	Amend	2-1-2014	471-030-0040	2-23-2014	Amend	2-1-2014
461-170-0200(T)	1-1-2014	Repeal	2-1-2014	471-030-0040(T)	2-23-2014	Repeal	2-1-2014
461-175-0200	1-1-2014	Amend	2-1-2014	471-030-0040(T)	2-23-2014	Repeal	2-1-2014
461-175-0200(T)	1-1-2014	Repeal	2-1-2014	471-030-0045	2-23-2014	Amend	2-1-2014
461-175-0203(T)	1-1-2014	Repeal	2-1-2014	471-030-0045	2-23-2014	Amend	2-1-2014
461-175-0206	1-1-2014	Amend	2-1-2014	471-030-0045(T)	2-23-2014	Repeal	2-1-2014
461-175-0210	1-1-2014	Amend	2-1-2014	471-030-0045(T)	2-23-2014	Repeal	2-1-2014
461-175-0210(T)	1-1-2014	Repeal	2-1-2014	471-030-0052	2-23-2014	Amend	2-1-2014
461-175-0230	4-1-2014	Amend	5-1-2014	471-030-0052	2-23-2014	Amend	2-1-2014
461-175-0270	1-1-2014	Amend	2-1-2014	471-030-0052(T)	2-23-2014	Repeal	2-1-2014
461-175-0270(T)	1-1-2014	Repeal	2-1-2014	471-030-0052(T)	2-23-2014	Repeal	2-1-2014
461-175-0305	1-1-2014	Amend	2-1-2014	471-030-0053	2-23-2014	Amend	2-1-2014
461-175-0305(T)	1-1-2014	Repeal	2-1-2014	471-030-0053	2-23-2014	Amend	2-1-2014
461-180-0010	1-1-2014	Amend	2-1-2014	471-030-0053(T)	2-23-2014	Repeal	2-1-2014
461-180-0010(T)	1-1-2014	Repeal	2-1-2014	471-030-0053(T)	2-23-2014	Repeal	2-1-2014
461-180-0020	1-1-2014	Amend	2-1-2014	471-030-0058	2-23-2014	Adopt	2-1-2014
461-180-0020(T)	1-1-2014	Repeal	2-1-2014	471-030-0058	2-23-2014	Adopt	2-1-2014
461-180-0050	1-1-2014	Amend	2-1-2014	471-030-0058(T)	2-23-2014	Repeal	2-1-2014
461-180-0050(T)	1-1-2014	Repeal	2-1-2014	471-030-0058(T)	2-23-2014	Repeal	2-1-2014
461-180-0065	1-1-2014	Amend	2-1-2014	471-030-0078	2-23-2014	Repeal	2-1-2014
461-180-0065(T)	1-1-2014	Repeal	2-1-2014	471-030-0078	2-23-2014	Repeal	2-1-2014
461-180-0085	1-1-2014	Amend	2-1-2014	471-030-0083	2-23-2014	Adopt	2-1-2014
461-180-0085(T)	1-1-2014	Repeal	2-1-2014	471-030-0083	2-23-2014	Adopt	2-1-2014
461-180-0090	1-1-2014	Amend	2-1-2014	471-030-0210	2-23-2014	Amend	2-1-2014
461-180-0090(T)	1-1-2014	Repeal	2-1-2014	471-030-0210	2-23-2014	Amend	2-1-2014
461-180-0097(T)	1-1-2014	Repeal	2-1-2014	471-031-0151	2-23-2014	Amend	2-1-2014
461-180-0100	1-1-2014	Amend	2-1-2014	471-031-0151	2-23-2014	Amend	2-1-2014
461-180-0100(T)	1-1-2014	Repeal	2-1-2014	471-040-0020	2-23-2014	Amend	2-1-2014
461-180-0105	1-1-2014	Amend	2-1-2014	471-040-0020	2-23-2014	Amend	2-1-2014
461-180-0105(T)	1-1-2014	Repeal	2-1-2014	574-050-0005	1-28-2014	Amend	3-1-2014
461-180-0120	1-1-2014	Amend	2-1-2014	576-005-0005	2-11-2014	Amend(T)	3-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
576-005-0010	2-11-2014	Amend(T)	3-1-2014	581-017-0317	11-22-2013	Adopt(T)	1-1-2014
576-005-0020	2-11-2014	Amend(T)	3-1-2014	581-017-0320	11-22-2013	Adopt(T)	1-1-2014
576-005-0025	2-11-2014	Amend(T)	3-1-2014	581-017-0323	11-22-2013	Adopt(T)	1-1-2014
576-005-0032	2-11-2014	Amend(T)	3-1-2014	581-017-0326	11-22-2013	Adopt(T)	1-1-2014
576-005-0041	2-11-2014	Amend(T)	3-1-2014	581-017-0329	11-22-2013	Adopt(T)	1-1-2014
576-010-0000	12-18-2013	Amend	2-1-2014	581-017-0332	11-22-2013	Adopt(T)	1-1-2014
576-010-0000	4-9-2014	Amend(T)	4-1-2014	581-017-0335	2-19-2014	Adopt(T)	4-1-2014
576-015-0043	3-6-2014	Amend(T)	4-1-2014	581-017-0338	2-19-2014	Adopt(T)	4-1-2014
576-015-0043	4-16-2014	Amend(T)	5-1-2014	581-017-0341	2-19-2014	Adopt(T)	4-1-2014
576-015-0045	3-6-2014	Amend(T)	4-1-2014	581-017-0344	2-19-2014	Adopt(T)	4-1-2014
576-015-0050	3-6-2014	Amend(T)	4-1-2014	581-017-0347	2-19-2014	Adopt(T)	4-1-2014
576-015-0050	4-16-2014	Amend(T)	5-1-2014	581-017-0350	2-19-2014	Adopt(T)	4-1-2014
576-015-0052	3-6-2014	Adopt(T)	4-1-2014	581-017-0353	2-19-2014	Adopt(T)	4-1-2014
576-015-0056	3-6-2014	Amend(T)	4-1-2014	581-017-0356	2-19-2014	Adopt(T)	4-1-2014
576-015-0060	3-6-2014	Amend(T)	4-1-2014	581-017-0359	2-19-2014	Adopt(T)	4-1-2014
576-020-0010	4-16-2014	Amend(T)	5-1-2014	581-017-0362	2-19-2014	Adopt(T)	4-1-2014
579-040-0005	12-6-2013	Amend	1-1-2014	581-018-0005	12-18-2013	Adopt	2-1-2014
579-040-0007	12-6-2013	Amend	1-1-2014	581-018-0010	12-18-2013	Adopt	2-1-2014
579-040-0010	12-6-2013	Amend	1-1-2014	581-018-0020	12-18-2013	Adopt	2-1-2014
579-040-0013	12-6-2013	Amend	1-1-2014	581-018-0100	12-18-2013	Adopt	2-1-2014
579-040-0015	12-6-2013	Amend	1-1-2014	581-018-0105	12-18-2013	Adopt	2-1-2014
579-040-0020	12-6-2013	Repeal	1-1-2014	581-018-0110	12-18-2013	Adopt	2-1-2014
579-040-0030	12-6-2013	Amend	1-1-2014	581-018-0115	12-18-2013	Adopt	2-1-2014
579-040-0035	12-6-2013	Amend	1-1-2014	581-018-0120	12-18-2013	Adopt	2-1-2014
579-040-0045	12-6-2013	Amend	1-1-2014	581-018-0125	12-18-2013	Adopt	2-1-2014
579-070-0010	12-6-2013	Amend	1-1-2014	581-018-0200	12-18-2013	Adopt	2-1-2014
579-070-0030	12-6-2013	Amend	1-1-2014	581-018-0205	12-18-2013	Adopt	2-1-2014
579-070-0035	12-6-2013	Amend	1-1-2014	581-018-0210	12-18-2013	Adopt	2-1-2014
579-070-0041	12-6-2013	Amend	1-1-2014	581-018-0215	12-18-2013	Adopt	2-1-2014
579-070-0042	12-6-2013	Amend	1-1-2014	581-018-0220	12-18-2013	Adopt	2-1-2014
579-070-0045	12-6-2013	Amend	1-1-2014	581-018-0225	12-18-2013	Adopt	2-1-2014
580-021-0030	11-20-2013	Amend(T)	1-1-2014	581-018-0250	12-18-2013	Adopt	2-1-2014
580-021-0030	3-21-2014	Amend	5-1-2014	581-018-0255	12-18-2013	Adopt	2-1-2014
581-015-2000	12-18-2013	Amend	2-1-2014	581-018-0260	12-18-2013	Adopt	2-1-2014
581-015-2245	12-18-2013	Amend	2-1-2014	581-018-0265	12-18-2013	Adopt	2-1-2014
581-015-2540	12-18-2013	Amend	2-1-2014	581-018-0270	12-18-2013	Adopt	2-1-2014
581-015-2550	12-18-2013	Amend	2-1-2014	581-018-0275	12-18-2013	Adopt	2-1-2014
581-015-2555	12-18-2013	Amend	2-1-2014	581-018-0300	2-19-2014	Adopt	4-1-2014
581-015-2930	12-18-2013	Adopt	2-1-2014	581-018-0305	2-19-2014	Adopt	4-1-2014
581-017-0005	12-18-2013	Adopt	2-1-2014	581-018-0310	2-19-2014	Adopt	4-1-2014
581-017-0010	12-18-2013	Adopt	2-1-2014	581-018-0315	2-19-2014	Adopt	4-1-2014
581-017-0020	12-18-2013	Adopt	2-1-2014	581-018-0320	2-19-2014	Adopt	4-1-2014
581-017-0100	12-18-2013	Adopt	2-1-2014	581-018-0325	2-19-2014	Adopt	4-1-2014
581-017-0105	12-18-2013	Adopt	2-1-2014	581-018-0327	2-19-2014	Adopt(T)	4-1-2014
581-017-0110	12-18-2013	Adopt	2-1-2014	581-018-0330	2-19-2014	Adopt(T)	4-1-2014
581-017-0115	12-18-2013	Adopt	2-1-2014	581-018-0333	2-19-2014	Adopt(T)	4-1-2014
581-017-0200	2-19-2014	Adopt	4-1-2014	581-018-0336	2-19-2014	Adopt(T)	4-1-2014
581-017-0205	2-19-2014	Adopt	4-1-2014	581-018-0380	11-22-2013	Adopt(T)	1-1-2014
581-017-0210	2-19-2014	Adopt	4-1-2014	581-018-0385	11-22-2013	Adopt(T)	1-1-2014
581-017-0215	2-19-2014	Adopt	4-1-2014	581-018-0390	11-22-2013	Adopt(T)	1-1-2014
581-017-0220	2-19-2014	Adopt	4-1-2014	581-018-0395	11-22-2013	Adopt(T)	1-1-2014
581-017-0300	11-22-2013	Adopt(T)	1-1-2014	581-018-0397	11-22-2013	Adopt(T)	1-1-2014
581-017-0305	11-22-2013	Adopt(T)	1-1-2014	581-018-0399	11-22-2013	Adopt(T)	1-1-2014
581-017-0308	11-22-2013	Adopt(T)	1-1-2014	581-018-0400	11-22-2013	Adopt(T)	1-1-2014
581-017-0311	11-22-2013	Adopt(T)	1-1-2014	581-018-0405	11-22-2013	Adopt(T)	1-1-2014
581-017-0314	11-22-2013	Adopt(T)	1-1-2014	581-018-0410	11-22-2013	Adopt(T)	1-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
581-018-0415	11-22-2013	Adopt(T)	1-1-2014	581-020-0390	2-19-2014	Am. & Ren.	4-1-2014
581-018-0420	11-22-2013	Adopt(T)	1-1-2014	581-020-0395	2-19-2014	Am. & Ren.	4-1-2014
581-018-0424	11-22-2013	Adopt(T)	1-1-2014	581-021-0031	3-12-2014	Adopt(T)	4-1-2014
581-018-0430	12-18-2013	Adopt(T)	2-1-2014	581-021-0500	2-19-2014	Amend	4-1-2014
581-018-0433	12-18-2013	Adopt(T)	2-1-2014	581-021-0550	2-19-2014	Amend	4-1-2014
581-018-0436	12-18-2013	Adopt(T)	2-1-2014	581-021-0550	3-4-2014	Amend	4-1-2014
581-018-0439	12-18-2013	Adopt(T)	2-1-2014	581-021-0553	2-19-2014	Amend	4-1-2014
581-018-0442	12-18-2013	Adopt(T)	2-1-2014	581-021-0553	3-4-2014	Amend	4-1-2014
581-018-0500	2-19-2014	Adopt(T)	4-1-2014	581-021-0556	2-19-2014	Amend	4-1-2014
581-018-0503	2-19-2014	Adopt(T)	4-1-2014	581-021-0556	3-4-2014	Amend	4-1-2014
581-018-0506	2-19-2014	Adopt(T)	4-1-2014	581-021-0559	2-19-2014	Amend	4-1-2014
581-018-0509	2-19-2014	Adopt(T)	4-1-2014	581-021-0559	3-4-2014	Amend	4-1-2014
581-018-0512	2-19-2014	Adopt(T)	4-1-2014	581-021-0563	2-19-2014	Amend	4-1-2014
581-018-0515	2-19-2014	Adopt(T)	4-1-2014	581-021-0563	3-4-2014	Amend	4-1-2014
581-018-0520	3-28-2014	Adopt(T)	5-1-2014	581-021-0566	2-19-2014	Amend	4-1-2014
581-018-0523	3-28-2014	Adopt(T)	5-1-2014	581-021-0566	3-4-2014	Amend	4-1-2014
581-018-0526	3-28-2014	Adopt(T)	5-1-2014	581-021-0568	2-19-2014	Adopt	4-1-2014
581-018-0529	3-28-2014	Adopt(T)	5-1-2014	581-021-0568	3-4-2014	Amend	4-1-2014
581-018-0532	3-28-2014	Adopt(T)	5-1-2014	581-021-0569	2-19-2014	Adopt	4-1-2014
581-018-0535	3-28-2014	Adopt(T)	5-1-2014	581-021-0569	3-4-2014	Amend	4-1-2014
581-018-0540	2-19-2014	Adopt(T)	4-1-2014	581-021-0570	2-19-2014	Adopt	4-1-2014
581-018-0540	3-4-2014	Adopt(T)	4-1-2014	581-021-0570	3-4-2014	Amend	4-1-2014
581-018-0543	2-19-2014	Adopt(T)	4-1-2014	581-022-0606	12-18-2013	Amend	2-1-2014
581-018-0543	3-4-2014	Adopt(T)	4-1-2014	581-023-0015	12-18-2013	Amend	2-1-2014
581-018-0546	2-19-2014	Adopt(T)	4-1-2014	581-023-0102	7-1-2014	Adopt	4-1-2014
581-018-0546	3-4-2014	Adopt(T)	4-1-2014	581-026-0005	2-19-2014	Adopt	4-1-2014
581-018-0549	2-19-2014	Adopt(T)	4-1-2014	581-026-0055	2-19-2014	Adopt	4-1-2014
581-018-0549	3-4-2014	Adopt(T)	4-1-2014	581-026-0060	2-19-2014	Adopt	4-1-2014
581-018-0552	2-19-2014	Adopt(T)	4-1-2014	581-026-0110	2-19-2014	Adopt	4-1-2014
581-018-0552	3-4-2014	Adopt(T)	4-1-2014	581-026-0125	2-19-2014	Adopt	4-1-2014
581-018-0553	2-19-2014	Adopt(T)	4-1-2014	581-026-0130	2-19-2014	Adopt	4-1-2014
581-018-0553	3-4-2014	Adopt(T)	4-1-2014	581-045-0586	2-19-2014	Amend	4-1-2014
581-018-0556	2-19-2014	Adopt(T)	4-1-2014	581-054-0007	2-19-2014	Repeal	4-1-2014
581-018-0556	3-4-2014	Adopt(T)	4-1-2014	584-018-0125	3-15-2014	Amend	4-1-2014
581-018-0575	3-28-2014	Adopt(T)	5-1-2014	584-020-0040	3-15-2014	Amend	4-1-2014
581-018-0578	3-28-2014	Adopt(T)	5-1-2014	584-023-0005	3-15-2014	Amend(T)	4-1-2014
581-018-0581	3-28-2014	Adopt(T)	5-1-2014	584-023-0030	3-15-2014	Adopt(T)	4-1-2014
581-018-0584	3-28-2014	Adopt(T)	5-1-2014	584-036-0070	3-15-2014	Amend	4-1-2014
581-018-0587	3-28-2014	Adopt(T)	5-1-2014	584-050-0030	3-15-2014	Amend	4-1-2014
581-018-0590	3-28-2014	Adopt(T)	5-1-2014	584-050-0060	3-15-2014	Amend	4-1-2014
581-020-0301	2-19-2014	Am. & Ren.	4-1-2014	584-050-0066	3-15-2014	Amend	4-1-2014
581-020-0311	2-19-2014	Am. & Ren.	4-1-2014	584-060-0012	3-15-2014	Amend	4-1-2014
581-020-0321	2-19-2014	Am. & Ren.	4-1-2014	584-060-0013	3-15-2014	Amend	4-1-2014
581-020-0331	2-19-2014	Am. & Ren.	4-1-2014	584-060-0014	3-15-2014	Amend	4-1-2014
581-020-0334	2-19-2014	Am. & Ren.	4-1-2014	584-060-0051	3-15-2014	Amend	4-1-2014
581-020-0336	2-19-2014	Am. & Ren.	4-1-2014	584-060-0052	3-15-2014	Amend	4-1-2014
581-020-0338	2-19-2014	Am. & Ren.	4-1-2014	584-060-0200	3-15-2014	Amend	4-1-2014
581-020-0341	2-19-2014	Repeal	4-1-2014	584-060-0525	3-15-2014	Adopt(T)	4-1-2014
581-020-0342	2-19-2014	Am. & Ren.	4-1-2014	584-060-0530	3-15-2014	Adopt(T)	4-1-2014
581-020-0343	2-19-2014	Am. & Ren.	4-1-2014	584-066-0015	3-15-2014	Adopt	4-1-2014
581-020-0345	2-19-2014	Repeal	4-1-2014	584-066-0020	4-8-2014	Adopt(T)	5-1-2014
581-020-0359	12-18-2013	Amend	2-1-2014	584-070-0012	3-15-2014	Amend(T)	4-1-2014
581-020-0359	2-19-2014	Am. & Ren.	4-1-2014	584-070-0211	3-15-2014	Amend	4-1-2014
581-020-0361	2-19-2014	Am. & Ren.	4-1-2014	584-070-0271	3-15-2014	Amend	4-1-2014
581-020-0380	2-19-2014	Am. & Ren.	4-1-2014	584-080-0008	3-15-2014	Amend(T)	4-1-2014
581-020-0385	2-19-2014	Am. & Ren.	4-1-2014	584-080-0012	3-15-2014	Amend	4-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
584-080-0022	3-15-2014	Amend	4-1-2014	632-035-0055	4-2-2014	Amend	5-1-2014
584-100-0061	3-15-2014	Amend(T)	4-1-2014	632-035-0060	4-2-2014	Amend	5-1-2014
584-100-0066	3-15-2014	Amend(T)	4-1-2014	632-037-0005	4-2-2014	Amend	5-1-2014
584-100-0071	3-15-2014	Amend(T)	4-1-2014	632-037-0010	4-2-2014	Amend	5-1-2014
589-002-0120	12-16-2013	Amend(T)	2-1-2014	632-037-0015	4-2-2014	Amend	5-1-2014
589-002-0120	3-20-2014	Amend	5-1-2014	632-037-0020	4-2-2014	Amend	5-1-2014
589-006-0050	3-14-2014	Amend(T)	4-1-2014	632-037-0025	4-2-2014	Amend	5-1-2014
589-006-0100	3-14-2014	Amend(T)	4-1-2014	632-037-0030	4-2-2014	Amend	5-1-2014
589-006-0150	3-14-2014	Amend(T)	4-1-2014	632-037-0035	4-2-2014	Amend	5-1-2014
589-006-0200	3-14-2014	Amend(T)	4-1-2014	632-037-0040	4-2-2014	Amend	5-1-2014
589-006-0300	3-14-2014	Amend(T)	4-1-2014	632-037-0045	4-2-2014	Amend	5-1-2014
589-006-0350	3-14-2014	Amend(T)	4-1-2014	632-037-0050	4-2-2014	Amend	5-1-2014
589-006-0400	3-14-2014	Amend(T)	4-1-2014	632-037-0055	4-2-2014	Amend	5-1-2014
589-007-0400	3-14-2014	Amend(T)	4-1-2014	632-037-0060	4-2-2014	Amend	5-1-2014
589-007-0500	3-14-2014	Amend(T)	4-1-2014	632-037-0075	4-2-2014	Amend	5-1-2014
603-052-0126	2-14-2014	Amend	3-1-2014	632-037-0077	4-2-2014	Amend	5-1-2014
603-052-0127	2-14-2014	Amend	3-1-2014	632-037-0080	4-2-2014	Amend	5-1-2014
603-052-0129	2-14-2014	Amend	3-1-2014	632-037-0085	4-2-2014	Amend	5-1-2014
603-052-0150	2-14-2014	Amend	3-1-2014	632-037-0095	4-2-2014	Amend	5-1-2014
603-052-1025	2-20-2014	Amend	4-1-2014	632-037-0100	4-2-2014	Amend	5-1-2014
603-052-1200	2-20-2014	Amend	4-1-2014	632-037-0105	4-2-2014	Amend	5-1-2014
603-052-1211	2-20-2014	Amend	4-1-2014	632-037-0110	4-2-2014	Amend	5-1-2014
603-052-1221	2-14-2014	Amend	3-1-2014	632-037-0115	4-2-2014	Amend	5-1-2014
603-052-1241	1-15-2014	Adopt	2-1-2014	632-037-0117	4-2-2014	Repeal	5-1-2014
603-052-1320	2-14-2014	Amend	3-1-2014	632-037-0118	4-2-2014	Amend	5-1-2014
603-100-0010	2-24-2014	Amend	4-1-2014	632-037-0120	4-2-2014	Amend	5-1-2014
629-060-0000	1-1-2014	Am. & Ren.	1-1-2014	632-037-0125	4-2-2014	Amend	5-1-2014
629-060-0005	1-1-2014	Am. & Ren.	1-1-2014	632-037-0130	4-2-2014	Amend	5-1-2014
629-061-0000	1-1-2014	Am. & Ren.	1-1-2014	632-037-0135	4-2-2014	Amend	5-1-2014
629-061-0005	1-1-2014	Am. & Ren.	1-1-2014	632-037-0140	4-2-2014	Amend	5-1-2014
629-061-0015	1-1-2014	Am. & Ren.	1-1-2014	632-037-0145	4-2-2014	Amend	5-1-2014
629-061-0020	1-1-2014	Am. & Ren.	1-1-2014	632-037-0150	4-2-2014	Amend	5-1-2014
629-061-0025	1-1-2014	Repeal	1-1-2014	632-037-0155	4-2-2014	Amend	5-1-2014
629-061-0035	1-1-2014	Am. & Ren.	1-1-2014	635-004-0215	1-1-2014	Amend	2-1-2014
629-061-0040	1-1-2014	Repeal	1-1-2014	635-004-0275	12-9-2013	Amend(T)	1-1-2014
629-061-0045	1-1-2014	Repeal	1-1-2014	635-004-0275	1-1-2014	Amend	2-1-2014
629-061-0050	1-1-2014	Repeal	1-1-2014	635-004-0275(T)	12-9-2013	Suspend	1-1-2014
629-061-0060	1-1-2014	Am. & Ren.	1-1-2014	635-004-0320	1-1-2014	Amend	2-1-2014
629-061-0065	1-1-2014	Am. & Ren.	1-1-2014	635-004-0350	1-1-2014	Amend	2-1-2014
629-061-0075	1-1-2014	Repeal	1-1-2014	635-004-0360	1-1-2014	Amend	2-1-2014
629-165-0005	1-1-2014	Adopt	1-1-2014	635-004-0505	1-1-2014	Amend(T)	1-1-2014
629-165-0010	1-1-2014	Adopt	1-1-2014	635-005-0465	12-1-2013	Amend(T)	1-1-2014
629-165-0200	1-1-2014	Adopt	1-1-2014	635-005-0705	12-9-2013	Amend(T)	1-1-2014
629-165-0210	1-1-2014	Adopt	1-1-2014	635-006-0210	1-1-2014	Amend	2-1-2014
632-035-0005	4-2-2014	Amend	5-1-2014	635-006-0213	1-1-2014	Amend	2-1-2014
632-035-0010	4-2-2014	Amend	5-1-2014	635-006-0232	1-13-2014	Amend	2-1-2014
632-035-0015	4-2-2014	Amend	5-1-2014	635-011-0100	12-10-2013	Amend(T)	1-1-2014
632-035-0016	4-2-2014	Amend	5-1-2014	635-011-0100	1-1-2014	Amend	2-1-2014
632-035-0017	4-2-2014	Amend	5-1-2014	635-011-0104	12-1-2013	Amend(T)	1-1-2014
632-035-0020	4-2-2014	Amend	5-1-2014	635-011-0104	12-9-2013	Amend	1-1-2014
632-035-0025	4-2-2014	Amend	5-1-2014	635-011-0104(T)	12-9-2013	Repeal	1-1-2014
632-035-0030	4-2-2014	Amend	5-1-2014	635-013-0004	1-1-2014	Amend	2-1-2014
632-035-0035	4-2-2014	Amend	5-1-2014	635-014-0080	1-1-2014	Amend	2-1-2014
632-035-0040	4-2-2014	Amend	5-1-2014	635-014-0090	1-1-2014	Amend	2-1-2014
632-035-0045	4-2-2014	Amend	5-1-2014	635-016-0080	1-1-2014	Amend	2-1-2014
632-035-0050	4-2-2014	Amend	5-1-2014	635-016-0090	1-1-2014	Amend	2-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
635-017-0080	1-1-2014	Amend	2-1-2014	635-042-0180	2-10-2014	Amend(T)	3-1-2014
635-017-0090	1-1-2014	Amend	2-1-2014	635-055-0002	3-11-2014	Amend	4-1-2014
635-017-0095	1-1-2014	Amend	2-1-2014	635-055-0030	3-11-2014	Amend	4-1-2014
635-018-0080	1-1-2014	Amend	2-1-2014	635-055-0035	3-11-2014	Amend	4-1-2014
635-018-0090	1-1-2014	Amend	2-1-2014	635-055-0037	3-11-2014	Amend	4-1-2014
635-018-0090	4-15-2014	Amend(T)	4-1-2014	635-056-0000	3-11-2014	Amend	4-1-2014
635-019-0080	1-1-2014	Amend	2-1-2014	635-056-0002	3-11-2014	Adopt	4-1-2014
635-019-0090	1-1-2014	Amend	2-1-2014	635-056-0050	3-11-2014	Amend	4-1-2014
635-021-0080	1-1-2014	Amend	2-1-2014	635-056-0060	3-11-2014	Amend	4-1-2014
635-021-0090	1-1-2014	Amend	2-1-2014	635-056-0060	4-16-2014	Amend(T)	5-1-2014
635-023-0080	1-1-2014	Amend	2-1-2014	635-056-0075	4-1-2014	Amend(T)	5-1-2014
635-023-0090	1-1-2014	Amend	2-1-2014	635-056-0130	3-11-2014	Amend	4-1-2014
635-023-0090	3-1-2014	Amend(T)	3-1-2014	635-056-0140	3-11-2014	Amend	4-1-2014
635-023-0095	1-1-2014	Amend	2-1-2014	635-056-0150	3-11-2014	Amend	4-1-2014
635-023-0095	1-1-2014	Amend(T)	1-1-2014	635-065-0001	12-20-2013	Amend	2-1-2014
635-023-0095	2-1-2014	Amend(T)	3-1-2014	635-065-0011	12-20-2013	Amend	2-1-2014
635-023-0095	2-24-2014	Amend(T)	4-1-2014	635-065-0015	12-20-2013	Amend	2-1-2014
635-023-0095	5-1-2014	Amend(T)	5-1-2014	635-065-0090	12-20-2013	Amend	2-1-2014
635-023-0095(T)	1-1-2014	Suspend	1-1-2014	635-065-0401	12-20-2013	Amend	2-1-2014
635-023-0095(T)	2-1-2014	Suspend	3-1-2014	635-065-0501	12-20-2013	Amend	2-1-2014
635-023-0095(T)	2-24-2014	Suspend	4-1-2014	635-065-0705	12-20-2013	Amend	2-1-2014
635-023-0095(T)	5-1-2014	Suspend	5-1-2014	635-065-0740	12-20-2013	Amend	2-1-2014
635-023-0125	1-1-2014	Amend	2-1-2014	635-065-0760	12-20-2013	Amend	2-1-2014
635-023-0125	3-1-2014	Amend(T)	3-1-2014	635-065-0765	12-20-2013	Amend	2-1-2014
635-023-0125	4-4-2014	Amend(T)	5-1-2014	635-065-0772	3-13-2014	Amend(T)	4-1-2014
635-023-0125(T)	4-4-2014	Suspend	5-1-2014	635-066-0000	12-20-2013	Amend	2-1-2014
635-023-0128	1-1-2014	Amend	2-1-2014	635-066-0010	12-20-2013	Amend	2-1-2014
635-023-0130	1-1-2014	Amend	2-1-2014	635-067-0000	12-20-2013	Amend	2-1-2014
635-023-0134	1-1-2014	Amend	2-1-2014	635-067-0041	12-20-2013	Amend	2-1-2014
635-023-0140	2-1-2014	Adopt(T)	3-1-2014	635-068-0000	2-27-2014	Amend	4-1-2014
635-023-0140	2-10-2014	Adopt	3-1-2014	635-069-0000	1-22-2014	Amend	3-1-2014
635-023-0140(T)	2-10-2014	Repeal	3-1-2014	635-070-0000	3-11-2014	Amend	4-1-2014
635-039-0080	1-1-2014	Amend	2-1-2014	635-070-0020	2-12-2014	Amend(T)	3-1-2014
635-039-0090	1-1-2014	Amend	2-1-2014	635-070-0020	3-11-2014	Amend	4-1-2014
635-041-0045	3-12-2014	Amend(T)	4-1-2014	635-070-0020(T)	2-12-2014	Suspend	3-1-2014
635-041-0061	2-1-2014	Amend(T)	3-1-2014	635-071-0000	3-11-2014	Amend	4-1-2014
635-041-0061	3-1-2014	Amend(T)	4-1-2014	635-072-0000	12-20-2013	Amend	2-1-2014
635-041-0061	3-12-2014	Amend(T)	4-1-2014	635-073-0000	1-22-2014	Amend	3-1-2014
635-041-0061(T)	3-1-2014	Suspend	4-1-2014	635-110-0000	1-14-2014	Amend	2-1-2014
635-041-0061(T)	3-12-2014	Suspend	4-1-2014	635-110-0010	1-14-2014	Amend	2-1-2014
635-041-0065	2-1-2014	Amend(T)	3-1-2014	635-110-0010(T)	1-14-2014	Repeal	2-1-2014
635-041-0065	2-26-2014	Amend(T)	4-1-2014	635-110-0020	1-14-2014	Amend	2-1-2014
635-041-0065	3-1-2014	Amend(T)	4-1-2014	635-110-0030	1-14-2014	Amend	2-1-2014
635-041-0065	3-12-2014	Amend(T)	4-1-2014	642-010-0010	7-1-2014	Amend	5-1-2014
635-041-0065(T)	2-26-2014	Suspend	4-1-2014	656-030-0020	1-24-2014	Amend	3-1-2014
635-041-0065(T)	3-1-2014	Suspend	4-1-2014	656-030-0040	1-24-2014	Amend	3-1-2014
635-041-0065(T)	3-12-2014	Suspend	4-1-2014	656-040-0010	1-24-2014	Amend	3-1-2014
635-042-0022	4-1-2014	Amend(T)	5-1-2014	660-006-0025	1-1-2014	Amend	2-1-2014
635-042-0130	2-10-2014	Amend(T)	3-1-2014	660-006-0026	1-1-2014	Amend	2-1-2014
635-042-0145	2-10-2014	Amend(T)	3-1-2014	660-006-0055	1-1-2014	Amend	2-1-2014
635-042-0145	3-10-2014	Amend(T)	4-1-2014	660-018-0020	1-1-2014	Amend	2-1-2014
635-042-0145	3-17-2014	Amend(T)	4-1-2014	660-018-0040	1-1-2014	Amend	2-1-2014
635-042-0145(T)	3-10-2014	Suspend	4-1-2014	660-033-0030	1-1-2014	Amend	2-1-2014
635-042-0145(T)	3-17-2014	Suspend	4-1-2014	660-033-0120	1-1-2014	Amend	2-1-2014
635-042-0160	2-10-2014	Amend(T)	3-1-2014	660-033-0130	1-1-2014	Amend	2-1-2014
635-042-0170	2-10-2014	Amend(T)	3-1-2014	660-033-0140	1-1-2014	Amend	2-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
661-010-0000	2-26-2014	Amend	4-1-2014	735-070-0190	1-1-2014	Amend	2-1-2014
661-010-0021	1-1-2014	Amend	2-1-2014	735-072-0035	1-1-2014	Amend	2-1-2014
661-010-0025	1-1-2014	Amend	2-1-2014	735-150-0045	1-1-2014	Amend	2-1-2014
661-010-0030	1-1-2014	Amend	2-1-2014	735-150-0105	1-1-2014	Amend	2-1-2014
661-010-0050	1-1-2014	Amend	2-1-2014	735-152-0037	1-1-2014	Amend	2-1-2014
661-010-0067	1-1-2014	Amend	2-1-2014	736-010-0040	3-6-2014	Amend	4-1-2014
661-010-0071	1-1-2014	Amend	2-1-2014	737-015-0010	3-1-2014	Amend	3-1-2014
661-010-0073	1-1-2014	Amend	2-1-2014	737-015-0020	3-1-2014	Amend	3-1-2014
661-010-0075	1-1-2014	Amend	2-1-2014	737-015-0030	3-1-2014	Amend	3-1-2014
690-022-0020	4-1-2014	Adopt(T)	5-1-2014	737-015-0035	3-1-2014	Adopt	3-1-2014
690-022-0025	4-1-2014	Adopt(T)	5-1-2014	737-015-0070	3-1-2014	Amend	3-1-2014
690-022-0030	4-1-2014	Adopt(T)	5-1-2014	737-015-0074	3-1-2014	Adopt	3-1-2014
710-001-0000	2-11-2014	Adopt	3-1-2014	737-015-0076	3-1-2014	Adopt	3-1-2014
710-001-0005	2-11-2014	Adopt	3-1-2014	737-015-0085	3-1-2014	Adopt	3-1-2014
710-005-0005	2-11-2014	Adopt	3-1-2014	737-015-0090	3-1-2014	Amend	3-1-2014
715-001-0020	2-19-2014	Adopt(T)	4-1-2014	737-015-0100	3-1-2014	Amend	3-1-2014
715-001-0025	2-19-2014	Adopt(T)	4-1-2014	737-015-0105	3-1-2014	Adopt	3-1-2014
731-035-0010	12-20-2013	Amend	2-1-2014	737-015-0110	3-1-2014	Amend	3-1-2014
731-035-0020	12-20-2013	Amend	2-1-2014	737-015-0120	3-1-2014	Adopt	3-1-2014
731-035-0050	12-20-2013	Amend	2-1-2014	737-015-0130	3-1-2014	Adopt	3-1-2014
731-035-0060	12-20-2013	Amend	2-1-2014	737-025-0010	2-26-2014	Amend	4-1-2014
731-035-0080	12-20-2013	Amend	2-1-2014	740-200-0010	1-1-2014	Amend	2-1-2014
731-147-0010	1-1-2014	Amend	2-1-2014	740-200-0020	1-1-2014	Amend	2-1-2014
731-147-0040	1-1-2014	Amend	2-1-2014	740-200-0040	1-1-2014	Amend	2-1-2014
731-149-0010	1-1-2014	Amend	2-1-2014	741-040-0040	12-20-2013	Amend	2-1-2014
734-020-0010	2-21-2014	Amend	4-1-2014	800-010-0020	2-1-2014	Amend	3-1-2014
734-026-0010	11-25-2013	Amend	1-1-2014	800-010-0025	2-1-2014	Amend	3-1-2014
734-026-0020	11-25-2013	Amend	1-1-2014	800-010-0040	2-1-2014	Amend	3-1-2014
734-026-0030	11-25-2013	Amend	1-1-2014	800-010-0041	2-1-2014	Amend	3-1-2014
734-051-8010	1-1-2014	Adopt(T)	2-1-2014	800-010-0050	2-1-2014	Amend	3-1-2014
734-051-8015	1-1-2014	Adopt(T)	2-1-2014	800-015-0015	2-1-2014	Amend	3-1-2014
734-051-8020	1-1-2014	Adopt(T)	2-1-2014	800-020-0025	2-1-2014	Amend	3-1-2014
734-051-8025	1-1-2014	Adopt(T)	2-1-2014	800-020-0065	2-1-2014	Amend	3-1-2014
734-051-8030	1-1-2014	Adopt(T)	2-1-2014	800-025-0020	2-1-2014	Amend	3-1-2014
734-055-0017	11-25-2013	Repeal	1-1-2014	800-025-0040	2-1-2014	Amend	3-1-2014
735-010-0250	12-20-2013	Adopt	2-1-2014	800-025-0060	2-1-2014	Amend	3-1-2014
735-018-0010	12-20-2013	Amend	2-1-2014	801-001-0035	3-1-2014	Amend	3-1-2014
735-018-0010	3-25-2014	Amend	5-1-2014	801-010-0050	3-1-2014	Amend	3-1-2014
735-018-0020	3-25-2014	Amend	5-1-2014	801-010-0085	3-1-2014	Amend	3-1-2014
735-018-0050	3-25-2014	Amend	5-1-2014	804-003-0000	12-12-2013	Amend	1-1-2014
735-018-0070	3-25-2014	Amend	5-1-2014	804-022-0005	12-12-2013	Amend	1-1-2014
735-018-0080	3-25-2014	Amend	5-1-2014	804-022-0010	12-12-2013	Amend	1-1-2014
735-018-0130	12-20-2013	Adopt	2-1-2014	804-025-0010	12-12-2013	Amend	1-1-2014
735-028-0000	4-1-2014	Amend(T)	5-1-2014	806-010-0035	1-1-2014	Amend	2-1-2014
735-028-0005	4-1-2014	Adopt(T)	5-1-2014	806-010-0045	1-1-2014	Amend	2-1-2014
735-028-0040	4-1-2014	Amend(T)	5-1-2014	808-001-0020	4-1-2014	Amend(T)	5-1-2014
735-050-0120	11-25-2013	Amend	1-1-2014	808-002-0240	2-1-2014	Amend	3-1-2014
735-050-0120(T)	11-25-2013	Repeal	1-1-2014	808-002-0330	4-1-2014	Amend(T)	5-1-2014
735-062-0007	1-1-2014	Amend	2-1-2014	808-003-0035	3-1-2014	Amend	4-1-2014
735-062-0010	1-1-2014	Amend	2-1-2014	808-003-0040	3-1-2014	Amend	4-1-2014
735-062-0385	1-1-2014	Amend	2-1-2014	808-003-0040	3-1-2014	Amend(T)	4-1-2014
735-064-0070	1-1-2014	Amend	2-1-2014	808-003-0045	3-1-2014	Amend	4-1-2014
735-070-0082	1-1-2014	Adopt	2-1-2014	808-003-0045	3-1-2014	Amend(T)	4-1-2014
735-070-0085	11-25-2013	Amend	1-1-2014	808-003-0060	3-1-2014	Amend	4-1-2014
735-070-0085(T)	11-25-2013	Repeal	1-1-2014	808-003-0065	3-1-2014	Amend(T)	4-1-2014
735-070-0185	1-1-2014	Amend	2-1-2014	811-015-0005	11-27-2013	Amend	1-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
811-035-0015	1-29-2014	Amend	3-1-2014	812-022-0034	2-6-2014	Adopt	3-1-2014
812-002-0120	1-1-2014	Amend	2-1-2014	812-022-0034(T)	2-6-2014	Repeal	3-1-2014
812-003-0130	1-1-2014	Repeal	2-1-2014	812-022-0035	2-6-2014	Adopt	3-1-2014
812-003-0131	1-1-2014	Amend	2-1-2014	812-022-0035(T)	2-6-2014	Repeal	3-1-2014
812-003-0140	1-1-2014	Repeal	2-1-2014	812-025-0000	1-1-2014	Amend	2-1-2014
812-003-0141	1-1-2014	Repeal	2-1-2014	812-025-0005	1-1-2014	Amend	2-1-2014
812-003-0150	1-1-2014	Repeal	2-1-2014	812-025-0010	1-1-2014	Amend	2-1-2014
812-003-0152	1-1-2014	Amend	2-1-2014	812-030-0000	1-1-2014	Amend	2-1-2014
812-003-0153	1-1-2014	Amend	2-1-2014	812-030-0240	1-1-2014	Amend	2-1-2014
812-003-0170	1-1-2014	Repeal	2-1-2014	812-032-0000	1-1-2014	Adopt	2-1-2014
812-003-0171	1-1-2014	Amend	2-1-2014	812-032-0100	1-1-2014	Adopt	2-1-2014
812-003-0175	1-1-2014	Amend	2-1-2014	812-032-0110	1-1-2014	Adopt	2-1-2014
812-003-0180	1-1-2014	Amend	2-1-2014	812-032-0120	1-1-2014	Adopt	2-1-2014
812-003-0220	1-1-2014	Repeal	2-1-2014	812-032-0123	1-1-2014	Adopt	2-1-2014
812-003-0221	1-1-2014	Amend	2-1-2014	812-032-0130	1-1-2014	Adopt	2-1-2014
812-003-0240	1-1-2014	Amend	2-1-2014	812-032-0135	1-1-2014	Adopt	2-1-2014
812-003-0250	1-1-2014	Amend	2-1-2014	812-032-0140	1-1-2014	Adopt	2-1-2014
812-003-0260	1-1-2014	Amend	2-1-2014	812-032-0150	1-1-2014	Adopt	2-1-2014
812-003-0290	1-1-2014	Amend	2-1-2014	813-001-0007	12-18-2013	Amend	2-1-2014
812-003-0310	1-1-2014	Amend	2-1-2014	813-001-0007	12-18-2013	Amend	2-1-2014
812-003-0320	1-1-2014	Amend	2-1-2014	813-001-0007(T)	12-18-2013	Amend	2-1-2014
812-003-0390	1-1-2014	Amend	2-1-2014	813-001-0007(T)	12-18-2013	Repeal	2-1-2014
812-003-0400	1-1-2014	Amend	2-1-2014	813-005-0001	12-18-2013	Amend	2-1-2014
812-003-0430	1-1-2014	Amend	2-1-2014	813-005-0001(T)	12-18-2013	Repeal	2-1-2014
812-003-0440	1-1-2014	Amend	2-1-2014	813-005-0005	12-18-2013	Amend	2-1-2014
812-008-0030	1-1-2014	Amend	2-1-2014	813-005-0005(T)	12-18-2013	Repeal	2-1-2014
812-008-0040	1-1-2014	Amend	2-1-2014	813-005-0016	12-18-2013	Amend	2-1-2014
812-012-0110	1-1-2014	Amend	2-1-2014	813-005-0016(T)	12-18-2013	Repeal	2-1-2014
812-021-0005	1-1-2014	Amend	2-1-2014	813-005-0020	12-18-2013	Adopt	2-1-2014
812-021-0021	1-1-2014	Amend	2-1-2014	813-005-0020(T)	12-18-2013	Repeal	2-1-2014
812-021-0045	1-1-2014	Amend	2-1-2014	813-005-0030	12-18-2013	Adopt	2-1-2014
812-021-0047	1-1-2014	Amend	2-1-2014	813-005-0030(T)	12-18-2013	Repeal	2-1-2014
812-022-0010	2-6-2014	Amend	3-1-2014	813-005-0040	12-18-2013	Adopt	2-1-2014
812-022-0010	3-26-2014	Amend(T)	5-1-2014	813-005-0040(T)	12-18-2013	Repeal	2-1-2014
812-022-0010(T)	2-6-2014	Repeal	3-1-2014	813-005-0050	12-18-2013	Adopt	2-1-2014
812-022-0015	11-26-2013	Amend(T)	1-1-2014	813-005-0050(T)	12-18-2013	Repeal	2-1-2014
812-022-0015	2-6-2014	Amend	3-1-2014	813-005-0060	12-18-2013	Adopt	2-1-2014
812-022-0015(T)	2-6-2014	Repeal	3-1-2014	813-005-0060(T)	12-18-2013	Repeal	2-1-2014
812-022-0021	11-26-2013	Amend(T)	1-1-2014	813-005-0070	12-18-2013	Adopt	2-1-2014
812-022-0021	2-6-2014	Amend	3-1-2014	813-005-0070(T)	12-18-2013	Repeal	2-1-2014
812-022-0021	3-26-2014	Amend(T)	5-1-2014	813-006-0005	12-18-2013	Amend	2-1-2014
812-022-0021(T)	2-6-2014	Repeal	3-1-2014	813-006-0005(T)	12-18-2013	Repeal	2-1-2014
812-022-0022	3-26-2014	Adopt(T)	5-1-2014	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
812-022-0026(T)	2-6-2014	Repeal	3-1-2014	813-006-0025	12-18-2013	Amend	2-1-2014
812-022-0027	12-12-2013	Amend(T)	1-1-2014	813-006-0025(T)	12-18-2013	Repeal	2-1-2014
812-022-0027	2-6-2014	Amend	3-1-2014	813-006-0030	12-18-2013	Amend	2-1-2014
812-022-0027(T)	2-6-2014	Repeal	3-1-2014	813-006-0030(T)	12-18-2013	Repeal	2-1-2014
812-022-0028	2-6-2014	Amend	3-1-2014	813-006-0035	12-18-2013	Repeal	2-1-2014
812-022-0028(T)	2-6-2014	Repeal	3-1-2014	813-006-0040	12-18-2013	Adopt	2-1-2014
812-022-0029	2-6-2014	Adopt	3-1-2014	813-006-0040(T)	12-18-2013	Repeal	2-1-2014
812-022-0029(T)	2-6-2014	Repeal	3-1-2014	813-046-0000	1-27-2014	Amend(T)	3-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
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
813-051-0040	1-27-2014	Amend(T)	3-1-2014	813-110-0025(T)	12-18-2013	Repeal	2-1-2014
813-051-0040(T)	2-10-2014	Suspend	3-1-2014	813-110-0026	12-18-2013	Adopt	2-1-2014
813-051-0050	1-27-2014	Amend(T)	3-1-2014	813-110-0026(T)	12-18-2013	Repeal	2-1-2014
813-051-0050(T)	2-10-2014	Suspend	3-1-2014	813-110-0027	12-18-2013	Adopt	2-1-2014
813-051-0060	1-27-2014	Amend(T)	3-1-2014	813-110-0027(T)	12-18-2013	Repeal	2-1-2014
813-051-0060(T)	2-10-2014	Suspend	3-1-2014	813-110-0030	12-18-2013	Amend	2-1-2014
813-051-0070	1-27-2014	Amend(T)	3-1-2014	813-110-0030(T)	12-18-2013	Repeal	2-1-2014
813-051-0070(T)	2-10-2014	Suspend	3-1-2014	813-110-0032	12-18-2013	Adopt	2-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
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
813-145-0020(T)	2-10-2014	Suspend	3-1-2014	813-202-0019(T)	2-10-2014	Suspend	3-1-2014
813-145-0025	1-27-2014	Adopt(T)	3-1-2014	813-202-0020	1-27-2014	Amend(T)	3-1-2014
813-145-0025(T)	2-10-2014	Suspend	3-1-2014	813-202-0020(T)	2-10-2014	Suspend	3-1-2014
813-145-0030	1-27-2014	Amend(T)	3-1-2014	813-202-0030	1-27-2014	Amend(T)	3-1-2014
813-145-0030(T)	2-10-2014	Suspend	3-1-2014	813-202-0030(T)	2-10-2014	Suspend	3-1-2014
813-145-0040	1-27-2014	Amend(T)	3-1-2014	813-202-0040	1-27-2014	Amend(T)	3-1-2014
813-145-0040(T)	2-10-2014	Suspend	3-1-2014	813-202-0040(T)	2-10-2014	Suspend	3-1-2014
813-145-0050	1-27-2014	Amend(T)	3-1-2014	813-202-0050	1-27-2014	Amend(T)	3-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
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
813-210-0015	1-27-2014	Amend(T)	3-1-2014	813-240-0041	1-27-2014	Amend(T)	3-1-2014
813-210-0015(T)	2-10-2014	Suspend	3-1-2014	813-240-0041(T)	2-10-2014	Suspend	3-1-2014
813-210-0022	1-27-2014	Adopt(T)	3-1-2014	813-240-0050	1-27-2014	Amend(T)	3-1-2014
813-210-0022(T)	2-10-2014	Suspend	3-1-2014	813-240-0050(T)	2-10-2014	Suspend	3-1-2014
813-210-0025	1-27-2014	Amend(T)	3-1-2014	813-240-0060	1-27-2014	Amend(T)	3-1-2014
813-210-0025(T)	2-10-2014	Suspend	3-1-2014	813-240-0060(T)	2-10-2014	Suspend	3-1-2014
813-210-0030	1-27-2014	Renumber	3-1-2014	813-240-0070	1-27-2014	Amend(T)	3-1-2014
813-210-0040	1-27-2014	Suspend	3-1-2014	813-240-0070(T)	2-10-2014	Suspend	3-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
813-240-0080	1-27-2014	Amend(T)	3-1-2014	817-030-0065	1-1-2014	Amend	2-1-2014
813-240-0080(T)	2-10-2014	Suspend	3-1-2014	817-030-0071	3-1-2014	Amend	4-1-2014
813-240-0090	1-27-2014	Suspend	3-1-2014	817-030-0080	3-1-2014	Amend	4-1-2014
813-240-0090(T)	2-10-2014	Suspend	3-1-2014	817-035-0010	3-1-2014	Amend	4-1-2014
813-250-0000	1-27-2014	Amend(T)	3-1-2014	817-035-0048	3-1-2014	Amend	4-1-2014
813-250-0000(T)	2-10-2014	Suspend	3-1-2014	817-035-0050	3-1-2014	Amend	4-1-2014
813-250-0005	1-27-2014	Adopt(T)	3-1-2014	817-035-0052	3-1-2014	Amend	4-1-2014
813-250-0005(T)	2-10-2014	Suspend	3-1-2014	817-035-0068	3-1-2014	Amend	4-1-2014
813-250-0015	1-27-2014	Adopt(T)	3-1-2014	817-035-0070	3-1-2014	Amend	4-1-2014
813-250-0015(T)	2-10-2014	Suspend	3-1-2014	817-035-0090	3-1-2014	Amend	4-1-2014
813-250-0020	1-27-2014	Amend(T)	3-1-2014	817-035-0093	3-1-2014	Adopt	4-1-2014
813-250-0020(T)	2-10-2014	Suspend	3-1-2014	817-035-0095	3-1-2014	Adopt	4-1-2014
813-250-0030	1-27-2014	Amend(T)	3-1-2014	817-035-0110	3-1-2014	Amend	4-1-2014
813-250-0030(T)	2-10-2014	Suspend	3-1-2014	817-060-0010	3-1-2014	Amend	4-1-2014
813-250-0040	1-27-2014	Amend(T)	3-1-2014	817-060-0020	3-1-2014	Amend	4-1-2014
813-250-0040(T)	2-10-2014	Suspend	3-1-2014	817-060-0030	3-1-2014	Amend	4-1-2014
813-250-0055	1-27-2014	Adopt(T)	3-1-2014	817-060-0050	3-1-2014	Amend	4-1-2014
813-250-0055(T)	2-10-2014	Suspend	3-1-2014	817-080-0005	3-1-2014	Repeal	4-1-2014
813-250-0060	1-27-2014	Adopt(T)	3-1-2014	817-090-0025	3-1-2014	Amend	4-1-2014
813-250-0060(T)	2-10-2014	Suspend	3-1-2014	817-090-0045	3-1-2014	Amend	4-1-2014
813-250-0070	1-27-2014	Adopt(T)	3-1-2014	817-090-0050	3-1-2014	Amend	4-1-2014
813-250-0070(T)	2-10-2014	Suspend	3-1-2014	817-090-0055	3-1-2014	Amend	4-1-2014
813-300-0010	12-18-2013	Amend(T)	2-1-2014	817-090-0065	3-1-2014	Amend	4-1-2014
817-005-0005	3-1-2014	Amend	4-1-2014	817-090-0070	3-1-2014	Amend	4-1-2014
817-010-0007	3-1-2014	Amend	4-1-2014	817-090-0075	3-1-2014	Amend	4-1-2014
817-010-0009	3-1-2014	Repeal	4-1-2014	817-090-0085	3-1-2014	Amend	4-1-2014
817-010-0014	1-1-2014	Amend	2-1-2014	817-090-0090	3-1-2014	Amend	4-1-2014
817-010-0021	3-1-2014	Amend	4-1-2014	817-090-0105	3-1-2014	Amend	4-1-2014
817-010-0035	3-1-2014	Amend	4-1-2014	817-090-0110	3-1-2014	Amend	4-1-2014
817-010-0040	3-1-2014	Amend	4-1-2014	817-090-0115	3-1-2014	Amend	4-1-2014
817-010-0055	3-1-2014	Amend	4-1-2014	817-100-0005	3-1-2014	Amend	4-1-2014
817-010-0060	3-1-2014	Amend	4-1-2014	817-120-0005	3-1-2014	Amend	4-1-2014
817-010-0065	3-1-2014	Amend	4-1-2014	820-001-0020	12-5-2013	Amend(T)	1-1-2014
817-010-0068	3-1-2014	Amend	4-1-2014	820-001-0020	2-26-2014	Amend	4-1-2014
817-010-0069	3-1-2014	Amend	4-1-2014	820-001-0020(T)	12-5-2013	Suspend	1-1-2014
817-010-0075	3-1-2014	Amend	4-1-2014	820-001-0020(T)	12-5-2013	Suspend	1-1-2014
817-010-0085	3-1-2014	Amend	4-1-2014	820-001-0020(T)	2-26-2014	Repeal	4-1-2014
817-010-0095	3-1-2014	Amend	4-1-2014	820-001-0025	12-5-2013	Amend(T)	1-1-2014
817-010-0101	3-1-2014	Amend	4-1-2014	820-001-0025	2-26-2014	Amend	4-1-2014
817-010-0106	3-1-2014	Amend	4-1-2014	820-010-0010	12-5-2013	Amend(T)	1-1-2014
817-010-0110	3-1-2014	Amend	4-1-2014	820-010-0010	2-26-2014	Amend	4-1-2014
817-010-0300	3-1-2014	Repeal	4-1-2014	820-010-0010(T)	12-5-2013	Suspend	1-1-2014
817-015-0010	3-1-2014	Repeal	4-1-2014	820-010-0010(T)	12-5-2013	Suspend	1-1-2014
817-015-0030	3-1-2014	Amend	4-1-2014	820-010-0010(T)	2-26-2014	Repeal	4-1-2014
817-015-0065	3-1-2014	Amend	4-1-2014	820-010-0225	2-14-2014	Amend(T)	3-1-2014
817-020-0001	3-1-2014	Amend	4-1-2014	820-010-0226	2-14-2014	Amend(T)	3-1-2014
817-020-0006	3-1-2014	Amend	4-1-2014	820-010-0227	12-5-2013	Amend(T)	1-1-2014
817-020-0007	3-1-2014	Amend	4-1-2014	820-010-0227	2-14-2014	Amend(T)	3-1-2014
817-020-0009	3-1-2014	Amend	4-1-2014	820-010-0227(T)	12-5-2013	Suspend	1-1-2014
817-020-0305	3-1-2014	Amend	4-1-2014	820-010-0227(T)	12-5-2013	Suspend	1-1-2014
817-020-0325	3-1-2014	Adopt	4-1-2014	820-010-0228	12-5-2013	Amend(T)	1-1-2014
817-020-0350	3-1-2014	Adopt	4-1-2014	820-010-0228	2-14-2014	Amend(T)	3-1-2014
817-030-0003	3-1-2014	Amend	4-1-2014	820-010-0228(T)	12-5-2013	Suspend	1-1-2014
817-030-0005	3-1-2014	Amend	4-1-2014	820-010-0228(T)	12-5-2013	Suspend	1-1-2014
817-030-0028	1-1-2014	Adopt	2-1-2014	820-010-0260(T)	12-5-2013	Suspend	1-1-2014
817-030-0030	3-1-2014	Amend	4-1-2014	820-010-0260(T)	12-5-2013	Suspend	1-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
820-010-0305	12-5-2013	Amend(T)	1-1-2014	836-052-0860	1-1-2014	Amend	2-1-2014
820-010-0305	2-26-2014	Amend	4-1-2014	836-053-0000	1-1-2014	Amend	2-1-2014
820-010-0305(T)	12-5-2013	Suspend	1-1-2014	836-053-0001	1-1-2014	Amend	2-1-2014
820-010-0305(T)	12-5-2013	Suspend	1-1-2014	836-053-0002	1-1-2014	Adopt	2-1-2014
820-010-0305(T)	2-26-2014	Repeal	4-1-2014	836-053-0003	1-1-2014	Amend	2-1-2014
820-010-0420	2-14-2014	Amend(T)	3-1-2014	836-053-0005	1-1-2014	Amend	2-1-2014
820-010-0442	12-5-2013	Amend(T)	1-1-2014	836-053-0007	1-1-2014	Amend	2-1-2014
820-010-0442	2-26-2014	Amend	4-1-2014	836-053-0008	1-1-2014	Adopt	2-1-2014
820-010-0442(T)	12-5-2013	Suspend	1-1-2014	836-053-0009	1-1-2014	Adopt	2-1-2014
820-010-0442(T)	12-5-2013	Suspend	1-1-2014	836-053-0021	1-1-2014	Amend	2-1-2014
820-010-0442(T)	2-26-2014	Repeal	4-1-2014	836-053-0030	1-1-2014	Amend	2-1-2014
820-010-0620	12-5-2013	Amend(T)	1-1-2014	836-053-0040	1-1-2014	Repeal	2-1-2014
820-010-0620	2-26-2014	Amend	4-1-2014	836-053-0050	1-1-2014	Amend	2-1-2014
820-010-0620(T)	12-5-2013	Suspend	1-1-2014	836-053-0060	1-1-2014	Repeal	2-1-2014
820-010-0620(T)	12-5-2013	Suspend	1-1-2014	836-053-0063	1-1-2014	Adopt	2-1-2014
820-010-0620(T)	2-26-2014	Repeal	4-1-2014	836-053-0065	1-1-2014	Amend	2-1-2014
820-010-0621	12-5-2013	Amend(T)	1-1-2014	836-053-0066	4-11-2014	Adopt(T)	5-1-2014
820-010-0621	2-26-2014	Amend	4-1-2014	836-053-0070	1-1-2014	Amend	2-1-2014
820-010-0621(T)	12-5-2013	Suspend	1-1-2014	836-053-0081	1-1-2014	Repeal	2-1-2014
820-010-0621(T)	12-5-2013	Suspend	1-1-2014	836-053-0210	1-1-2014	Repeal	2-1-2014
820-010-0621(T)	2-26-2014	Repeal	4-1-2014	836-053-0211	1-1-2014	Adopt	2-1-2014
833-020-0051	1-8-2014	Amend	2-1-2014	836-053-0220	1-1-2014	Repeal	2-1-2014
833-040-0021	1-8-2014	Amend	2-1-2014	836-053-0221	1-1-2014	Adopt	2-1-2014
833-060-0012	1-8-2014	Amend	2-1-2014	836-053-0250	1-1-2014	Repeal	2-1-2014
836-007-0001	12-31-2013	Adopt(T)	2-1-2014	836-053-0410	1-1-2014	Amend	2-1-2014
836-010-0011	1-1-2014	Amend	2-1-2014	836-053-0415	1-1-2014	Amend	2-1-2014
836-010-0051	1-1-2014	Adopt	2-1-2014	836-053-0430	1-1-2014	Repeal	2-1-2014
836-011-0000	2-14-2014	Amend	3-1-2014	836-053-0431	1-1-2014	Adopt	2-1-2014
836-011-0050	2-14-2014	Adopt	3-1-2014	836-053-0431	2-4-2014	Amend(T)	3-1-2014
836-020-0770	1-1-2014	Amend	2-1-2014	836-053-0431	4-2-2014	Amend(T)	5-1-2014
836-020-0775	1-1-2014	Amend	2-1-2014	836-053-0440	1-1-2014	Repeal	2-1-2014
836-020-0780	1-1-2014	Amend	2-1-2014	836-053-0460	1-1-2014	Repeal	2-1-2014
836-020-0785	1-1-2014	Amend	2-1-2014	836-053-0465	1-1-2014	Amend	2-1-2014
836-020-0806	1-1-2014	Amend	2-1-2014	836-053-0465	4-11-2014	Amend(T)	5-1-2014
836-027-0005	1-1-2014	Amend	2-1-2014	836-053-0471	1-1-2014	Repeal	2-1-2014
836-027-0005	1-8-2014	Amend	2-1-2014	836-053-0472	1-1-2014	Adopt	2-1-2014
836-027-0010	1-1-2014	Amend	2-1-2014	836-053-0473	1-1-2014	Adopt	2-1-2014
836-027-0010	1-8-2014	Amend	2-1-2014	836-053-0475	1-1-2014	Amend	2-1-2014
836-027-0030	1-1-2014	Amend	2-1-2014	836-053-0510	1-1-2014	Amend	2-1-2014
836-027-0030	1-8-2014	Amend	2-1-2014	836-053-0700	1-1-2014	Repeal	2-1-2014
836-027-0035	1-1-2014	Amend	2-1-2014	836-053-0710	1-1-2014	Repeal	2-1-2014
836-027-0035	1-8-2014	Amend	2-1-2014	836-053-0750	1-1-2014	Repeal	2-1-2014
836-027-0045	1-1-2014	Amend	2-1-2014	836-053-0760	1-1-2014	Repeal	2-1-2014
836-027-0045	1-8-2014	Amend	2-1-2014	836-053-0780	1-1-2014	Repeal	2-1-2014
836-027-0050	1-1-2014	Amend	2-1-2014	836-053-0785	1-1-2014	Repeal	2-1-2014
836-027-0050	1-8-2014	Amend	2-1-2014	836-053-0790	1-1-2014	Repeal	2-1-2014
836-027-0100	1-1-2014	Amend	2-1-2014	836-053-0800	1-1-2014	Repeal	2-1-2014
836-027-0100	1-8-2014	Amend	2-1-2014	836-053-0825	1-1-2014	Amend	2-1-2014
836-027-0125	1-1-2014	Adopt	2-1-2014	836-053-0830	1-1-2014	Amend	2-1-2014
836-027-0125	1-8-2014	Adopt	2-1-2014	836-053-0835	1-1-2014	Adopt	2-1-2014
836-027-0140	1-1-2014	Adopt	2-1-2014	836-053-0851	1-1-2014	Amend	2-1-2014
836-027-0140	1-8-2014	Adopt	2-1-2014	836-053-0900	1-1-2014	Amend	2-1-2014
836-052-0142	12-5-2013	Amend(T)	1-1-2014	836-053-0910	1-1-2014	Amend	2-1-2014
836-052-0676	1-1-2014	Amend	2-1-2014	836-053-1000	1-1-2014	Amend	2-1-2014
836-052-0800	1-1-2014	Amend	2-1-2014	836-053-1020	1-1-2014	Amend	2-1-2014
836-052-0830	1-1-2014	Repeal	2-1-2014	836-053-1030	1-1-2014	Amend	2-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
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
836-053-1325	1-1-2014	Amend	2-1-2014	839-003-0005	12-30-2013	Amend	2-1-2014
836-053-1330	1-1-2014	Amend	2-1-2014	839-003-0020	12-30-2013	Amend	2-1-2014
836-053-1335	1-1-2014	Amend	2-1-2014	839-003-0031	12-30-2013	Amend	2-1-2014
836-053-1340	1-1-2014	Amend	2-1-2014	839-003-0090	12-30-2013	Amend	2-1-2014
836-053-1342	1-1-2014	Amend	2-1-2014	839-003-0100	12-30-2013	Amend	2-1-2014
836-053-1345	1-1-2014	Amend	2-1-2014	839-003-0235	12-30-2013	Amend	2-1-2014
836-053-1350	1-1-2014	Amend	2-1-2014	839-003-0245	12-30-2013	Amend	2-1-2014
836-053-1355	1-1-2014	Amend	2-1-2014	839-005-0003	12-30-2013	Amend	2-1-2014
836-053-1360	1-1-2014	Amend	2-1-2014	839-005-0011	12-30-2013	Amend	2-1-2014
836-053-1365	1-1-2014	Amend	2-1-2014	839-005-0030	12-30-2013	Amend	2-1-2014
836-053-1400	1-1-2014	Amend	2-1-2014	839-005-0060	12-30-2013	Amend	2-1-2014
836-053-1401	1-1-2014	Repeal	2-1-2014	839-005-0065	12-30-2013	Amend	2-1-2014
836-053-1410	1-1-2014	Amend	2-1-2014	839-005-0070	12-30-2013	Amend	2-1-2014
836-053-1415	1-1-2014	Amend	2-1-2014	839-005-0075	12-30-2013	Amend	2-1-2014
836-071-0405	1-1-2014	Adopt	2-1-2014	839-005-0080	12-30-2013	Amend	2-1-2014
836-071-0410	1-1-2014	Adopt	2-1-2014	839-005-0085	12-30-2013	Amend	2-1-2014
836-071-0415	1-1-2014	Adopt	2-1-2014	839-005-0160	12-30-2013	Amend	2-1-2014
836-071-0420	1-1-2014	Adopt	2-1-2014	839-005-0170	12-30-2013	Amend	2-1-2014
836-071-0425	1-1-2014	Adopt	2-1-2014	839-005-0200	12-30-2013	Amend	2-1-2014
836-071-0430	1-1-2014	Adopt	2-1-2014	839-005-0206	12-30-2013	Amend	2-1-2014
836-075-0045	1-1-2014	Adopt	2-1-2014	839-005-0300	12-30-2013	Adopt	2-1-2014
836-080-0050	1-1-2014	Amend	2-1-2014	839-005-0305	12-30-2013	Adopt	2-1-2014
836-080-0055	1-1-2014	Amend	2-1-2014	839-005-0310	12-30-2013	Adopt	2-1-2014
836-080-0080	1-1-2014	Amend	2-1-2014	839-005-0315	12-30-2013	Adopt	2-1-2014
836-081-0005	1-1-2014	Amend	2-1-2014	839-005-0320	12-30-2013	Adopt	2-1-2014
836-082-0050	1-1-2014	Amend	2-1-2014	839-005-0325	12-30-2013	Adopt	2-1-2014
836-082-0055	1-1-2014	Amend	2-1-2014	839-005-0400	12-30-2013	Adopt	2-1-2014
836-085-0001	1-1-2014	Amend	2-1-2014	839-006-0205	12-30-2013	Amend	2-1-2014
836-085-0005	1-1-2014	Amend	2-1-2014	839-006-0212	12-30-2013	Amend	2-1-2014
836-085-0010	1-1-2014	Amend	2-1-2014	839-006-0270	12-30-2013	Amend	2-1-2014
836-085-0025	1-1-2014	Amend	2-1-2014	839-006-0290	12-30-2013	Amend	2-1-2014
836-085-0035	1-1-2014	Amend	2-1-2014	839-006-0291	12-30-2013	Adopt	2-1-2014
836-085-0045	1-1-2014	Amend	2-1-2014	839-006-0292	12-30-2013	Adopt	2-1-2014
836-085-0050	1-1-2014	Amend	2-1-2014	839-006-0295	12-30-2013	Amend	2-1-2014
836-100-0011	1-1-2014	Repeal	2-1-2014	839-006-0305	12-30-2013	Amend	2-1-2014
836-100-0016	1-1-2014	Repeal	2-1-2014	839-006-0307	12-30-2013	Am. & Ren.	2-1-2014
836-100-0020	1-1-2014	Repeal	2-1-2014	839-006-0332	12-30-2013	Renumber	2-1-2014
836-100-0025	1-1-2014	Repeal	2-1-2014	839-006-0345	12-30-2013	Adopt	2-1-2014
836-100-0030	1-1-2014	Repeal	2-1-2014	839-006-0450	12-16-2013	Amend(T)	1-1-2014
836-100-0035	1-1-2014	Repeal	2-1-2014	839-006-0450	2-19-2014	Amend(T)	4-1-2014
836-100-0040	1-1-2014	Repeal	2-1-2014	839-006-0450(T)	2-19-2014	Suspend	4-1-2014
836-100-0045	1-1-2014	Repeal	2-1-2014	839-009-0210	12-31-2013	Amend	2-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
839-009-0230	12-31-2013	Amend	2-1-2014	839-021-0350	1-1-2014	Amend	2-1-2014
839-009-0240	12-31-2013	Amend	2-1-2014	839-021-0355	1-1-2014	Amend	2-1-2014
839-009-0250	12-31-2013	Amend	2-1-2014	839-021-0360	1-1-2014	Amend	2-1-2014
839-009-0270	12-31-2013	Amend	2-1-2014	839-021-0365	1-1-2014	Amend	2-1-2014
839-009-0280	12-31-2013	Amend	2-1-2014	839-021-0370	1-1-2014	Amend	2-1-2014
839-009-0325	12-31-2013	Amend	2-1-2014	839-021-0490	1-1-2014	Amend	2-1-2014
839-009-0330	12-31-2013	Amend	2-1-2014	839-022-0000	1-1-2014	Repeal	2-1-2014
839-009-0340	12-31-2013	Amend	2-1-2014	839-022-0010	1-1-2014	Repeal	2-1-2014
839-009-0345	12-31-2013	Amend	2-1-2014	839-022-0100	1-1-2014	Repeal	2-1-2014
839-009-0362	12-31-2013	Amend	2-1-2014	839-022-0105	1-1-2014	Repeal	2-1-2014
839-009-0363	12-31-2013	Amend	2-1-2014	839-022-0110	1-1-2014	Repeal	2-1-2014
839-009-0380	12-31-2013	Amend	2-1-2014	839-022-0115	1-1-2014	Repeal	2-1-2014
839-009-0390	12-31-2013	Amend	2-1-2014	839-022-0120	1-1-2014	Repeal	2-1-2014
839-009-0430	12-31-2013	Amend	2-1-2014	839-022-0125	1-1-2014	Repeal	2-1-2014
839-010-0000	12-30-2013	Amend	2-1-2014	839-022-0130	1-1-2014	Repeal	2-1-2014
839-010-0300	12-30-2013	Adopt	2-1-2014	839-022-0135	1-1-2014	Repeal	2-1-2014
839-010-0305	12-30-2013	Adopt	2-1-2014	839-022-0140	1-1-2014	Repeal	2-1-2014
839-010-0310	12-30-2013	Adopt	2-1-2014	839-022-0145	1-1-2014	Repeal	2-1-2014
839-015-0155	1-21-2014	Amend(T)	3-1-2014	839-022-0150	1-1-2014	Repeal	2-1-2014
839-015-0155	4-10-2014	Amend	5-1-2014	839-022-0155	1-1-2014	Repeal	2-1-2014
839-019-0004	1-1-2014	Amend	2-1-2014	839-022-0160	1-1-2014	Repeal	2-1-2014
839-019-0010	1-1-2014	Amend	2-1-2014	839-022-0165	1-1-2014	Repeal	2-1-2014
839-019-0100	1-1-2014	Amend	2-1-2014	839-025-0004	1-1-2014	Amend	2-1-2014
839-020-0004	1-1-2014	Amend	2-1-2014	839-025-0010	1-1-2014	Amend	2-1-2014
839-020-0025	1-1-2014	Amend	2-1-2014	839-025-0013	1-1-2014	Amend	2-1-2014
839-020-0040	1-1-2014	Amend	2-1-2014	839-025-0020	1-1-2014	Amend	2-1-2014
839-020-0050	1-1-2014	Amend	2-1-2014	839-025-0035	1-1-2014	Amend	2-1-2014
839-020-0070	1-1-2014	Amend	2-1-2014	839-025-0043	1-1-2014	Amend	2-1-2014
839-020-1010	1-1-2014	Amend	2-1-2014	839-025-0085	1-1-2014	Amend	2-1-2014
839-021-0006	1-1-2014	Amend	2-1-2014	839-025-0090	1-1-2014	Amend	2-1-2014
839-021-0067	1-1-2014	Amend	2-1-2014	839-025-0095	1-1-2014	Amend	2-1-2014
839-021-0070	1-1-2014	Amend	2-1-2014	839-025-0230	1-1-2014	Amend	2-1-2014
839-021-0072	1-1-2014	Amend	2-1-2014	839-025-0530	1-1-2014	Amend	2-1-2014
839-021-0087	1-1-2014	Amend	2-1-2014	839-025-0700	1-1-2014	Amend	2-1-2014
839-021-0097	1-1-2014	Amend	2-1-2014	839-025-0700	4-2-2014	Amend	5-1-2014
839-021-0102	1-1-2014	Amend	2-1-2014	839-050-0000	4-15-2014	Amend	5-1-2014
839-021-0104	1-1-2014	Amend	2-1-2014	839-050-0010	4-15-2014	Amend	5-1-2014
839-021-0175	1-1-2014	Amend	2-1-2014	839-050-0020	4-15-2014	Amend	5-1-2014
839-021-0220	1-1-2014	Amend	2-1-2014	839-050-0030	4-15-2014	Amend	5-1-2014
839-021-0221	1-1-2014	Amend	2-1-2014	839-050-0040	4-15-2014	Amend	5-1-2014
839-021-0246	1-1-2014	Amend	2-1-2014	839-050-0050	4-15-2014	Amend	5-1-2014
839-021-0248	1-1-2014	Amend	2-1-2014	839-050-0060	4-15-2014	Amend	5-1-2014
839-021-0255	1-1-2014	Amend	2-1-2014	839-050-0070	4-15-2014	Amend	5-1-2014
839-021-0265	1-1-2014	Amend	2-1-2014	839-050-0080	4-15-2014	Amend	5-1-2014
839-021-0280	1-1-2014	Amend	2-1-2014	839-050-0090	4-15-2014	Amend	5-1-2014
839-021-0290	1-1-2014	Amend	2-1-2014	839-050-0100	4-15-2014	Amend	5-1-2014
839-021-0292	1-1-2014	Amend	2-1-2014	839-050-0110	4-15-2014	Amend	5-1-2014
839-021-0294	1-1-2014	Amend	2-1-2014	839-050-0120	4-15-2014	Amend	5-1-2014
839-021-0297	1-1-2014	Amend	2-1-2014	839-050-0130	4-15-2014	Amend	5-1-2014
839-021-0315	1-1-2014	Amend	2-1-2014	839-050-0140	4-15-2014	Amend	5-1-2014
839-021-0320	1-1-2014	Amend	2-1-2014	839-050-0150	4-15-2014	Amend	5-1-2014
839-021-0325	1-1-2014	Amend	2-1-2014	839-050-0160	4-15-2014	Amend	5-1-2014
839-021-0330	1-1-2014	Amend	2-1-2014	839-050-0170	4-15-2014	Amend	5-1-2014
839-021-0335	1-1-2014	Amend	2-1-2014	839-050-0180	4-15-2014	Amend	5-1-2014
839-021-0340	1-1-2014	Amend	2-1-2014	839-050-0190	4-15-2014	Amend	5-1-2014
839-021-0345	1-1-2014	Amend	2-1-2014	839-050-0200	4-15-2014	Amend	5-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
839-050-0210	4-15-2014	Amend	5-1-2014	848-005-0020	1-1-2014	Amend	1-1-2014
839-050-0220	4-15-2014	Amend	5-1-2014	848-005-0030	1-1-2014	Amend	1-1-2014
839-050-0230	4-15-2014	Amend	5-1-2014	848-010-0010	1-1-2014	Amend	1-1-2014
839-050-0240	4-15-2014	Amend	5-1-2014	848-010-0015	1-1-2014	Amend	1-1-2014
839-050-0250	4-15-2014	Amend	5-1-2014	848-010-0020	1-1-2014	Amend	1-1-2014
839-050-0255	4-15-2014	Amend	5-1-2014	848-010-0026	1-1-2014	Amend	1-1-2014
839-050-0260	4-15-2014	Amend	5-1-2014	848-010-0033	1-1-2014	Amend	1-1-2014
839-050-0270	4-15-2014	Amend	5-1-2014	848-010-0035	1-1-2014	Amend	1-1-2014
839-050-0280	4-15-2014	Amend	5-1-2014	848-010-0044	1-1-2014	Amend	1-1-2014
839-050-0290	4-15-2014	Amend	5-1-2014	848-015-0030	1-1-2014	Amend	1-1-2014
839-050-0300	4-15-2014	Amend	5-1-2014	848-020-0000	1-1-2014	Amend	1-1-2014
839-050-0310	4-15-2014	Amend	5-1-2014	848-020-0060	1-1-2014	Amend	1-1-2014
839-050-0320	4-15-2014	Amend	5-1-2014	848-035-0010	4-1-2014	Amend	4-1-2014
839-050-0330	4-15-2014	Amend	5-1-2014	848-035-0015	4-1-2014	Amend	4-1-2014
839-050-0340	4-15-2014	Amend	5-1-2014	848-035-0020	4-1-2014	Amend	4-1-2014
839-050-0350	4-15-2014	Amend	5-1-2014	848-035-0030	4-1-2014	Amend	4-1-2014
839-050-0360	4-15-2014	Amend	5-1-2014	848-035-0035	4-1-2014	Amend	4-1-2014
839-050-0370	4-15-2014	Amend	5-1-2014	848-035-0040	4-1-2014	Amend	4-1-2014
839-050-0380	4-15-2014	Amend	5-1-2014	848-040-0105	1-1-2014	Amend	1-1-2014
839-050-0400	4-15-2014	Amend	5-1-2014	848-040-0110	1-1-2014	Amend	1-1-2014
839-050-0410	4-15-2014	Amend	5-1-2014	848-040-0117	1-1-2014	Amend	1-1-2014
839-050-0420	4-15-2014	Amend	5-1-2014	848-040-0147	1-1-2014	Amend	1-1-2014
839-050-0430	4-15-2014	Amend	5-1-2014	848-040-0150	1-1-2014	Amend	1-1-2014
839-050-0440	4-15-2014	Amend	5-1-2014	848-045-0010	1-1-2014	Amend	1-1-2014
839-050-0445	4-15-2014	Amend	5-1-2014	850-060-0226	4-9-2014	Amend	5-1-2014
845-004-0001	1-1-2014	Amend	1-1-2014	851-021-0005	1-1-2014	Amend	1-1-2014
845-005-0311	1-1-2014	Amend	1-1-2014	851-021-0010	1-1-2014	Amend	1-1-2014
845-005-0431	3-1-2014	Amend	3-1-2014	851-021-0025	1-1-2014	Amend	1-1-2014
845-005-0440	3-1-2014	Amend	3-1-2014	851-021-0050	1-1-2014	Amend	1-1-2014
845-006-0335	1-1-2014	Amend	1-1-2014	851-021-0120	1-1-2014	Amend	1-1-2014
845-006-0392	1-1-2014	Amend	1-1-2014	851-050-0000	1-1-2014	Amend	1-1-2014
845-006-0396	1-1-2014	Amend	1-1-2014	851-050-0001	1-1-2014	Amend	1-1-2014
845-006-0452	3-1-2014	Amend	3-1-2014	851-050-0002	1-1-2014	Amend	1-1-2014
845-013-0001	1-1-2014	Amend	1-1-2014	851-054-0010	1-1-2014	Amend	1-1-2014
845-020-0020	5-1-2014	Amend	5-1-2014	851-054-0020	1-1-2014	Amend	1-1-2014
847-001-0024	1-14-2014	Adopt	2-1-2014	851-054-0021	1-1-2014	Amend	1-1-2014
847-001-0045	4-9-2014	Adopt	5-1-2014	851-054-0030	1-1-2014	Adopt	1-1-2014
847-005-0005	4-9-2014	Amend	5-1-2014	851-054-0035	1-1-2014	Adopt	1-1-2014
847-008-0003	4-9-2014	Amend	5-1-2014	851-054-0040	1-1-2014	Amend	1-1-2014
847-008-0070	1-14-2014	Amend	2-1-2014	851-056-0020	1-1-2014	Amend	1-1-2014
847-010-0053	1-14-2014	Repeal	2-1-2014	851-056-0022	1-1-2014	Amend	1-1-2014
847-010-0060	1-14-2014	Amend	2-1-2014	851-061-0020	1-1-2014	Amend	1-1-2014
847-020-0110	1-14-2014	Amend	2-1-2014	851-061-0030	1-1-2014	Amend	1-1-2014
847-020-0183	4-9-2014	Amend	5-1-2014	851-061-0080	1-1-2014	Amend	1-1-2014
847-050-0020	1-14-2014	Amend	2-1-2014	851-061-0090	1-1-2014	Amend	1-1-2014
847-050-0023	1-14-2014	Amend	2-1-2014	851-062-0010	1-1-2014	Amend	1-1-2014
847-050-0025	1-14-2014	Amend	2-1-2014	851-062-0050	1-1-2014	Amend	1-1-2014
847-050-0026	1-14-2014	Repeal	2-1-2014	851-062-0080	1-1-2014	Amend	1-1-2014
847-050-0043	4-9-2014	Amend	5-1-2014	851-062-0130	1-1-2014	Amend	1-1-2014
847-070-0019	1-14-2014	Amend	2-1-2014	851-070-0005	4-1-2014	Amend	4-1-2014
847-070-0036	1-14-2014	Repeal	2-1-2014	851-070-0040	4-1-2014	Amend	4-1-2014
847-070-0037	1-14-2014	Amend	2-1-2014	851-070-0080	4-1-2014	Amend	4-1-2014
847-070-0045	4-9-2014	Amend	5-1-2014	851-070-0090	4-1-2014	Amend	4-1-2014
847-080-0002	1-14-2014	Amend	2-1-2014	851-070-0100	4-1-2014	Amend	4-1-2014
847-080-0021	4-9-2014	Amend	5-1-2014	852-010-0080	1-3-2014	Amend	2-1-2014
848-001-0005	1-1-2014	Amend	1-1-2014	852-050-0005	1-3-2014	Amend	2-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
852-050-0016	1-3-2014	Amend	2-1-2014	859-200-0150	3-5-2014	Adopt	4-1-2014
855-007-0080	1-24-2014	Amend	3-1-2014	859-200-0200	3-5-2014	Adopt	4-1-2014
855-011-0020	1-24-2014	Amend	3-1-2014	859-200-0205	3-5-2014	Adopt	4-1-2014
855-019-0150	2-28-2014	Amend(T)	4-1-2014	859-200-0210	3-5-2014	Adopt	4-1-2014
855-019-0205	1-24-2014	Amend	3-1-2014	859-200-0215	3-5-2014	Adopt	4-1-2014
855-019-0270	1-24-2014	Amend	3-1-2014	859-200-0220	3-5-2014	Adopt	4-1-2014
855-019-0280	1-24-2014	Amend	3-1-2014	859-200-0225	3-5-2014	Adopt	4-1-2014
855-041-1001	1-24-2014	Adopt	3-1-2014	859-200-0230	3-5-2014	Adopt	4-1-2014
855-041-1030	1-24-2014	Amend	3-1-2014	859-200-0235	3-5-2014	Adopt	4-1-2014
855-041-1105	1-24-2014	Amend	3-1-2014	859-200-0300	3-5-2014	Adopt	4-1-2014
855-041-2300	1-24-2014	Adopt	3-1-2014	859-200-0305	3-5-2014	Adopt	4-1-2014
855-041-2300(T)	1-24-2014	Repeal	3-1-2014	859-200-0310	3-5-2014	Adopt	4-1-2014
855-041-2310	1-24-2014	Adopt	3-1-2014	860-001-0310	1-9-2014	Amend	2-1-2014
855-041-2310(T)	1-24-2014	Repeal	3-1-2014	860-023-0055	1-22-2014	Amend	3-1-2014
855-041-2320	1-24-2014	Adopt	3-1-2014	860-032-0012	1-22-2014	Amend	3-1-2014
855-041-2320(T)	1-24-2014	Repeal	3-1-2014	860-033-0001	12-20-2013	Amend	2-1-2014
855-041-2330	1-24-2014	Adopt	3-1-2014	860-033-0001(T)	12-20-2013	Repeal	2-1-2014
855-041-2330(T)	1-24-2014	Repeal	3-1-2014	860-033-0005	12-20-2013	Amend	2-1-2014
855-041-4200	1-3-2014	Amend	2-1-2014	860-033-0005(T)	12-20-2013	Repeal	2-1-2014
855-080-0021	12-20-2013	Amend(T)	2-1-2014	860-033-0006	12-20-2013	Amend	2-1-2014
855-080-0021	2-28-2014	Amend(T)	4-1-2014	860-033-0006(T)	12-20-2013	Repeal	2-1-2014
855-080-0021	4-15-2014	Amend(T)	5-1-2014	860-033-0007	12-20-2013	Amend	2-1-2014
855-110-0005	1-3-2014	Amend	2-1-2014	860-033-0007(T)	12-20-2013	Repeal	2-1-2014
855-110-0007	1-3-2014	Amend	2-1-2014	860-033-0010	12-20-2013	Amend	2-1-2014
856-010-0003	1-23-2014	Amend	3-1-2014	860-033-0010(T)	12-20-2013	Repeal	2-1-2014
856-010-0006	1-23-2014	Adopt	3-1-2014	860-033-0030	12-20-2013	Amend	2-1-2014
858-010-0036	3-24-2014	Amend	5-1-2014	860-033-0030(T)	12-20-2013	Repeal	2-1-2014
859-200-0005	3-5-2014	Adopt	4-1-2014	860-033-0035	12-20-2013	Amend	2-1-2014
859-200-0010	3-5-2014	Adopt	4-1-2014	860-033-0035(T)	12-20-2013	Repeal	2-1-2014
859-200-0015	3-5-2014	Adopt	4-1-2014	860-033-0040	12-20-2013	Amend	2-1-2014
859-200-0020	3-5-2014	Adopt	4-1-2014	860-033-0040(T)	12-20-2013	Repeal	2-1-2014
859-200-0025	3-5-2014	Adopt	4-1-2014	860-033-0045	12-20-2013	Amend	2-1-2014
859-200-0030	3-5-2014	Adopt	4-1-2014	860-033-0045(T)	12-20-2013	Repeal	2-1-2014
859-200-0035	3-5-2014	Adopt	4-1-2014	860-033-0046	12-20-2013	Amend	2-1-2014
859-200-0040	3-5-2014	Adopt	4-1-2014	860-033-0046(T)	12-20-2013	Repeal	2-1-2014
859-200-0045	3-5-2014	Adopt	4-1-2014	860-033-0050	12-20-2013	Amend	2-1-2014
859-200-0050	3-5-2014	Adopt	4-1-2014	860-033-0050(T)	12-20-2013	Repeal	2-1-2014
859-200-0055	3-5-2014	Adopt	4-1-2014	860-033-0055	12-20-2013	Repeal	2-1-2014
859-200-0060	3-5-2014	Adopt	4-1-2014	860-033-0100	12-20-2013	Amend	2-1-2014
859-200-0065	3-5-2014	Adopt	4-1-2014	860-033-0100(T)	12-20-2013	Repeal	2-1-2014
859-200-0070	3-5-2014	Adopt	4-1-2014	860-033-0110	12-20-2013	Adopt	2-1-2014
859-200-0075	3-5-2014	Adopt	4-1-2014	860-033-0110(T)	12-20-2013	Repeal	2-1-2014
859-200-0080	3-5-2014	Adopt	4-1-2014	860-033-0530	12-20-2013	Amend	2-1-2014
859-200-0085	3-5-2014	Adopt	4-1-2014	860-033-0530(T)	12-20-2013	Repeal	2-1-2014
859-200-0090	3-5-2014	Adopt	4-1-2014	860-033-0535	12-20-2013	Amend	2-1-2014
859-200-0095	3-5-2014	Adopt	4-1-2014	860-033-0535(T)	12-20-2013	Repeal	2-1-2014
859-200-0100	3-5-2014	Adopt	4-1-2014	860-033-0536	12-20-2013	Amend	2-1-2014
859-200-0105	3-5-2014	Adopt	4-1-2014	860-033-0536(T)	12-20-2013	Repeal	2-1-2014
859-200-0110	3-5-2014	Adopt	4-1-2014	860-033-0537	12-20-2013	Amend	2-1-2014
859-200-0115	3-5-2014	Adopt	4-1-2014	860-033-0537(T)	12-20-2013	Repeal	2-1-2014
859-200-0120	3-5-2014	Adopt	4-1-2014	860-033-0540	12-20-2013	Amend	2-1-2014
859-200-0125	3-5-2014	Adopt	4-1-2014	860-033-0540(T)	12-20-2013	Repeal	2-1-2014
859-200-0130	3-5-2014	Adopt	4-1-2014	860-034-0390	1-22-2014	Amend	3-1-2014
859-200-0135	3-5-2014	Adopt	4-1-2014	860-038-0005	3-7-2014	Amend	4-1-2014
859-200-0140	3-5-2014	Adopt	4-1-2014	860-038-0300	3-7-2014	Amend	4-1-2014
859-200-0145	3-5-2014	Adopt	4-1-2014	863-003-0000	4-28-2014	Adopt	5-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
863-003-0005	4-28-2014	Adopt	5-1-2014	875-030-0010	1-17-2014	Amend	3-1-2014
863-003-0010	4-28-2014	Adopt	5-1-2014	875-030-0020	1-17-2014	Amend	3-1-2014
863-003-0020	4-28-2014	Adopt	5-1-2014	875-030-0030	1-17-2014	Amend	3-1-2014
863-003-0040	4-28-2014	Adopt	5-1-2014	875-030-0040	1-17-2014	Amend	3-1-2014
863-003-0050	4-28-2014	Adopt	5-1-2014	875-030-0050	1-17-2014	Amend	3-1-2014
863-003-0060	4-28-2014	Adopt	5-1-2014	918-001-0025	3-24-2014	Amend	5-1-2014
863-003-0070	4-28-2014	Adopt	5-1-2014	918-008-0000	4-1-2014	Amend	3-1-2014
863-003-0080	4-28-2014	Adopt	5-1-2014	918-020-0090	1-1-2014	Amend	2-1-2014
863-003-0090	4-28-2014	Adopt	5-1-2014	918-020-0370	1-1-2014	Amend	2-1-2014
863-003-0100	4-28-2014	Adopt	5-1-2014	918-020-0370(T)	1-1-2014	Repeal	2-1-2014
863-003-0110	4-28-2014	Adopt	5-1-2014	918-098-1000	4-1-2014	Amend	5-1-2014
863-014-0003	4-28-2014	Amend	5-1-2014	918-098-1005	4-1-2014	Amend	5-1-2014
863-014-0010	4-28-2014	Amend	5-1-2014	918-098-1010	1-1-2014	Amend	2-1-2014
863-014-0015	4-28-2014	Amend	5-1-2014	918-098-1010	4-1-2014	Amend	5-1-2014
863-014-0015	4-28-2014	Amend	5-1-2014	918-098-1015	4-1-2014	Amend	5-1-2014
863-014-0020	4-28-2014	Amend	5-1-2014	918-098-1030	4-1-2014	Repeal	5-1-2014
863-014-0035	4-28-2014	Amend	5-1-2014	918-098-1210	4-1-2014	Amend	5-1-2014
863-014-0040	4-28-2014	Amend	5-1-2014	918-098-1215	4-1-2014	Amend	5-1-2014
863-014-0050	4-28-2014	Amend	5-1-2014	918-098-1450	4-1-2014	Amend	5-1-2014
863-014-0062	4-28-2014	Amend	5-1-2014	918-098-1470	4-1-2014	Amend	5-1-2014
863-014-0063	4-28-2014	Amend	5-1-2014	918-098-1500	4-1-2014	Amend	5-1-2014
863-014-0065	4-28-2014	Amend	5-1-2014	918-098-1525	4-1-2014	Adopt	5-1-2014
863-014-0066	4-28-2014	Amend	5-1-2014	918-098-1550	4-1-2014	Amend	5-1-2014
863-014-0095	4-28-2014	Amend	5-1-2014	918-098-1560	4-1-2014	Repeal	5-1-2014
863-014-0100	4-28-2014	Amend	5-1-2014	918-282-0450	2-12-2014	Adopt(T)	3-1-2014
863-015-0003	4-28-2014	Amend	5-1-2014	918-282-0455	2-12-2014	Adopt(T)	3-1-2014
863-015-0081	4-28-2014	Adopt	5-1-2014	918-282-0455	2-21-2014	Adopt(T)	4-1-2014
863-020-0000	4-28-2014	Amend	5-1-2014	918-282-0455(T)	2-21-2014	Suspend	4-1-2014
863-020-0010	4-28-2014	Amend	5-1-2014	918-282-0460	2-12-2014	Adopt(T)	3-1-2014
863-020-0015	4-28-2014	Amend	5-1-2014	943-014-0050	2-18-2014	Repeal	3-1-2014
863-020-0030	4-28-2014	Amend	5-1-2014	943-014-0400	2-18-2014	Adopt	3-1-2014
863-020-0030	4-28-2014	Amend	5-1-2014	943-014-0410	2-18-2014	Adopt	3-1-2014
863-020-0040	4-28-2014	Amend	5-1-2014	943-014-0415	2-18-2014	Adopt	3-1-2014
863-020-0055	4-28-2014	Amend	5-1-2014	943-014-0420	2-18-2014	Adopt	3-1-2014
863-020-0060	4-28-2014	Amend	5-1-2014	943-014-0430	2-18-2014	Adopt	3-1-2014
863-024-0003	4-28-2014	Amend	5-1-2014	943-014-0435	2-18-2014	Adopt	3-1-2014
863-024-0015	4-28-2014	Amend	5-1-2014	943-014-0440	2-18-2014	Adopt	3-1-2014
863-024-0015	4-28-2014	Amend	5-1-2014	943-014-0445	2-18-2014	Adopt	3-1-2014
863-024-0045	4-28-2014	Amend	5-1-2014	943-014-0450	2-18-2014	Adopt	3-1-2014
863-024-0050	4-28-2014	Amend	5-1-2014	943-014-0455	2-18-2014	Adopt	3-1-2014
863-024-0062	4-28-2014	Amend	5-1-2014	943-014-0460	2-18-2014	Adopt	3-1-2014
863-024-0063	4-28-2014	Amend	5-1-2014	943-014-0465	2-18-2014	Adopt	3-1-2014
863-024-0065	4-28-2014	Amend	5-1-2014	943-070-0000	3-10-2014	Adopt	4-1-2014
863-024-0066	4-28-2014	Amend	5-1-2014	943-070-0010	3-10-2014	Adopt	4-1-2014
863-024-0095	4-28-2014	Amend	5-1-2014	943-070-0020	3-10-2014	Adopt	4-1-2014
863-024-0100	4-28-2014	Amend	5-1-2014	943-070-0030	3-10-2014	Adopt	4-1-2014
863-025-0010	4-28-2014	Amend	5-1-2014	943-070-0040	3-10-2014	Adopt	4-1-2014
875-005-0005	1-17-2014	Amend	3-1-2014	943-070-0050	3-10-2014	Adopt	4-1-2014
875-010-0000	1-17-2014	Amend	3-1-2014	943-070-0060	3-10-2014	Adopt	4-1-2014
875-010-0016	1-17-2014	Amend	3-1-2014	943-070-0070	3-10-2014	Adopt	4-1-2014
875-010-0021	1-17-2014	Amend	3-1-2014	945-030-0030	4-15-2014	Amend	5-1-2014
875-010-0045	1-17-2014	Amend	3-1-2014	945-030-0045	1-16-2014	Adopt	3-1-2014
875-010-0050	1-17-2014	Amend	3-1-2014	945-040-0180	11-18-2013	Adopt(T)	1-1-2014
875-010-0090	1-17-2014	Amend	3-1-2014	945-040-0180	12-23-2013	Adopt(T)	2-1-2014
875-015-0020	1-17-2014	Amend	3-1-2014	945-040-0180(T)	12-23-2013	Suspend	2-1-2014
875-015-0030	1-17-2014	Amend	3-1-2014	952-001-0003	3-7-2014	Adopt	4-1-2014

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
952-001-0003(T)	3-7-2014	Repeal	4-1-2014				
952-001-0010	3-7-2014	Amend	4-1-2014				
952-001-0020	3-7-2014	Amend	4-1-2014				
952-001-0030	3-7-2014	Amend	4-1-2014				
952-001-0040	3-7-2014	Amend	4-1-2014				
952-001-0050	3-7-2014	Amend	4-1-2014				
952-001-0060	3-7-2014	Amend	4-1-2014				
952-001-0070	3-7-2014	Amend	4-1-2014				
952-001-0080	3-7-2014	Amend	4-1-2014				
952-001-0090	3-7-2014	Amend	4-1-2014				
952-001-0100	3-7-2014	Amend	4-1-2014				