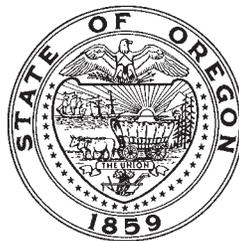


# OREGON BULLETIN

*Supplements the 2015 Oregon Administrative Rules Compilation*

**Volume 54, No. 9**  
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**JEANNE P. ATKINS**  
Secretary of State  
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# INFORMATION ABOUT ADMINISTRATIVE RULES

## General Information

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

## Background on Oregon Administrative Rules

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

## OAR Citations

Every Administrative Rule uses the same numbering sequence of a three-digit chapter number followed by a three-digit division number and a four-digit rule number (000-000-0000). For example, Oregon Administrative Rules, chapter 166, division 500, rule 0020 is cited as OAR 166-500-0020.

## Understanding an Administrative Rule’s “History”

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

## Locating Current Versions of Administrative Rules

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

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

## Locating Administrative Rule Publications

Printed volumes of the Compilation are deposited in Oregon’s Public Documents Depository Libraries listed in OAR 543-070-0000. Complete sets and individual volumes of the printed OAR Compilation may be ordered from the Administrative Rules Unit, Archives Division, 800 Summer Street NE, Salem, Oregon 97301, (503) 373-0701.

## Filing Administrative Rules and Notices

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

## Administrative Rules Coordinators and Delegation of Signing Authority

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

## Publication Authority

The Oregon Bulletin is published pursuant to ORS 183.360(3). Copies of the original Administrative Orders may be obtained from the Archives Division, 800 Summer Street, Salem, Oregon, 97310; (503) 373-0701. The Archives Division charges for such copies.

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

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# EXECUTIVE ORDERS

## EXECUTIVE ORDER NO. 15 - 09

### DIRECTING STATE AGENCIES TO PLAN FOR RESILIENCY TO DROUGHT, TO MEET THE CHALLENGE THAT A CHANGING CLIMATE BRINGS

Water is the foundation for our economies, communities, ecosystems, and quality of life. Oregon has a strong history of managing and caring for water to meet both instream and out-of-stream needs.

As of July 27, 2015, I have declared drought emergencies in 23 of Oregon's 36 counties, due to drought conditions, including record-breaking low snowpack levels, high temperatures, and significantly low stream flows in many parts of the state. Many Oregon counties have experienced two consecutive years of drought conditions, and several have had multiple drought declarations over the past five years. The primary problem experienced in the 2014–2015 water year so far – an extremely warm winter resulting in historic lows for mountain snowpack, the main source of water storage and stream flows for many areas of Oregon – may occur again in the winter of 2015–2016 due to El Nino conditions. Over the longer-term, if climate predictions are correct, these conditions will become the new normal. Oregon, along with other western states, must plan for and address how a changing climate challenges our current systems and policies, and threatens our economy and quality of life.

Drought has many effects including: severe water reductions for irrigated agriculture; reduced forage for grazing; water restrictions or shortages in communities with limited supplies; low reservoir levels that limit or prevent recreational activities; low stream flows and high water temperatures that harm fish and restrict angling and other river uses; reduced productivity of forests and increased mortality of trees; and increased risk of wildfire.

Drought conditions may persist or grow worse in future years. Now is the time to get ahead of our water resource challenges and improve our resiliency to drought to prevent much more serious problems.

The Oregon legislature has approved new funding to begin helping communities do the work to address their water challenges. While this funding is a critical piece of meeting instream and out-of-stream water needs for Oregon's future, it is also critical that the state update its drought emergency plans and processes, and update how the state manages its own use of limited water resources.

Many Oregon agencies already have taken steps to improve the sustainability of their operations, including actions to reduce water, but Oregon state government can and should lead by example – showing Oregonians that drought is a serious issue – but one that can be managed if we all work together.

### NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

To increase Oregon's resiliency to drought and to better protect Oregon's communities, economy and natural resources:

I. I hereby direct state agencies that own or manage land or facilities, including the Department of Administrative Services, Oregon Parks and Recreation Department, Oregon Department of State Lands, Oregon Department of Fish and Wildlife, Oregon Department of Forestry, Oregon Department of Transportation, Oregon Military Department, and the Department of Corrections, but not including the Oregon University System, to:

a. Work with the Department of Administrative Services and Oregon Water Resources Department to establish what their baseline use of water is;

b. Consult with water suppliers, or (as applicable) manage their own water supplies, to identify and carry out:

(1) Short-term actions that curtail or end the non-essential use of water for landscaping and other exterior features of building and grounds including, but not limited to lawn watering, fountains that do not re-circulate water, and window washing;

(2) A moratorium (where allowed) on the installation of new non-essential landscaping projects that require irrigation at state-owned buildings;

(3) Development and placement of signs and other messaging within state-owned buildings to encourage state employees to reduce their non-essential uses of water inside state-owned buildings; and

(4) Assuring that state-owned buildings and facilities have current leak detection systems or procedures to address leaks that are being carried out on a timely basis.

c. Consider any social and disproportionate effects of actions on underserved communities before making final decisions on water-saving measures; and

d. Report to the Governor by November 1, 2015, and annually thereafter, on progress in implementing these actions, barriers encountered, and future steps planned to reduce non-essential use of water.

The goal of such actions is to reduce non-essential water consumption by 15 percent or more on average across all state-owned facilities on or before December 31, 2020, and to work with private building owners who lease facilities to state agencies to reduce non-essential water consumption at their buildings.

II. I hereby direct the Oregon Water Resources Department and Oregon Office of Emergency Management to engage other state agencies, federal agencies, tribal governments, local governments and other stakeholders to update Oregon's Drought Annex to the State of Oregon Emergency Operations Plan to reflect emerging information on the risk of drought and the need to assure that Oregon is appropriately prepared for future droughts.

III. I hereby direct the Oregon Water Resources Department to address drought in Oregon's 2017 update to the Integrated Water Resources Strategy, including long-term drought resiliency planning.

IV. I hereby direct all state agencies to work with the Oregon Water Resources Department to use their websites and other outreach tools to:

a. Encourage voluntary actions by Oregonians to conserve water; and

b. Communicate agencies' actions to conserve water.

This Executive Order shall remain in effect until it is otherwise modified, amended or terminated.

Done at Salem, Oregon this 27th day of July.

/s/ Kate Brown  
Kate Brown  
GOVERNOR

ATTEST

/s/ Jeanne P. Atkins  
Jeanne P. Atkins  
SECRETARY OF STATE

# EXECUTIVE ORDERS

## EXECUTIVE ORDER NO. 15 - 10

### DETERMINATION OF A STATE OF EMERGENCY REGARDING DELIVERY OF AIRCRAFT FUEL DIRECTED TO USE IN FIREFIGHTING ACTIVITIES

Pursuant to ORS 401.165, I find that the extreme nature of fires currently burning across our state has created an emergency situation in several counties. Much of the state is now in extreme danger from fires. Oregon has already experienced wildfires this season that have resulted in significant evacuations and have threatened critical infrastructure and hundreds of structures.

I further find that the emergency situation created by these fires is delaying the delivery by truck of aircraft fuel directed to aircraft-supported firefighting units. This fuel is necessary to ensure that the men and women engaged in firefighting across our state have all of the tools necessary to secure the safety of people and property to the greatest extent possible.

In order to ensure sufficient fuel supply to aircraft-supported firefighting efforts, I find that it is necessary to suspend the hours of service rules as they apply to drivers operating trucks hauling aircraft fuel directed to airports and/or aircraft engaged in firefighting operations.

### NOW THEREFORE, IT IS HEREBY ORDERED AND DIRECTED:

1. The hours of service rules adopted by OAR 740-100-0010, as they apply to drivers operating trucks hauling aircraft fuel directed to airports and/or aircraft engaged in firefighting operations, are hereby suspended for 10 days from the date of this proclamation or until further notice in all affected counties.

Done at Salem, Oregon this 17th day of August 2015.

/s/ Kate Brown  
Kate Brown  
GOVERNOR

ATTEST

/s/ Jeanne P. Atkins  
Jeanne P. Atkins  
SECRETARY OF STATE

## EXECUTIVE ORDER NO. 15 - 11

### DETERMINATION OF A STATE OF DROUGHT EMERGENCY IN LINN COUNTY DUE TO DROUGHT, LOW SNOW PACK LEVELS, AND LOW WATER CONDITIONS

At the request of Linn County (by Resolution & Order No. 2015-308 dated August 19, 2015) and based on the recommendations of the Drought Council and the Water Availability Committee, and pursuant to ORS 401.165 and ORS 536.740, I find the continuing dry conditions, low snowpack, and lack of precipitation have caused a severe, continuing drought to exist in Linn County, which have led to natural and economic disaster conditions in Linn County.

Projected forecasts are not expected to alleviate the severe drought conditions, and the drought is having significant economic impacts on agricultural and natural resources in Linn County.

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

A timely response to the severe drought conditions is vital to the safety of persons and property and economic security of the citizens and businesses of Linn County; I am therefore declaring that a severe, continuing drought emergency exists in Linn County, and directing the following actions.

### IT IS HEREBY ORDERED AND DIRECTED:

- I. The Oregon Department of Agriculture is directed to coordinate and provide assistance in seeking federal resources to mitigate drought conditions and assist in agricultural recovery in Linn County.
- II. The Department of Water Resources and the Water Resources Commission are directed to coordinate and provide assistance to water users in Linn County as they determine is necessary and appropriate in accordance with ORS 536.700 to 536.780.
- III. The Office of Emergency Management is directed to coordinate and assist as needed with assessment and mitigation activities to address current and projected conditions in Linn County.
- IV. All other state agencies are directed to coordinate with the above agencies and to provide appropriate state resources as determined necessary to assist affected political subdivisions and water users in Linn County.

V. This Executive Order expires on December 31, 2015.

Done at Salem, Oregon this 25th day of August, 2015.

/s/ Kate Brown  
Kate Brown  
GOVERNOR

ATTEST

/s/ Jeanne P. Atkins  
Jeanne P. Atkins  
SECRETARY OF STATE

## EXECUTIVE ORDER NO. 15 - 12

### INVOCATION OF EMERGENCY CONFLAGRATION ACT FOR THE STOUTS CREEK FIRE IN DOUGLAS COUNTY

Pursuant to my authority as Governor of the State of Oregon, I find that:

The fire known as the "Stouts Creek Fire" is burning in Douglas County.

The ability to protect life and property from the Stouts Creek Fire has exceeded local resources and capabilities. Assistance with life, safety, and structural fire protection was requested by Bill Stearns, Douglas County Fire Defense Board Chief. The State Fire Marshal concurs with that request.

In accordance with ORS 476.510-476.610, I have determined that a threat to life, safety and property exists due to a fire known as the Stouts Creek Fire in Douglas County and the threat exceeds the firefighting capabilities of local firefighting personnel and equipment. Accordingly, I have invoked the Emergency Conflagration Act.

These findings were made at 9:50 pm on July 30, 2015, and I now confirm them with this Executive Order.

### NOW, THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

1. The Oregon State Police and the Office of State Fire Marshal shall mobilize fire resources statewide and coordinate with all

## EXECUTIVE ORDERS

appropriate Fire Defense Chiefs for the use of personnel and equipment in accordance with the Emergency Conflagration Act to suppress and contain this fire. Resources responding to the Stouts Creek Fire, burning near the towns of Azalea and Milo may be redistributed by the State Fire Marshal.

2. This emergency is declared only for the Stouts Creek Fire threatening structures in Douglas County near the towns of Azalea and Milo.

3. This order was made by verbal proclamation at 9:50 pm the 30th day of July, 2015, and signed this 25th day of August, 2015, in Salem, Oregon.

/s/ Kate Brown  
Kate Brown  
GOVERNOR

ATTEST

/s/ Jeanne P. Atkins  
Jeanne P. Atkins  
SECRETARY OF STATE

### EXECUTIVE ORDER NO. 15 - 13

#### INVOCATION OF EMERGENCY CONFLAGRATION ACT FOR THE CORNET AND WINDY RIDGE FIRES IN BAKER COUNTY

Pursuant to my authority as Governor of the State of Oregon, I find that:

The fires known as the "Cornet Fire" and the "Windy Ridge Fire" are burning in Baker County.

The ability to protect life and property from the Cornet and Windy Ridge Fires has exceeded local resources and capabilities. Assistance with life, safety, and structural fire protection was requested by Jerry Hampton, Baker County Fire Defense Board Chief. The State Fire Marshal concurs with that request.

In accordance with ORS 476.510-476.610, I have determined that a threat to life, safety and property exists due to the fires known as the Cornet Fire and Windy Ridge Fire in Baker County, which have combined to be known as the Cornet-Windy Ridge Fire and the threat exceeds the firefighting capabilities of local firefighting personnel and equipment. Accordingly, I have invoked the Emergency Conflagration Act.

These findings were made for the Cornet Fire at 3:28 am on August 13, 2015, and for the Windy Ridge Fire at 6:15 pm on August 13, 2015, and I now confirm them with this Executive Order.

#### NOW, THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

1. The Oregon State Police and the Office of State Fire Marshal shall mobilize fire resources statewide and coordinate with all appropriate Fire Defense Chiefs for the use of personnel and equipment in accordance with the Emergency Conflagration Act to suppress and contain this fire. Resources responding to the Cornet-Windy Ridge Fire, burning near the towns of Sumpter and Powder River may be redistributed by the State Fire Marshal.

2. This emergency is declared only for the Cornet-Windy Ridge Fire threatening structures in Baker County near the towns of Sumpter and Powder River.

3. These orders were made by verbal proclamations at 3:28 am and 6:15 pm the 13th day of August, 2015, and signed this 25th day of August, 2015, in Salem, Oregon.

/s/ Kate Brown  
Kate Brown  
GOVERNOR

ATTEST

/s/ Jeanne P. Atkins  
Jeanne P. Atkins  
SECRETARY OF STATE

### EXECUTIVE ORDER NO. 15 - 14

#### INVOCATION OF EMERGENCY CONFLAGRATION ACT FOR THE CANYON CREEK COMPLEX FIRE IN GRANT COUNTY

Pursuant to my authority as Governor of the State of Oregon, I find that:

The fire known as the "Canyon Creek Complex Fire" is burning in Grant County.

The ability to protect life and property from the Canyon Creek Complex Fire has exceeded local resources and capabilities. Assistance with life, safety, and structural fire protection was requested by Ron Smith, Grant County Fire Defense Board Chief. The State Fire Marshal concurs with that request.

In accordance with ORS 476.510-476.610, I have determined that a threat to life, safety and property exists due to a fire known as the Canyon Creek Complex Fire in Grant County and the threat exceeds the firefighting capabilities of local firefighting personnel and equipment. Accordingly, I have invoked the Emergency Conflagration Act.

These findings were made at 3:57 pm on August 14, 2015, and I now confirm them with this Executive Order.

#### NOW, THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

1. The Oregon State Police and the Office of State Fire Marshal shall mobilize fire resources statewide and coordinate with all appropriate Fire Defense Chiefs for the use of personnel and equipment in accordance with the Emergency Conflagration Act to suppress and contain this fire. Resources responding to the Canyon Creek Complex Fire, burning near the towns of Canyon City and John Day may be redistributed by the State Fire Marshal.

2. This emergency is declared only for the Canyon Creek Complex Fire threatening structures in Grant County near the towns of Canyon City and John Day.

3. This order was made by verbal proclamation at 3:57 pm the 14th day of August, 2015, and signed this 25th day of August, 2015, in Salem, Oregon.

/s/ Kate Brown  
Kate Brown  
GOVERNOR

ATTEST

/s/ Jeanne P. Atkins  
Jeanne P. Atkins  
SECRETARY OF STATE

## EXECUTIVE ORDERS

### EXECUTIVE ORDER NO. 15 - 15

#### INVOCATION OF EMERGENCY CONFLAGRATION ACT FOR THE GRIZZLY BEAR COMPLEX FIRE IN WALLOWA COUNTY

Pursuant to my authority as Governor of the State of Oregon, I find that:

The fire known as the “Grizzly Bear Complex Fire” is burning in Wallowa County.

The ability to protect life and property from the Grizzly Bear Complex Fire has exceeded local resources and capabilities. Assistance with life, safety, and structural fire protection was requested by Paul Karovski, Wallowa County Fire Defense Board Chief. The State Fire Marshal concurs with that request.

In accordance with ORS 476.510-476.610, I have determined that a threat to life, safety and property exists due to a fire known as the Grizzly Bear Complex Fire in Wallowa County and the threat exceeds the firefighting capabilities of local firefighting personnel and equipment. Accordingly, I have invoked the Emergency Conflagration Act.

These findings were made at 7:37 pm on August 20, 2015, and I now confirm them with this Executive Order.

#### NOW, THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

1. The Oregon State Police and the Office of State Fire Marshal shall mobilize fire resources statewide and coordinate with all appropriate Fire Defense Chiefs for the use of personnel and equipment in accordance with the Emergency Conflagration Act to suppress and contain this fire. Resources responding to the Grizzly Bear Complex Fire, burning near the towns of Troy and Flora may be redistributed by the State Fire Marshal.
2. This emergency is declared only for the Grizzly Bear Complex Fire threatening structures in Wallowa County near the towns of Troy and Flora.
3. This order was made by verbal proclamation at 7:37 pm the 20th day of August, 2015, and signed this 25th day of August, 2015, in Salem, Oregon.

/s/ Kate Brown  
Kate Brown  
GOVERNOR

ATTEST

/s/ Jeanne P. Atkins  
Jeanne P. Atkins  
SECRETARY OF STATE

### EXECUTIVE ORDER NO. 15 - 16

#### PROCLAMATION OF STATE OF EMERGENCY DUE TO IMMINENT THREAT OF WILDFIRE

Pursuant to ORS 401.165, I find that the State of Oregon is in a critical fire danger situation. Much of the state is now in extreme fire

danger and red flag warnings have been issued for hot, dry, windy conditions and thunderstorms. Many of the endangered counties have already have emergency declarations related to drought proclaimed this year. We have experienced wildfires this season that resulted in evacuations and threatened critical infrastructure and hundreds of structures. Other parts of the country, including our neighboring states such as Washington, California, and Idaho, continue to experience similar fires and weather. The extended forecast in Oregon calls for continued warm and dry conditions, resulting in imminent threat of fire over a broad area of the State.

The Oregon Department of Forestry Incident Management Teams, along with National Interagency Teams are currently deployed in Oregon. Regional compacts are also being utilized for the deployment of specific wildland fire resources to Oregon. New and existing fire threats elevate the need for immediate access to state resources including firefighting helicopters. This threat is not likely to recede in the near future. It is critically important that National Guard resources be positioned to expedite resource requests and respond effectively to these dangerous and dynamic conditions.

Therefore, subject to the limitations described below, I hereby declare a statewide State of Emergency due to the imminent threat of wildfire.

#### NOW, THEREFORE, IT IS DIRECTED AND ORDERED:

1. All agencies of the state government, including the Oregon National Guard, will utilize and employ state personnel, equipment and facilities for any and all activities as requested by the Oregon Department of Forestry and coordinated by the Oregon Office of Emergency Management. The Oregon National Guard will deploy and redeploy firefighting resources assets as needed throughout the remainder of the fire season based upon threat and resource shortfalls. All citizens are to heed the advice of emergency officials with regard to this emergency in order to protect their safety.
2. This determination of a wildfire emergency is statewide. It is not to be construed as a comprehensive declaration or proclamation of emergency for other purposes. It is limited to the use of state resources and personnel for fire management required by the emergency. Any local government requests for state resources must be submitted through county governing bodies to the Office of Emergency Management pursuant to ORS Chapter 401.
3. This order shall remain in effect until the threat is significantly relieved or the fire season ends.
4. This order was made by verbal proclamation at 1:30 pm the 31st day of July, 2015 and signed this 25th day of August, 2015, in Salem, Oregon.

/s/ Kate Brown  
Kate Brown  
GOVERNOR

ATTEST

/s/ Jeanne P. Atkins  
Jeanne P. Atkins  
SECRETARY OF STATE

## OTHER NOTICES

### PUBLIC NOTICE

**DATE:** August 14, 2015

**SUBJECT:** Notice of Intent to Submit Section 1115 Waiver Renewal Application for the Oregon ContraceptiveCare Program

The Oregon Health Authority (OHA) provides this legal notice of a public review and comment period concerning the state's intent to submit a renewal of the Section 1115 Medicaid waiver for Oregon ContraceptiveCare (CCare) to the Centers for Medicare and Medicaid Services (CMS) for the period of January 1, 2016 through December 31, 2018.

CCare is designed to reduce unintended pregnancies and improve the well-being of women and families in Oregon by extending Medicaid eligibility for contraceptive services to include the following:

- Eligibility at 250% of the Federal Poverty Level (FPL) for women and men of reproductive capacity who are not enrolled in OHP;
- Enrollment of individuals with creditable private health insurance coverage;
- Coverage of contraceptive management services, limited laboratory services, contraceptive devices, and pharmaceutical supplies;
- Coverage of colposcopies, HPV typing, repeat Pap tests and sexually transmitted infection (STI) treatment and rescreening.

The application explains how the Oregon Health Authority, Reproductive Health Program proposes to continue administration of the CCare waiver for the three-year renewal period. The full application is available for review on the state website at: <http://public.health.oregon.gov/HealthyPeopleFamilies/ReproductiveSexualHealth/Resources/Pages/CCareProviders.aspx>.

Two opportunities for public comment will be held at the following locations:

**Friday, Sept. 4th at 1:00 pm**

Portland State Office Building  
800 NE Oregon St., Room 368  
Portland, OR 97232

**Wednesday, Sept. 9th at 10:00 am**

Portland State Office Building  
800 NE Oregon St., Room 368  
Portland, OR 97232

Teleconference access will be available for both meetings by dialing: 1-877-336-1828, Participant Code: 829579.

In addition to verbal comments during the two meetings, written comments concerning the waiver renewal may also be submitted on or before 5:00 pm, September 18, 2015 to: Emily Elman; Oregon Reproductive Health Program, Public Health Division; 800 NE Oregon Street, Suite 370; Portland, OR 97232 or [emily.l.elman@state.or.us](mailto:emily.l.elman@state.or.us).

### PUBLIC NOTICE

#### PROPOSED PROSPECTIVE PURCHASER AGREEMENT FOR FORMER UNOCAL #5664

**Comments due:** 5 p.m., Wednesday, Sep 30, 2015

**Project location:** 110 SW Arthur St. in Portland, OR

**Proposal:** The Department of Environmental Quality seeks comments on its proposed consent judgment for a prospective purchaser agreement with 1st and Arthur Limited Partnership for the property located at 110 SW Arthur St. in Portland, Ore. 1st and Arthur Limited Partnership is acquiring the property from the current owner and plans to use the property for mixed residential use.

The property was historically used as a fueling facility and a release from the underground storage tank system was reported in 1996. 1st and Arthur Limited Partnership plans to complete multiple tasks and has agreed to additional remediation, site restrictions, contaminated materials management, and vapor intrusion mitigation related to any development of the property. 1st and Arthur Limited Partnership is a non-profit entity coordinating the development of a proposed low-income housing project at the property. Financing of the project will be in part by using federal Low-Income Housing Tax Credits and grant funds from the State of Oregon.

DEQ created the prospective purchaser agreement program in 1995 through amendments to the state's Environmental Cleanup Law. The

prospective purchaser 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 order will provide 1st and Arthur Limited Partnership 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 1st and Arthur Limited Partnership with third party liability protection. **HOW TO COMMENT:** Send comments to DEQ Project Manager Rob Hood at 700 NE Multnomah St., Suite 600, Portland, OR 97232 or [hood.robert@deq.state.or.us](mailto:hood.robert@deq.state.or.us). For more information contact the project manager at 503-229-5617.

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 Leaking Underground Storage Tank (LUST) Cleanup database, go to <http://www.deq.state.or.us/lq/tanks/lust/LustPublicLookup.asp>, then enter 26-96-0095 in the LUST Number boxes and click "Lookup" at the bottom of the page. Next, click the link labeled in the Log 26-96-0095 Number column. Alternatively, you may go directly to the database website for this page at <http://www.deq.state.or.us/WebDocs/Forms/Output/LustOutput.aspx?SourceId=7524&SourceIdType=10>

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 received by the date and time stated above before making a final decision regarding the proposed prospective purchaser agreement for the site. A public notice of DEQ's final decision will be issued in this publication.

**ACCESSIBILITY INFORMATION:** DEQ is committed to accommodating people with disabilities. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, call DEQ 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](mailto:deqinfo@deq.state.or.us). People with hearing impairments may call 711.

### PUBLIC NOTICE

#### DEQ SELECTS CLEANUP APPROACH FOR MCBRIDE SLOUGH

**PROJECT LOCATION:** 8000 block, NE Alderwood Rd., Portland, Oregon

**ACTION:** The Oregon Department of Environmental Quality selected the cleanup approach for McBride Slough in Northeast Portland. The selected remedial action includes dredging the slough for flood maintenance and placing activated carbon amendments on newly exposed sediment surfaces where residual contaminant levels exceed risk-based levels.

**HIGHLIGHTS:** McBride Slough connects to the Columbia Slough via a culvert east of NE Alderwood Rd. In 2011, Multnomah County Drainage District collected and analyzed sediments in McBride Slough as a part of evaluating sediment removal for flood-water conveyance. Elevated concentrations of PCBs, PAHs, metals and pesticides were detected in the sediment likely resulting from stormwater runoff which predominantly drains Portland International Airport properties. DEQ allowed the Multnomah County Drainage District to complete emergency dredging in 2011 with the understanding that the Port of Portland would conduct follow-up evaluation to determine cleanup options for side-cast dredge material and residual sediment contamination. The Port of Portland performed a stormwater source control evaluation and sediment investigation in 2012-2013 and completed a Feasibility Study in February 2015.

The selected remedial action includes:

- Excavation and off-site disposal of removed sediment to the extent required for effective stormwater management.

## OTHER NOTICES

- Inspect and repair of any unstable McBride Slough banks. Banks will be replanted with native plants as warranted.
- Placing activated carbon over the new sediment surface and sediment adjacent to the maintenance dredge area to reduce bio-availability of residual contamination.
- Confirmation sampling and long-term monitoring to evaluate the effectiveness of the remedial action.

**PUBLIC REVIEW:** DEQ issued a staff report describing the proposed cleanup for public comment in May. Four comments were received and DEQ provided responses in the Record of Decision. The most substantive comments related to the protection of sensitive species that may be present in McBride Slough. The remedy has been modified to include evaluation of the presence of sensitive species (turtles and mussels) prior to implementing the action and providing for temporary relocation of organisms or providing for refuge areas during dredging and placement of the activated carbon. The basic elements of the selected remedy however are the same as those proposed.

**NEXT STEPS:** DEQ is working with the Port of Portland to develop a Remedial Design/Remedial Action Consent Judgment and Scope of Work which will specify a schedule for remedy implementation.

**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, call DEQ 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](mailto:deqinfo@deq.state.or.us). People with hearing impairments may call 711.

### PUBLIC NOTICE REVISED CLEANUP PLAN FOR TEKTRONIX-BEAVERTON

**PROJECT LOCATION:** 14200 SW Karl Braun Drive, Beaverton, Oregon

**PUBLIC NOTICE:** DEQ is providing public notice for modification to the environmental cleanup plan approved by DEQ in 2009 for Evaluation Area 1 at the Tektronix Beaverton Campus site. DEQ has evaluated more recent investigation data and remedial action performed by Tektronix and has concluded several adjustments to the proposed treatment are acceptable based on new information. The revised actions are consistent with Oregon Revised Statutes (ORS) 465.315 through 465.455 and Oregon Administrative Rules (OAR) Chapter 340, Division 122, Section 090.

**HIGHLIGHTS:** Tektronix used the 300-acre property for manufacturing, assembly, recycling and materials salvage, and chemical storage. Releases resulted in groundwater contamination from volatile organic compounds, commonly known as VOCs.

DEQ issued a Record of Decision for cleanup in 2009 selecting in-situ thermal remediation for VOC source areas and monitored natural attenuation of groundwater outside source areas. More recent groundwater data has shown VOCs in the source area at Beaverton Creek have significantly declined and no longer require treatment but subject to monitoring. Results from a supplementary groundwater investigation completed in 2013 at the Building 38 source area indicate treatment may be necessary but bioremediation would be more suitable. DEQ will determine appropriate action will be after additional data collection. A supplementary investigation was also completed in the former Building 40 source area in 2014, resulting in a refined treatment area.

A pilot test using in-situ thermal remediation was completed in 2012 and was proven a viable treatment technology for high concentration areas. However, given significant increases in cost to treat the remaining source area(s), DEQ agrees Tektronix can pursue enhanced bioremediation technology as a cost-effective alternative. Approval of this treatment alternative is subject to conditions agreed upon by DEQ and Tektronix.

For more information, contact DEQ Project Manager Erin McDonnell at DEQ's Northwest Region, 700 NE Multnomah Street,

Suite 600, Portland, Oregon 97232, or at [mcdonnell.erin@deq.state.or.us](mailto:mcdonnell.erin@deq.state.or.us) or 503-229-6900.

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 167 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 167 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.ashx?SourceId=167&SourceIdType=11>.

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

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

### REQUEST FOR COMMENTS PROPOSED NO FURTHER ACTION FOR TOSCO BULK PLANT NO. 0656

**COMMENTS DUE:** 5 p.m., September 30, 2015

**PROJECT LOCATION:** 1744 NE Diamond Lake Blvd., Roseburg, Douglas County

**PROPOSAL:** The Oregon Department of Environmental Quality proposes a No Further Action determination under Oregon Environmental Cleanup Law ORS 465.200 for the property listed above. Phillips 66 Company currently owns the property, formerly used as a Tosco bulk petroleum facility. Phillips 66 has requested No Further Action related to historical spills at the site.

**HIGHLIGHTS:** Petroleum products were historically stored on-site in above ground storage tanks (ASTs) since bulk plant operations began in the 1920's. An incident was reported in 1995 when 265 gallons of diesel spilled during filling of an AST. The site was included on the Confirmed Release List and Inventory in November 1999 under DEQ's Environmental Cleanup Program, creating ECSI #1784.

Remediation involved removal of petroleum-contaminated soil in 2002 and 2007. Soil sampling found petroleum remained above risk-based concentrations for construction or excavation workers through direct contact following removal actions. Air sparging was used to treat soil and groundwater from 2003 to 2011. Groundwater monitoring occurred between 2000 and 2012 that demonstrated reduced contaminant levels following excavation of petroleum-contaminated soil and air sparging treatment.

Phillips 66 requested No Further Action for the site. DEQ proposes site closure with conditions, including a development of a Health and Safety Plan (HASP) and Contaminated Media Management Plan (CMMP) to protect site workers in future construction projects. The site (ECSI #1784) will remain listed on the CRL and Inventory because institutional and/or engineering controls are required to maintain protectiveness following regulatory closure.

**HOW TO COMMENT:** Send comments by 5 p.m., September 30 to DEQ Project Manager Cathy Rodda at 165 E. 7th Ave., Suite 100, Eugene, OR 97401, by fax 541-686-7551, or by email [rodca.cathy@deq.state.or.us](mailto:rodca.cathy@deq.state.or.us). The project manager is available by phone at 541-687-7325.

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

Find the File Review Application form at: [www.deq.state.or.us/records/RecordsRequestForm.pdf](http://www.deq.state.or.us/records/RecordsRequestForm.pdf)

If you do not have web access and want to review the project file contact the DEQ project manager. To access site summary information and other documents in the DEQ Environmental Cleanup Site Information database, go to [www.deq.state.or.us/lq/ECSI/ecsi.htm](http://www.deq.state.or.us/lq/ECSI/ecsi.htm),

## OTHER NOTICES

select "Search complete ECSI database", then enter 1784 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 1784 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.aspx?SourceIdType=11&SourceId=1784&Screen=Load>.

**THE NEXT STEP:** If no comments opposed to closure are received, no further action (investigation or remedial action) will be required by Phillips 66 for the Tosco Bulk Plant No. 0656 cleanup site.

**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, call DEQ 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](mailto:deqinfo@deq.state.or.us). People with hearing impairments may call 711.

### REQUEST FOR COMMENTS

#### PROPOSED CONDITIONAL NO FURTHER ACTION FOR FORMER BARON BLAKESLEE (BBI) SOIL

**COMMENTS DUE:** 5 p.m., Monday, Nov. 2, 2015

**PROJECT LOCATION:** 5920 NE 87th Ave., Portland, Oregon

**PROPOSAL:** DEQ is soliciting public comments on the proposed conditional no further action determination for soil at the former Baron Blakeslee site. DEQ has approved remedial action activities implemented at the site, which are consistent with the selected remedy, and post-cleanup data verify that residual soil contamination is below acceptable levels. Remedial action at the site to address soil contamination is complete, and no further action is needed provided the site will be used for non-residential purposes. This proposed determination for soil meets the requirements of Oregon Administrative Rules Chapter 340, Division 122, and Chapter 340 Division 122, Sections 010 to 0140 for Cleanup Sites; and ORS 465.200 through 465.455.

**HIGHLIGHTS:** The property is roughly triangular, approximately 0.7 acre in size, and located in an industrial park consisting of light industrial facilities. Releases resulted in soil contamination from volatile organic compounds, commonly known as VOCs, which extend offsite to the adjacent property eastward, Superior Tank Wash. DEQ issued a Record of Decision for cleanup in 2008 selecting excavation and offsite disposal of soil to reduce soil concentrations to below the most conservative screening levels for protection of site workers and leaching to groundwater. The proposed determination does not include groundwater, which is presently undergoing cleanup. Excavation activities were implemented in several phases beginning in October 2011 and completed in November 2012. A total of 3,044 cubic yards of soil were removed from both onsite and offsite excavations and disposed of at Oregon hazardous and non-hazardous waste landfills.

**HOW TO COMMENT:** Send comments to DEQ Project Manager Anna Coates at 700 NE Multnomah St., Ste. 600, Portland, Oregon or [coates.anna@deq.state.or.us](mailto:coates.anna@deq.state.or.us). For more information contact the project manager at 503-229-5213.

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 ECSI#1274 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled ECSI#1274 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=1274&Bus\\_Name=&Address=&County=ALL&City=&Zip\\_Code=&LatitudeMin=&LatitudeMax=&LongitudeMin=&LongitudeMax=&Township=All&TownshipZone=N&Range=1&RangeZone=E&Section=All&ActionCode=All&Substance=None&Alias=None&Submit=Submit&listtype=lis](http://www.deq.state.or.us/lq/ECSI/ecsilist.asp?SiteID=1274&Bus_Name=&Address=&County=ALL&City=&Zip_Code=&LatitudeMin=&LatitudeMax=&LongitudeMin=&LongitudeMax=&Township=All&TownshipZone=N&Range=1&RangeZone=E&Section=All&ActionCode=All&Substance=None&Alias=None&Submit=Submit&listtype=lis).

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

**THE NEXT STEP:** Once the public comment period has closed DEQ will consider all comments before making a decision concerning the conditional No Further Action determination.

**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, call DEQ 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](mailto:deqinfo@deq.state.or.us). People with hearing impairments may call 711.

# 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 Accountancy**  
**Chapter 801**

**Rule Caption:** Conforms rules with SB 272 (2015); raises licensing/exam fees commensurate with SB 581 (2015)

**Date:** 9-17-15      **Time:** 2 p.m.      **Location:** 3218 Pringle Rd. SE, Board Rm. Salem, OR 97302

**Hearing Officer:** John Lauseng

**Stat. Auth.:** ORS 673.010, 673.410, 673.040, 673.100, 673.150, 673.153, 673.160, 673.220 & 670.310

**Other Auth.:** SB 272 (2015) & SB 581 (2015)

**Stats. Implemented:** ORS 673.010, 673.410, 673.040, 673.100, 673.150, 673.153, 673.160, 673.220 & 670.310

**Proposed Amendments:** 801-005-0010, 801-005-0400, 801-010-0010, 801-010-0050, 801-010-0065, 801-010-0075, 801-010-0100, 801-010-0130, 801-010-0340, 801-010-0345, 801-020-0690, 801-040-0010, 801-040-0030, 801-040-0040, 801-040-0050, 801-040-0090, 801-040-0150, 801-040-0160

**Proposed Repeals:** 801-005-0200, 801-005-0300, 801-040-0080

**Last Date for Comment:** 9-24-15, 5 p.m.

**Summary:** Need for the Rule(s):

The proposed rules implement portions of Senate Bill 272 especially with respect to updating the definitions in rule of the Board of Accountancy, including the definition of attest services which was a central piece of SB 272.

In addition, the Board of Accountancy has fees set by statute and rule. The Board worked closely with its stakeholders and came to a consensus with its stakeholders on the need for significant fee increases in statute and rule. As a result, OSCPA spearheaded a statutory fee increase bill (SB 581) that passed the 2015 Oregon Legislature. The proposed rules raise fees of the Board set by rule in line with the fee increases approved by statute. Both the statutory fee increases and rule-based fee increased were analyzed and negotiated together in one package between the Board and its stakeholders. All other proposed changes are housekeeping only.

**Rules Coordinator:** Kimberly Fast

**Address:** Board of Accountancy, 3218 Pringle Rd. SE, Suite 110, Salem, OR 97302

**Telephone:** (503) 378-2268

.....  
**Board of Licensed Professional Counselors and Therapists**  
**Chapter 833**

**Rule Caption:** Repeals the expired counselor educator application method.

**Stat. Auth.:** ORS 675.705–675.835

**Stats. Implemented:** ORS 675.715–675.720 & 675.785

**Proposed Repeals:** 833-020-0075

**Last Date for Comment:** 9-22-15, 5 p.m.

**Summary:** The Board proposes to repeal the “counselor educator application method” rule, which allowed graduate level teaching to meet education requirements for licensure as a professional counselor or a marriage therapist through June 30, 2014.

**Rules Coordinator:** LaRee Felton

**Address:** Board of Licensed Professional Counselors and Therapists, 3218 Pringle Rd. SE, Suite 250, Salem, OR 97302

**Telephone:** (503) 373-1196

.....  
**Board of Medical Imaging**  
**Chapter 337**

**Rule Caption:** Create permitting process for physician assistants to perform fluoroscopy, beginning January 1, 2016.

**Date:** 10-8-15      **Time:** 4 p.m.      **Location:** 800 NE Oregon St., Rm. 445 Portland OR

**Hearing Officer:** Ed Conlow

**Stat. Auth.:** ORS 688.555

**Stats. Implemented:** HB 2880 (2015)

**Proposed Adoptions:** 337-010-0033, 337-021-0049

**Proposed Amendments:** 337-010-0006, 337-010-0026, 337-020-0015, 337-020-0040, 337-021-0020, 337-021-0070, 337-030-0010

**Last Date for Comment:** 10-9-15, 4:30 p.m.

**Summary:** This rulemaking will establish a process, beginning January 1, 2016, for physician assistants to perform fluoroscopy, which is a continuous beam x-ray used to create images of internal structures, used for medical diagnosis. To start, a licensed PA will need to complete a curriculum developed by the American Association of Physician Assistants and the American Society of Radiologic Technologists. Next, the PA will need to apply to the Oregon Board of Medical imaging (OBMI) and pay a fee to take a fluoroscopy examination offered by the American Registry of Radiologic Technologists (ARRT). Upon passing the exam, the PA must apply for a permit from OBMI, including a permit fee. The permit will enable the PA to practice fluoroscopy with either the supervising physician or a radiologic technologist in the fluoroscopy room at the same time. For 2-year permit renewal, a PA will need to complete six hours of continuing education per year, including three hours of fluoroscopy-related CEs and three hours of radiation use and safety.

**Rules Coordinator:** Ed Conlow

**Address:** Board of Medical Imaging, 800 NE Oregon St., Suite 1160A, Portland, OR 97232

**Telephone:** (971) 673-0216

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

**Rule Caption:** Collect surcharge authorized by SB72 and collect fees for new license type authorized by SB547

**Date:** 9-17-15      **Time:** 9 a.m.      **Location:** 17938 SW Upper Boones Ferry Rd. Portland, OR 97224

**Hearing Officer:** Gary Hickmann, Board President

**Stat. Auth.:** ORS 676.200

**Other Auth.:** SB 72 & SB 547

**Stats. Implemented:** ORS 676.200

# NOTICES OF PROPOSED RULEMAKING

**Proposed Amendments:** 851-002-0010, 851-002-0020, 851-002-0030, 851-002-0035, 851-002-0040

**Last Date for Comment:** 9-17-15, 5 p.m.

**Summary:** To allow for the collection of new fees as authorized by SB 72 and SB 547.

**Rules Coordinator:** Peggy A. Lightfoot

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

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

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**Rule Caption:** Revise division to include Alternative to Discipline and Public Discipline monitoring programs.

Date:	Time:	Location:
9-17-15	9 a.m.	17938 SW Upper Boones Ferry Rd. Portland, OR 97224

**Hearing Officer:** Gary Hickmann, Board President

**Stat. Auth.:** ORS 676.200

**Stats. Implemented:** ORS 676.200

**Proposed Adoptions:** 851-070-0025, 851-070-0045, 851-070-0075

**Proposed Amendments:** 851-070-0000, 851-070-0005, 851-070-0010, 851-070-0020, 851-070-0030, 851-070-0040, 851-070-0050, 851-070-0060, 851-070-0070, 851-070-0080, 851-070-0090, 851-070-0100

**Last Date for Comment:** 9-17-15, 5 p.m.

**Summary:** To clarify the requirements and expectations for entering, complying, and successful completion of the Board's alternative to discipline program and the public discipline board orders.

**Rules Coordinator:** Peggy A. Lightfoot

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

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

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## Department of Agriculture Chapter 603

**Rule Caption:** Adopts parts of the Code of Federal Regulations for food standards, processing, manufacture, and distribution.

Date:	Time:	Location:
9-30-15	11:15 a.m.–12:45 p.m.	Oregon Dept. of Agriculture Basement Hearings Rm. 635 Capitol St. NE Salem, OR 97301

**Hearing Officer:** Eric Edmunds

**Stat. Auth.:** ORS 561.190, 561.605, 561.620 & 616.230

**Stats. Implemented:** ORS 561.605–561.620 & 616.230

**Proposed Amendments:** 603-025-0190

**Last Date for Comment:** 10-2-15, 5 p.m.

**Summary:** Oregon Administrative Rule (OAR) 603-025-0190 currently adopts Title 21, Chapter 1, Parts 1, 7, 70, 73, 74, 81, 82 and 100 through 199 of the Code of Federal Regulations (2010). The proposed amendment updates the Code of Federal Regulations reference from the 2010 version to the 2015 version. This will ensure that Oregon maintains regulations that are current and consistent with neighboring states. The parts of the C.F.R. that were previously adopted are substantially similar in the 2015 version.

**Rules Coordinator:** Sue Gooch

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

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

\*\*\*\*\*

**Rule Caption:** Adds EHV-1 (neurologic form) and SECD to list of reportable diseases for veterinarians.

Date:	Time:	Location:
9-23-15	1 p.m.	Oregon Dept. of Agriculture, Basement Hearings Rm. 635 Capitol St. NE Salem, OR 97301

**Hearing Officer:** Eric Edmunds

**Stat. Auth.:** ORS 561, 190, 596.321 & 596.341

**Stats. Implemented:** ORS 596.321

**Proposed Amendments:** 603-011-0212

**Last Date for Comment:** 10-2-15, 5 p.m.

**Summary:** In order to protect the health of animals and public in the state of Oregon, the Oregon Department of Agriculture (ODA) maintains a list of diseases that must be reported to ODA when they are detected by any person practicing veterinary medicine. Reportable diseases may include unidentified vesicular diseases, suspected diseases that are foreign or exotic, diseases exhibiting highly pathogenic or lethal effects, or specified diseases that have been discovered and identified that present serious harms to the health of animals in Oregon. ODA proposes to add Equine Herpes Virus-1 (neurologic form) and Swine Enteric Coronavirus Diseases (SECD, including Porcine Epidemic Diarrhea Virus (PEDv) and Porcine Delta Coronavirus (PDCoV)) to the list of specified list of diseases because they have been discovered to be particularly virulent, and pose serious problems to the health of animals if proper reporting, surveillance, and control measures are not taken.

**Rules Coordinator:** Sue Gooch

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

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

\*\*\*\*\*

**Rule Caption:** Increase Pesticide Registration Fees.

Date:	Time:	Location:
9-24-15	1 p.m.	Oregon Dept. of Agriculture, 3rd Floor Conference Rm. 635 Capitol St. NE Salem, OR 97301

**Hearing Officer:** Eric Edmunds

**Stat. Auth.:** ORS 634, HB 3549 (2015), HB 5002 (2015) & SB 5507 (2015)

**Stats. Implemented:** ORS 634, HB 3549 (2015), HB 5002 (2015) & SB 5507 (2015)

**Proposed Amendments:** 603-057-0006

**Last Date for Comment:** 9-24-15, 5 p.m.

**Summary:** This proposal increases the annual Pesticide Registration fee to \$320. Currently, the annual registration fee is \$160.00. House Bill 3549 (2015) increased the statutory maximum for pesticide registration fees to \$400. A legislatively approved increase in staffing as well as other related program costs necessitates this fee increase.

**Rules Coordinator:** Sue Gooch

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

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

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

**Rule Caption:** Clarifies mandatory electrical inspections

Date:	Time:	Location:
9-22-15	10 a.m.	1535 Edgewater St. NW Salem, OR 97304

**Hearing Officer:** Staff

**Stat. Auth.:** ORS 479.855

**Stats. Implemented:** ORS 455.160 & 479.855

**Proposed Amendments:** 918-271-0040

**Last Date for Comment:** 9-25-15, 5 p.m.

**Summary:** In March of this year, the Division was notified by a local jurisdiction about potential exposure to live electrical installations, and a concern that the rule, as currently written, did not allow for sufficient flexibility to conduct mandatory inspections of electrical installations in a safe and timely fashion.

The Division worked closely with these stakeholders to develop amendments which clarify the intent of the rule, and allow for the safe and timely inspection of electrical installations.

**Rules Coordinator:** Holly A. Tucker

# NOTICES OF PROPOSED RULEMAKING

**Address:** Department of Consumer and Business Services, Building Codes Division, PO Box 14470, Salem, OR 97309-0404  
**Telephone:** (503) 378-5331

\*\*\*\*\*

**Rule Caption:** Disqualification from obtaining license, registration, certificate, or certification.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
9-22-15	9:30 a.m.	1535 Edgewater St. NW Salem, OR 97304

**Hearing Officer:** Staff

**Stat. Auth.:** ORS 455.127, 455.117

**Stats. Implemented:** ORS 455.127

**Proposed Adoptions:** 918-001-0034

**Last Date for Comment:** 9-25-15, 5 p.m.

**Summary:** This proposed rule provides that a disqualification under ORS 455.127(2) shall be for a period of five years. The rule also allows the Director or appropriate advisory board discretion to consider mitigating factors and order a disqualification of fewer than five years.

**Rules Coordinator:** Holly A. Tucker

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

**Telephone:** (503) 378-5331

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## Department of Consumer and Business Services, Director's Office Chapter 440

**Rule Caption:** 2016 Workers' Compensation Premium Assessment Rates

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
9-23-15	2 p.m.	Labor & Industries Bldg. 350 Winter Street NE, Rm. 260 Salem, OR 97301

**Hearing Officer:** Fred Bruyns

**Stat. Auth.:** ORS 705.135, 656.726 & 656.612

**Stats. Implemented:** ORS 656.612 & 656.614

**Proposed Amendments:** 440-045-0020, 440-045-0025

**Last Date for Comment:** 9-25-15, 5 p.m.

**Summary:** Each year DCBS adopts by rule the workers' compensation premium assessment rate that is paid by employers to fund workers' compensation and workplace safety and health programs. The rule also adopts the rate for an additional amount that is collected from all self-insured employers and self-insured employer groups to fund the Self-Insured Employers Adjustment Reserve and the Self-Insured Employer Group Adjustment Reserve. These funds ensure worker benefits are available in the event of a financial failure of a self-insured employer or self-insured employer group. Before recommending the 2016 rate, the department must analyze this financial data and review and authorize a proposed workers' compensation pure premium rate filing filed by the National Council on Compensation Insurance. The proposed premium assessment rate for 2016 is 6.2 percent for all employers, with an additional premium of 0.2 percent for self-insured employers and public self-insured employer groups and 1.0 percent for private self-insured employer groups. This is a preliminary rate and is subject to change during the rulemaking process.

Text of the proposed rule as well as the other rulemaking documents can be found at [http://www.cbs.state.or.us/external/dir/wc\\_cost/rulemaking.html](http://www.cbs.state.or.us/external/dir/wc_cost/rulemaking.html).

Address questions to Jenny Craig, Rules Coordinator; phone 503-947-7942, fax 503-378-6444, or email [jenny.m.craig@oregon.gov](mailto:jenny.m.craig@oregon.gov).

**Rules Coordinator:** Jenny Craig

**Address:** Department of Consumer and Business Services, Director's Office, PO Box 14480, Salem, OR 97309-0405

**Telephone:** (503) 947-7866

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

**Rule Caption:** Retroactively amends certification and registration fees for the certified providers and registered master trustees.

**Stat. Auth.:** ORS 97.926, 97.933 & 97.935

**Other Auth.:** 2011 OL Ch. 618 Sect. 1 (enrolled HB 5014)

**Stats. Implemented:** ORS 97.933 & 97.935

**Proposed Amendments:** 441-930-0270

**Proposed Repeals:** 441-930-0270(T)

**Last Date for Comment:** 9-25-15, Close of Business

**Summary:** In 2011, the Legislature enacted House Bill 5014, reducing allowable licensing and renewal fees the department could charge endowment care certified providers and master trustees. In response, the department adopted rules to conform to the enrolled bill (Admin. Or. FCS 9-2011). This proposed rule is identical to a rule invalidated by legislative counsel for failure to meet statutory deadlines. This rule is necessary to ensure the department's fees remain consistent with the legislative direction provided by HB 5014 and maintain consistency in registration and certification fees with the previous four year period. In order to maintain consistency, it is also necessary to make the rules retroactive to October 3, 2011, the effective date of the previously adopted rules.

**Rules Coordinator:** Shelley Greiner

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

**Telephone:** (503) 947-7484

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**Rule Caption:** Retroactively amends fees for mortgage banker, mortgage broker and mortgage loan originator licenses

**Stat. Auth.:** ORS 86A.106, 86A.109, 86A.136, 86A.206 & 86A.242

**Other Auth.:** 2011 OL Ch. 618 Sect. 1 (enrolled HB 5014)

**Stats. Implemented:** ORS 86A.106, 86A.109, 86A.206 & 86A.218

**Proposed Amendments:** 441-860-0101, 441-880-0400

**Proposed Repeals:** 441-860-0101(T), 441-880-0400(T)

**Last Date for Comment:** 9-25-15, Close of Business

**Summary:** In 2011, the Legislature enacted House Bill 5014, which reduced allowable fees the department could charge. In response, the department adopted rules to conform to the enrolled bill (Admin. Or. FCS 8-2011). These proposed rules are identical to rules invalidated by legislative counsel for failure to meet statutory deadlines. These rules are necessary to ensure the department's fees remain consistent with the legislative direction provided by HB 5014 and maintain consistency in registration and certification fees with the previous four year period. In order to maintain consistency, it is also necessary to make the rules retroactive to October 3, 2011, the effective date of the previously adopted rules.

**Rules Coordinator:** Shelley Greiner

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

**Telephone:** (503) 947-7484

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## Department of Consumer and Business Services, Health Insurance Marketplace Chapter 945

**Rule Caption:** Permanent transition of authority over Oregon Health Insurance Marketplace, Senate Bill 1 (2015) implementation

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
9-17-15	10:30 a.m.	350 Winter St. NE Conference Rm. 260 Salem, OR, 97301

**Hearing Officer:** Victor Garcia

**Stat. Auth.:** ORS 741.002

**Other Auth.:** Enrolled SB 1 (2015)

# NOTICES OF PROPOSED RULEMAKING

**Stats. Implemented:** ORS 741.002, Enrolled SB 1 (2015)  
**Proposed Adoptions:** Rules in 945-001, 945-020  
**Proposed Amendments:** Rules in 945-001, 945-010, 945-020, 945-030, 945-040, 945-050  
**Proposed Repeals:** Rules in 945-001, 945-010, 945-020, 945-030, 945-040, 945-050  
**Proposed Ren. & Amends:** Rules in 945-001  
**Last Date for Comment:** 9-18-15, Close of Business  
**Summary:** Senate Bill 1 of the 2015 legislative session transferred authority over the Health Insurance Marketplace to the Department of Consumer and Business Services (DCBS). This rulemaking will conform OAR chapter 945 to the changes made by SB 1 (2015) effective July 1, 2015. In addition, there are some updates and changes to the insurer assessment and certification process.  
**Rules Coordinator:** Victor Garcia  
**Address:** Department of Consumer and Business Services, Health Insurance Marketplace, 350 Winter St. NE, Salem, OR 97301  
**Telephone:** (971) 283-1878

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

**Rule Caption:** Implementation of legislation affecting claim closure, timely payment of benefits, penalties, and gender-neutral wording

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
9-22-15	11 a.m.	Labor & Industries Bldg., Rm. F 350 Winter St. NE Salem, OR

**Hearing Officer:** Fred Bruyns

**Stat. Auth.:** ORS 656.726(4) & 656.727

**Stats. Implemented:** ORS 656, as amended by SB 371 (2015 OL Ch. 144), HB 2211 (2015 OL Ch. 194), HB 2478 (2015 OL Ch. 629), HB 2764 (2015 OL Ch. 521), and HB 2797 (2015 OL Ch. 211)

**Proposed Amendments:** Rules in 436-030, 436-060, 436-075, 436-100

**Last Date for Comment:** 9-28-15, Close of Business

**Summary:** The public may also listen to the hearing or testify by telephone: Dial-in number is 213-787-0529; Access code is 9221262#.

The agency proposes to amend OAR 436-030, "Claim Closure and Reconsideration."

In general, these rules:

- Adopt May 21, 2015, temporary rules permanently;
- Implement Enrolled Senate Bill 371 regarding the right of a worker's beneficiary to request reconsideration of a Notice of Closure;
  - Modify rules to be consistent with *Sather v. SAIF*, 357 Or 122 (2015), regarding the worker's estate's right to request reconsideration and *Liberty Northwest Ins. Corp. v. Olvera-Chavez*, 267 Or App 55 (2014), regarding claim closure after training; and
    - Make minor housekeeping changes.

Specifically, these rules:

- Redefine "Notice of Closure" from a "notice to the worker" to a "notice to the worker, estate, or beneficiary";
- Modify the information that must be included in the Updated Notice of Acceptance at Closure consistent with statutory language;
- Modify the requirements for the Updated Notice of Acceptance and Closure issued in an instant fatality to (1) remove the requirement to include names of all known beneficiaries and instead require a statement that beneficiaries may be entitled to benefits, and (2) include in required language the right of a beneficiary to request reconsideration of the Notice of Closure;
  - Modify and clarify the requirements for claim closure after an authorized training program following the Court of Appeals opinion in *Liberty Northwest Ins. Corp. v. Olvera-Chavez*, 267 Or App 55 (2014);

- Provide that a Notice of Closure is effective the date it is mailed to the worker or the worker's estate if the worker is deceased;
- Require the Notice of Closure to include appeal rights of beneficiaries;
- Provide to whom and how the Notice of Closure should be mailed if the worker is deceased;
- Provide for the possibility that a request for reconsideration may be filed by the worker, the worker's estate, or a beneficiary of the worker, and require the request to include the identity and name of the requester and the requester's attorney, if any;
  - Require insurers and self-insured employers to pay costs for necessary interpreter services to prepare a deposition that is submitted to the reconsideration record;
  - Require the insurer to distribute a copy of the record to be used for the reconsideration proceeding to the beneficiary or the beneficiary's attorney, or the estate or the estate's attorney, if the request for reconsideration was filed by the beneficiary or estate; and
    - Specify that a request for reconsideration must be mailed by a beneficiary within 60 days of the mailing date of the Notice of Closure if the Notice was mailed to the beneficiary, or within one year of the date the Notice of Closure was mailed to the estate of the worker if the Notice of Closure was not mailed to the beneficiary.

The agency proposes to amend OAR 436-060, "Claims Administration," to:

- Implement Enrolled Senate Bill 371 by describing how to distribute a Notice of Closure issued after the death of a worker;
- Implement Enrolled House Bill 2211 by describing the director's authority to assess civil penalties against service companies, and by replacing references to "third-party administrator" with "service company";
- Implement Enrolled House Bill 2764 by addressing penalties and attorney fees related to untimely payment of attorney fees or costs;
- Implement Enrolled House Bill 2797 by specifying that the insurer or self-insured employer must pay temporary disability benefits within 14 days of the employer's knowledge of the claim and the worker's disability; and
  - Make plain language changes to improve readability.

The agency proposes to amend OAR 436-075, "Retroactive Program," to:

- Implement Enrolled House Bill 2478 by amending the definition of "Spouse" to refer to the "spouse" of a worker rather than to the "husband or wife" of a worker;
  - Update other definitions;
  - Require that insurers verify, at least once every two years, that beneficiaries receiving permanent total disability or death benefits are alive and remain eligible for those benefits for which the insurer may request reimbursement from the Retroactive Program; and
    - Make plain language changes to improve readability.

The agency proposes to amend OAR 436-100, "Workers' Compensation Benefits Offset," to:

- Implement Enrolled House Bill 2478 by amending the definition of "Beneficiary" to refer to the "spouse" of a worker rather than to the "husband" or "wife" of a worker;
  - Update other definitions; and
    - Make plain language changes to improve readability.

**Rules Coordinator:** Fred Bruyns

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

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**Department of Energy  
Chapter 330**

**Rule Caption:** Updating State Home Oil Weatherization program rules.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
9-22-15	2 p.m.	Oregon Dept. of Energy 625 Marion St. NE Salem, OR 97301

# NOTICES OF PROPOSED RULEMAKING

**Hearing Officer:** Elizabeth Ross

**Stat. Auth.:** ORS 469.040

**Stats. Implemented:** ORS 469.673–469.683

**Proposed Amendments:** 330-061-0005, 330-061-0010, 330-061-0015, 330-061-0020, 330-061-0025, 330-061-0030, 330-061-0035, 330-061-0040, 330-061-0045, 330-061-0050, 330-061-0060

**Last Date for Comment:** 9-22-15, 5 p.m.

**Summary:** The proposed rules for the State Home Oil Weatherization (SHOW) program assist and improve program administration. Since 1978, the Oregon Department of Energy has administered the SHOW program, which serves Oregon households that heat with oil, propane, kerosene, butane or wood. The proposed rules adjust eligible conservation measure requirements and incentive rates aligning those requirements across department programs, especially for duct sealing, envelope insulation R-values and exterior window U-factors. The proposed rules remove eligibility for above ground oil tanks and blower door tests from the individual cash payment part of the program. The proposed rules clarify rule language to align with statute by removing cash payments provided to tenants. The proposed rules also unrestrict the matching funds requirement for projects completed by community action agencies. The department plans for the proposed rules to be effective October 1, 2015. The department requests public comment on these draft rules.

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

**Rules Coordinator:** Elizabeth Ross

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

**Telephone:** (503) 373-8534

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**Rule Caption:** Amending Residential Energy Tax Credit rules to implement HB 2171 solar thermal changes.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
9-23-15	2 p.m.	Oregon Dept. of Energy 625 Marion St. NE Salem, OR 97301

**Hearing Officer:** Elizabeth Ross

**Stat. Auth.:** ORS 469.040, 469B.103, 469B.106, 316.116 & 2015 OL Ch. 701, Sec. 26 & 37

**Stats. Implemented:** ORS 469B.100–469B.118, 316.116 & 2015 OL Ch. 701, Sec. 26 & 37

**Proposed Amendments:** 330-070-0022, 330-070-0059, 330-070-0060

**Last Date for Comment:** 9-24-15, 5 p.m.

**Summary:** The proposed rules for the Residential Energy Tax Credit program implement changes provided in Oregon Laws 2015, chapter 701, sections 26 and 37 (HB 2171). HB 2171 increases the tax credit amount available for solar radiation for domestic water heating devices and solar radiation for swimming pool heating devices certified on or after September 1, 2015. As provided in HB 2171, solar radiation for domestic water heating devices may receive tax credits equaling the lesser of the first-year energy savings of the alternative energy device in kWh multiplied by \$2.00, up to 50 percent of the eligible cost of the alternative energy device, or \$6,000. Additionally as provided in HB 2171, solar radiation for swimming pool heating devices may receive tax credits equaling the lesser of the first-year energy savings of the alternative energy device in kWh multiplied by 20 cents, up to 50 percent of the eligible cost of the alternative energy device, or \$2,500. The certification date for solar radiation for domestic water heating devices is the system's operational date which is the date of the final inspection. The certification date for solar radiation for swimming pool heating devices is the system's operational date as reported on the RETC application form. The proposed rules provide that solar thermal devices installed at a dwelling within a five year period will be considered a single device. The proposed rules also clarify eligibility requirements for solar radiation swimming pool heating devices. The department plans for the

rules to be effective upon the effective date of HB 2171, October 5, 2015. The department requests public comment on these draft rules.

A call-in number is available for the public hearing, please see website for details and other materials: <http://www.oregon.gov/energy/CONS/Pages/Rulemaking-RETC.aspx>

**Rules Coordinator:** Elizabeth Ross

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

**Telephone:** (503) 373-8534

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**Rule Caption:** Amends geothermal heating source requirements for public school buildings in the green energy technology program.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
9-24-15	2:30 p.m.	Oregon Dept. of Energy 625 Marion St. NE Salem, OR 97301

**Hearing Officer:** Wendy Simons

**Stat. Auth.:** ORS 469.040, 279C.528 & 2015 OL Ch. 262

**Stats. Implemented:** ORS 279C.527, 279C.528 & 2015 OL Ch. 262

**Proposed Amendments:** 330-135-0015

**Last Date for Comment:** 9-24-15, 5 p.m.

**Summary:** The primary purpose of these proposed rule amendments is to make the administrative rules consistent with the statutory amendments adopted through House Bill 3329, passed by the 2015 Oregon Legislative Assembly, which revised the requirements for public bodies to spend 1.5 percent of the total contract price for the construction, renovation or major remodel of a public building. Consistent with the House Bill 3329 amendments, the proposed rule amends the definition of "green energy technology" to allow geothermal energy sources to qualify as green energy technology for public school buildings if the water used as a heat source is more than 128 degrees Fahrenheit.

The rules will become effective upon filing. Text of the proposed rules and hearing details can be found on the department website: <http://www.oregon.gov/energy/Pages/Rulemaking-Green-Energy-Technology.aspx>.

**Rules Coordinator:** Elizabeth Ross

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

**Telephone:** (503) 373-8534

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**Rule Caption:** Amends requirements for including green energy technology in new construction and renovation of public buildings.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
9-24-15	2 p.m.	Oregon Dept. of Energy 625 Marion St. NE Salem, OR 97301

**Hearing Officer:** Wendy Simons

**Stat. Auth.:** ORS 469.040, 279C.528 & 2015 OL Ch. 424

**Stats. Implemented:** ORS 279C.527, 279C.528 & 2015 OL Ch. 424

**Proposed Amendments:** 330-135-0055

**Last Date for Comment:** 9-24-15, 5 p.m.

**Summary:** The primary purpose of these proposed rule amendments is to make the rules consistent with statutory amendments adopted through House Bill 2987, passed by the 2015 Oregon Legislative Assembly, which revised the requirements for public bodies to spend 1.5 percent of the total contract price for the construction, renovation or major remodel of a public building. When a public body finds that green energy technology is not appropriate for a current project, the amount that would have been spent is deferred and must be added to the 1.5 percent on a future project. The bill amendments removed a requirement to deposit the deferred funds into a separate account, while preserving the requirement for contracting agencies to report to the department on the amount and eventual use of deferred funds. Therefore, the proposed rules remove the requirement for public entities to report to the Oregon Department of Energy information about the account or fund where the deferred funds would be held. The bill also added a requirement for public bodies to report to the Oregon

## NOTICES OF PROPOSED RULEMAKING

Department of Energy on the aggregate amount of funds that have been deferred for green energy technology.

The rules will become effective upon filing. Text of the proposed rules and hearing details can be found on the department website: <http://www.oregon.gov/energy/Pages/Rulemaking-Green-Energy-Technology.aspx>.

**Rules Coordinator:** Elizabeth Ross

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

**Telephone:** (503) 373-8534

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### Department of Energy, Energy Facility Siting Council Chapter 345

**Rule Caption:** Amendments to update the dates of publications, rules, codes, standards, and laws incorporated by reference.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
9-18-15	9 a.m.	2 Marine Dr. Port of Morrow Well Spring Rm. Boardman, OR 97818

**Hearing Officer:** Jason Sierman

**Stat. Auth.:** ORS 469.470 & 469.501

**Stats. Implemented:** ORS 469.300–469.570 & 469.619.

**Proposed Amendments:** 345-001-0005, 345-001-0010, 345-021-0010, 345-023-0030, 345-024-0720, 345-027-0023

**Last Date for Comment:** 9-18-15, Close of Hearing

**Summary:** The purpose of this rulemaking is to update identified Chapter 345 rule provisions that incorporate non-EFSC publications, rules, codes, standards and laws by reference. The proposed amendments will ensure that a more current publication, rule, code, standard or law is referenced in each identified EFSC rule.

In addition to effective dates, some of the identified Chapter 345 rule provisions that incorporate non-EFSC publications, rules, codes, standards and laws also include instructional language that fully implements the provision. Accordingly, to ensure the identified rules continue to function appropriately, some proposed amendments also include updates to the implementing language.

The Council requests public comment on these draft rules. The Council also requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business. A call-in number is available for the public hearing. Please see the Oregon Department of Energy website for hearing details and other materials: <http://www.oregon.gov/energy/Siting/Pages/council-rulemaking.aspx>

**Rules Coordinator:** Jason Sierman

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

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

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### Department of Environmental Quality Chapter 340

**Rule Caption:** Medford Limited Maintenance Plan for Carbon Monoxide

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
9-21-15	7 p.m.	DEQ Medford Office 221 Stewart Ave., Suite 201 Medford OR 97501

**Hearing Officer:** Wayne Kauzlarich

**Stat. Auth.:** ORS 468.020 & 468A.035

**Stats. Implemented:** ORS 468A.025 & 468A.035

**Proposed Amendments:** 340-200-0040

**Last Date for Comment:** 9-24-15, 4 p.m.

**Summary:** DEQ proposes this Medford Limited Maintenance Plan for carbon monoxide and associated Emissions Inventory for adoption by the Oregon Environmental Quality Commission. If adopted, DEQ will submit this Plan and Emissions Inventory to the U.S. Envi-

ronmental Protection Agency (EPA) for approval as a revision to the Oregon Clean Air Act State Implementation Plan.

In the 1970s and 1980s the Medford area violated the national air quality standard for carbon monoxide (CO). State and federal regulations applied measures that reduced CO concentrations and in 2002 EPA redesignated Medford as meeting the CO standard. The redesignation included approval of the first Medford CO Maintenance Plan, which demonstrated how the area would continue to meet the standard in the coming decade. EPA required the plan to include a budget for the amount of CO that vehicles operating on the future highway system could emit in coming decades. Each time a new transportation plan is adopted, planners must show that estimated CO emissions from the new highway system will remain within the budgeted amount.

DEQ recently discovered the instructions for calculating the emissions budget were incorrect and set too low. When future vehicle emissions are estimated and compared to the emissions budget, they exceed the budgeted amount. This error prevents Medford from adopting a new transportation plan. The situation can be corrected by revising the budget in the original plan or by adopting a new CO maintenance plan. Since Medford is due to adopt a second CO maintenance plan, a new plan is the preferred way of correcting the error.

The measured concentration of CO in Medford is currently 27 percent of the federal CO limit. This low level of CO allows Medford to use the streamlined requirements of a "limited maintenance plan." Under these streamlined requirements, a vehicle emissions budget is no longer required when preparing future transportation plans.

DEQ, in consultation with EPA and the Rogue Valley Metropolitan Planning Organization (RVMPO), proposes a new limited maintenance plan as the most efficient way to support Medford's transportation planning process and schedule. Medford will continue to meet the federal CO standard, while eliminating administrative requirements that are no longer needed to protect air quality. The limited maintenance plan updates Medford's existing air quality plan, imposes no new control measures and saves the cost of emissions analyses that are no longer useful.

**Rules Coordinator:** Meyer Goldstein

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

**Telephone:** (503) 229-6478

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**Rule Caption:** Water Quality Credit Trading

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
9-21-15	6 p.m.	DEQ Headquarters 811 SW 6th Ave., 10th Floor, Rm. EQC A Portland, OR

**Hearing Officer:** Evan Haas

**Stat. Auth.:** ORS 468.020, 468B.020, 468B.030, 468B.035, 468B.550

**Stats. Implemented:** ORS 468B.555

**Proposed Adoptions:** 340-039-0001, 340-039-0003, 340-039-0005, 340-039-0015, 340-039-0017, 340-039-0020, 340-039-0025, 340-039-0030, 340-039-0035, 340-039-0040, 340-039-0043

**Last Date for Comment:** 9-25-15, 4 p.m.

**Summary:** DEQ proposes the Oregon Environmental Quality Commission adopt new rules establishing a water quality trading program. The proposed rules clarify DEQ's authority to allow water quality trading as a voluntary compliance option in water quality permits and water quality certifications issued under the Clean Water Act (CWA). In addition, the rules establish the mechanisms and criteria through which DEQ will evaluate and approve water quality trades and oversee implementation of water quality trades. The rules will provide consistency and regulatory certainty for water quality permittees, other stakeholders and the public.

Water quality trading is one compliance option among several available to meet regulatory requirements under the CWA. Through an approved water quality trading plan, permit holders and other reg-

# NOTICES OF PROPOSED RULEMAKING

ulated entities may purchase or otherwise acquire credits to achieve reductions in pollutant loads necessary to comply with water quality-based regulations and restore and protect water quality and beneficial uses. Credits are purchased from landowners and other entities that have voluntarily implemented an activity or practice that generates a quantifiable water quality benefit.

The CWA does not explicitly identify water quality trading as a compliance option. However, in 2003 the U.S. Environmental Protection Agency (EPA) published a water quality trading policy that endorses trading as an economic incentive for voluntary pollutant reductions and as a way to achieve ancillary environmental benefits. In 2001, the Oregon Legislature passed the Willamette Watershed Improvement Trading Act requiring DEQ to “develop and implement a pollutant reduction trading program as a means of achieving water quality objectives and standards in this state.” ORS 468B.555(1). Since then, DEQ has approved three water quality trades as special conditions of water quality permits. Other regulated entities have expressed interest in trading. However, the absence of state regulation explicitly addressing water quality trading has discouraged permit holders from pursuing water quality trading, along with a lack of clarity about the viability of trading as a compliance option.

**Rules Coordinator:** Meyer Goldstein  
**Address:** Department of Environmental Quality, 811 SW Sixth Ave., Portland, OR 97204  
**Telephone:** (503) 229-6478

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**Rule Caption:** Greenhouse Gas Reporting Update  
**Date:** 9-24-15 **Time:** 5 p.m. **Location:** DEQ Headquarters Bldg., Rm. EQC A, 10th Flr. 811 SW Sixth Ave. Portland, OR, 97204

**Hearing Officer:** Elizabeth Elbel  
**Stat. Auth.:** ORS 468.020, 468A.050 & 468A.280  
**Stats. Implemented:** ORS 468 & 468A  
**Proposed Amendments:** 340-215-0010, 340-215-0020, 340-215-0030, 340-215-0040, 340-215-0060  
**Last Date for Comment:** 9-29-15, 4 p.m.  
**Summary:** DEQ proposes changes to rules requiring certain businesses to report greenhouse gas emissions.

The proposed revisions would:

- Reduce the reporting burden to sources who meet the requirements for exemption;
- Provide clarity and uniformity related to greenhouse gas reporting methods and emission factors;
- Incorporate reporting protocols, including necessary data elements and quantification requirements into rule;
- Update Oregon’s list of greenhouse gases subject to reporting to ensure consistency with federal greenhouse gas reporting rules; and
- Improve clarity of the rules by following plain language standards where possible.

The Oregon Environmental Quality Commission adopted the initial greenhouse gas reporting rules in 2008 and updated the rules in 2010 to expand the number and types of facilities and operations required to report. The rules govern the collection of annual greenhouse gas emissions and related information from certain entities, including large commercial, institutional and industrial emitters, fuel suppliers and electric utilities. The rules give DEQ comprehensive data about Oregon’s overall greenhouse gas emissions.

Regulated parties subject to the greenhouse gas reporting requirements include:

- Air contamination sources that directly emit 2,500 metric tons or more of carbon dioxide equivalent during a year
- Gasoline, diesel and aircraft fuel dealers
- Natural gas suppliers
- Propane importers
- Investor-owned utilities
- Consumer-owner utilities

-Other electricity suppliers  
**Rules Coordinator:** Meyer Goldstein  
**Address:** Department of Environmental Quality, 811 SW Sixth Ave., Portland, OR 97204  
**Telephone:** (503) 229-6478

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## Department of Fish and Wildlife Chapter 635

**Rule Caption:** Establish 2016 Seasons and Regulations for Game Mammals

**Date:** 10-9-15 **Time:** 8 a.m. **Location:** 88416 1st Ave. Florence, OR 97439

**Hearing Officer:** ODFW Commission  
**Stat. Auth.:** ORS 496.012, 496.138, 496.146, 496.162  
**Stats. Implemented:** ORS 496.012, 496.138, 496.146, 496.162, SB 247 (2015 OL)

**Proposed Amendments:** Rules in 635-008, 635-010, 635-043, 635-045, 635-050, 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:** 10-9-15, Close of Hearing  
**Summary:** Establish 2016 hunting regulations for game mammals, including season dates, open areas, location of cooperative travel management areas, wildlife areas, and other rules including, but not limited to, general hunting and controlled hunt regulations.

**Rules Coordinator:** Michelle Tate  
**Address:** Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302  
**Telephone:** (503) 947-6044

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**Rule Caption:** Amend Rules Related to Hunting, Angling, and Commercial Fishing Fees

**Date:** 10-9-15 **Time:** 8 a.m. **Location:** 88416 1st Ave. Florence, OR 97439

**Hearing Officer:** ODFW Commission  
**Stat. Auth.:** ORS 183, 496 & SB 247 (2015)  
**Stats. Implemented:** ORS 183, 496 & SB 247 (2015)

**Proposed Adoptions:** Rules in 635-001, 635-004, 635-005, 635-006, 635-007, 635-008, 635-010, 635-011, 635-040, 635-043, 635-044, 635-046, 635-047, 635-048, 635-049, 635-050, 635-051, 635-055, 635-056, 635-060, 635-065, 635-066, 635-067, 635-075, 635-090, 635-095, 635-200 as necessary.

**Proposed Amendments:** Rules in 635-001, 635-004, 635-005, 635-006, 635-007, 635-008, 635-010, 635-011, 635-040, 635-043, 635-044, 635-046, 635-047, 635-048, 635-049, 635-050, 635-051, 635-055, 635-056, 635-060, 635-065, 635-066, 635-067, 635-075, 635-090, 635-095, 635-200 as necessary.

**Proposed Repeals:** Rules in 635-001, 635-004, 635-005, 635-006, 635-007, 635-008, 635-010, 635-011, 635-040, 635-043, 635-044, 635-046, 635-047, 635-048, 635-049, 635-050, 635-051, 635-055, 635-056, 635-060, 635-065, 635-066, 635-067, 635-075, 635-090, 635-095, 635-200 as necessary.

**Last Date for Comment:** 10-9-15, Close of Hearing  
**Summary:** Adopt amendments to the Oregon Administrative rules to implement SB247, enacted by the 2015 Legislative Assembly. Per Senate Bill 247, incrementally decreases, increases or establishes certain fees related to hunting, angling and commercial fishing over six-year period, applicable January 1, 2016, January 1, 2018 and January 1, 2020.

**Rules Coordinator:** Michelle Tate  
**Address:** Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302  
**Telephone:** (503) 947-6044

# NOTICES OF PROPOSED RULEMAKING

## Department of Human Services, Child Welfare Programs Chapter 413

**Rule Caption:** Amending rules governing child welfare programs

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
9-14-15	3 p.m.	500 Summer St. NE, Rm. 255 Salem, OR 97301

**Hearing Officer:** Kris Skaro

**Stat. Auth.:** ORS 409.050, 411.050, 411.060 & 418.005

**Other Auth.:** Preventing Sex Trafficking and Strengthening Families Act of 2014

**Stats. Implemented:** ORS 409.010, 409.050, 411.060, 411.070, 418.005, SB 501 (2015), SB 741 (2015), HB 2890 (2015) & HB 2908 (2015)

**Proposed Adoptions:** 413-040-0014, 413-070-0918, 413-070-0990 – 413-070-1060, 413-080-0053, 413-100-0075, 413-200-0260, 413-200-0275, 413-200-0287, 413-200-0298, 413-200-0353, 413-200-0356, 413-215-0000, 413-215-0554

**Proposed Amendments:** Rules in 413-020, 413-030, 413-040, 413-070, 413-080, 413-100, 413-110, 413-120, 413-130, 413-200, 413-215

**Proposed Repeals:** 413-020-0065, 413-020-0110, 413-020-0210, 413-020-0610, 413-030-0205, 413-030-0405, 413-040-0009, 413-040-0110, 413-040-0210, 413-040-0410, 413-070-0022, 413-070-0027, 413-070-0033, 413-070-0110, 413-070-0651, 413-070-0909, 413-100-0200, 413-100-0220, 413-100-0250, 413-100-0280, 413-100-0300, 413-100-0310, 413-100-0410, 413-100-0810, 413-100-0905, 413-110-0110(T), 413-120-0010(T), 413-120-0105, 413-120-0150, 413-120-0195, 413-120-0420, 413-120-0510, 413-120-0610, 413-120-0710, 413-120-0810, 413-120-0905, 413-130-0010(T), 413-200-0272, 413-200-0395, 413-200-0409, 461-215-0001, 413-215-0006, 413-215-0206, 413-215-0306, 413-215-0406, 413-215-0506, 413-215-0606, 413-215-0706, 413-215-0806, 413-215-0911

**Last Date for Comment:** 9-16-15, 5 p.m.

**Summary:** The Office of Child Welfare Programs is proposing rule adoptions and amendments throughout chapter 413 to implement provisions in the Preventing Sex Trafficking and Strengthening Families Act of 2014, HB 2890 (2015), HB 2908 (2015), SB 501 (2015), and SB 741 (2015).

Rules in divisions 413-20 about case management, 413-30 about youth transitions, 413-40 about developing the case plan, 413-70 about substitute care, and 413-200 about standards for certification are being amended to establish the “reasonable and prudent parent” standard to guide care the Department and caregivers in making decisions about whether to allow foster youth to engage in typical and appropriate childhood activities. The amendments:

- Define “reasonable and prudent parenting standard” as a standard characterized by sensible parental decision-making that protects a child or ward, while also encouraging developmental growth, to be used when determining whether to allow a child or ward in substitute care to participate in activities

- Define “age-appropriate or developmentally appropriate activities” as activities generally suitable for the age and abilities of a child or young adult

- Require caseworkers and caregivers to apply the reasonable and prudent parent standard when authorizing a child to participate in appropriate activities

- Require the Department to review Department’s efforts to ensure the child has ongoing opportunities to engage in appropriate extracurricular activities, include it in the case plan of the child or young adult, and provide it to the court at permanency hearings

OAR 413-030-0400 to 413-030-0460 about youth transitions and OAR 413-040-0000 to 413-040-0032 about developing and managing the case plan are being amended to create new case plan and transition planning requirements intended to empower youth in substitute care. The amendments:

- Require that any case plan developed for a child 14 and older must be developed in consultation with the child and, at the option

of the child, up to two members of the case planning team who are chosen by the child

- State that a case plan must include:

A document that describes the rights of the child with respect to education, health, visitation, and court participation; and

A signed acknowledgement by the child that he or she has been provided a copy of the document and that the rights contained therein have been explained to the child in an age-appropriate way.

- Require planning for youth transition to adulthood to begin by age 14 for all youth in foster care

- Require the Department to provide foster youth leaving the system with a social security card, driver license or ID, birth certificate, health insurance information, and a copy of his or her medical records

OAR 413-070-0520 to 413-070-0565 about APPLA (Another Planned Permanent Living Arrangement) are being amended to implement improvements to APPLA. The amendments:

- Eliminate APPLA for children under the age of 16

- Establish new case review requirements for children on APPLA
- Establish new permanency hearing requirements:

Asking the child about the desired permanency outcome.

Requiring a compelling reason why other permanency plan options are not in the child’s best interest.

Making a judicial determination regarding the Department’s efforts to ensure the child has ongoing opportunities to engage in appropriate extracurricular activities.

OAR 413-070-0990 to 413-070-1060 are being adopted to implement a new placement option known as the “fit and willing relative” placement. The amendments:

- Create the option to place a child or young adult with a relative or person with a caregiver.

- State that this placement option may only be used when more preferred placements are not in the best interest of the child or young adult.

- Require an individual to meet the following requirements before being considered as a fit and willing relative:

Be a relative of the child or a person with a caregiver relationship.

Be approved by the department as a long-term resource.

Have a current certificate of approval.

OAR 413-070-0917 about eligibility for guardianship assistance is being amended to expand eligibility to include a child who is ineligible for Title IV-E funded guardianship assistance. This is required in section 16 of SB 501 (2015).

Division 120 relating to adoption placement selection and identification and consideration of potential adoptive resources and division 70 relating to legal permanency, concurrent planning, and use of permanency committee are being amended to implement SB 741 (2015) which requires Department rules governing home studies and placement reports in adoption proceedings to give equal status and priority to relatives and current caretakers as is given to prospective adoptive parents with regard to child safety, attachment, and well-being.

The definitions of “relative” and “sibling” throughout chapter 413 were amended by temporary rule on May 22, 2015, to comply with federal law. The amendments clarified that an individual who would be considered a sibling, but for a disruption or dissolution of parental rights, is still considered a sibling. These amendments are being permanently adopted.

Rules in division 100 governing Title IV-E eligibility, rules in division 200 governing certification and responsibilities of substitute caregivers, and rules in division 215 governing private child caring agencies are being revised to make general updates consistent with current Department practice.

Lastly, rules throughout chapter 413 are being adopted, amended, and repealed to: consolidate the definitions rules into one overarching definitions rule for each division; ensure consistent terminology throughout child welfare rules and policies; make general updates consistent with current Department practices; update statutory and

# NOTICES OF PROPOSED RULEMAKING

rule references; correct formatting and punctuation; remove unnecessary language; and clarify Department rules and processes.

A copy of the draft rules can be accessed at the Child Welfare policy website: <http://www.dhs.state.or.us/policy/childwelfare/drafts/drafts.htm>.

**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

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## Department of Human Services, Self-Sufficiency Programs Chapter 461

**Rule Caption:** Amending rules relating to APD, ERDC, REF, SNAP, and TANF programs

**Date:**  
9-21-15

**Time:**  
2 p.m.

**Location:**  
Human Services Bldg., Rm. 255  
500 Summer St. NE  
Salem, OR 97301

**Hearing Officer:** Kris Skaro

**Stat. Auth.:** ORS 409.010, 409.050, 411.060, 411.070, 411.095, 411.704, 411.706, 411.816, 412.014, 412.049, HB 2015 (2015)

**Other Auth.:** 45 CFR 98, Child Care Development Block Grant (CCDBG) Act of 2014

**Stats. Implemented:** ORS 409.010, 409.050, 409.610, 411.060, 411.070, 411.081, 411.095, 411.404, 411.706, 411.816, 411.837, 412.006, 412.009, 412.014, 412.049, 412.064, HB 2015 (2015)

**Proposed Amendments:** 461-115-0030, 461-115-0040, 461-115-0230, 461-135-0400, 461-135-0415, 461-140-0110, 461-155-0150, 461-155-0180, 461-160-0410, 461-170-0011, 461-180-0070

**Proposed Repeals:** 461-115-0030(T), 461-115-0040(T), 461-115-0230(T), 461-160-0410(T), 461-180-0070(T)

**Last Date for Comment:** 9-25-15, 5 p.m.

**Summary:** OAR 461-115-0030 about the date of request, OAR 461-115-0040 about the filing date, and OAR 461-180-0070 about the effective date of benefits are being amended to correct a recent filing. On June 30, 2015, the Department filed amendments to these rules to change policy in the REF and TANF programs regarding the start date of benefits. Those amendments stated that the benefits start on the filing date (the date a signed application is received by the Department) as long as all eligibility requirements are met by the 45th day after the filing date. However, the intention was to require that eligibility requirements be met by the 45th day after the date of request, the date a client originally requests benefits orally or in writing. The amendments correctly state that benefits begin on the filing date as long as all eligibility requirements are met by the 45th day after the date of request. This makes permanent temporary rules adopted on July 23, 2015.

OAR 461-115-0230 about interviews is being amended to clarify that interviews are required for APD medical programs at initial application for assumed eligible individuals. The current rule suggests that no interview is needed for this population at either initial application or annual redetermination. This corrects a previous amendment which was effective July 1, 2014, and makes permanent the current temporary rule.

OAR 461-160-0410 about use of income and income deductions in the Supplemental Nutrition Assistance Program (SNAP) when there are ineligible or disqualified members in the filing group is being amended to comply with federal guidance to the Department regarding calculating the income for noncitizens receiving Temporary Assistance for Needy Families (TANF) benefits. The current rule requires the TANF benefit amount to be prorated and only counted for the eligible filing group members. The amendment removes this requirement and will result in the full TANF benefit amount being used to calculate benefits for the household. This makes permanent a temporary rule adopted on July 1, 2015.

The rules below are being amended as part of the implementation of the Child Care Development Block Grant (CCDBG) Act of 2014 and HB 2015 (2015). Specifically:

- OAR 461-135-0400 relating to specific ERDC requirements is being amended to allow eligibility for families who receive self-employment income and to state that a filing group who is not willing to provide verification of immunization is eligible for a child care payment for not more than twelve months, unless child care continues due to loss of employment under OAR 461-160-0040(5).

- OAR 461-135-0415 about the requirement to make copayments or satisfactory arrangements in the ERDC program is being amended to state that the caretaker is responsible for paying the copayment to the primary child care provider unless the Child Care Billing form was sent to the provider showing no copayment.

- OAR 461-140-0110 about the treatment of periodic income is being amended to state that in the ERDC program, periodic income is averaged over the applicable period.

- OAR 461-155-0150 about child care eligibility standards, payment rates, and copayments is being amended to:

o State that at initial certification, the eligibility standard is less than 185 percent of the federal poverty level (FPL);

o State that during the certification period and at recertification, the eligibility standard is 85 percent of the state median income (SMI) or 250% of the FPL, whichever is higher;

o Allow employed caretakers to add education hours to the authorized work hours;

o Amend subsection (8)(b) which states that for a client who earns less than minimum wage, the total number of payable child care hours may not exceed 125 percent of the anticipated earnings divided by the state minimum wage. This limitation will no longer be waived for the first three months of the client's employment; and

o Allow a client to obtain child care in excess of 215 hours per month if necessary to perform training required to keep current employment.

- OAR 155-0180 about income standards is being amended to add a monthly income standard set at 250 percent of the 2014 federal poverty level and 85 percent of the state median income.

- OAR 461-170-0011 about changes that must be reported is being amended to update reporting requirements for clients in the ERDC program.

In addition, non-substantive edits may be made to: ensure consistent terminology throughout self-sufficiency program rules and policies; make general updates consistent with current Department practices; update statutory and rule references; correct formatting and punctuation; remove unnecessary language; improve ease of reading; and clarify Department rules and processes.

The draft rules are available at [http://www.dhs.state.or.us/policy/selfsufficiency/ar\\_proposed.htm](http://www.dhs.state.or.us/policy/selfsufficiency/ar_proposed.htm).

**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

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## Department of Justice Chapter 137

**Rule Caption:** Criminal Fine Account victim assistance funding revisions to improve administration of victim assistance grants process.

**Date:**  
9-23-15

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

**Location:**  
4035 12th St. SE  
Salem, OR 97302

**Hearing Officer:** Mike Maryanov

**Stat. Auth.:** ORS 137.300 & 147.227-147.231

**Stats. Implemented:** ORS 137.300 & 147.227-147.231

**Proposed Amendments:** Rules in 137-078

**Last Date for Comment:** 9-23-15, 5 p.m.

**Summary:** The proposed rulemaking revises OARs related to administration of the Criminal Fine Account's victim assistance fund-

## NOTICES OF PROPOSED RULEMAKING

ing. These rule changes are insubstantial in nature, but remove and update archaic language and help to improve CFA administrative procedures. These updates include restoring unallowable expense categories to rule and aligns CFA administrative rules with new U.S. OMB regulations related to federal Victim of Crime Act regulations.

**Rules Coordinator:** Carol Riches

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

**Telephone:** (503) 378-5987

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### Department of Public Safety Standards and Training Chapter 259

**Rule Caption:** Updates physical standards, F2 Medical Form and physical standard waiver process for law enforcement officers.

**Stat. Auth.:** ORS 181.640

**Stats. Implemented:** ORS 181.640

**Proposed Amendments:** 259-008-0010

**Last Date for Comment:** 9-21-15, Close of Business

**Summary:** In 2002, a medical panel from Oregon Health Sciences University reviewed DPSST's physical standards for police officers, corrections officers, and parole and probation officers, based on the job task analysis for each discipline. The panel provided recommendations, which were approved by the Police Policy Committee, the Corrections Policy Committee and the Board on Public Safety Standards and Training.

To ensure that the physical standards for law enforcement officers are still appropriate, as well as to determine physical standards for Oregon Liquor Control Commission Inspectors, DPSST contracted with Doctor Brad Lorber, Medical Director for Northwest Occupational Medicine in Beaverton, Oregon, to review our current physical standards.

To assess DPSST's current physical standards for police officers, corrections officers, parole and probation officers, and liquor enforcement inspectors, Doctor Lorber reviewed the critical and essential job tasks, as defined in the current DPSST Job Task Analysis for each discipline.

After review, Doctor Lorber found that the physical standards for liquor enforcement inspectors are the same as for all law enforcement officers. Doctor Lorber made the following recommendations:

**Visual Acuity:** Monocular vision must be at least 20/30 (Snellen) corrected in each eye and not worse than 20/100 (Snellen) uncorrected in either eye. Binocular vision must be at least 20/20 (Snellen) corrected. Officers or applicants whose uncorrected vision is worse than 20/100 must wear soft contact lenses to meet the corrected vision requirement.

**Color Vision:** Law enforcement officers or applicants must be able to distinguish red, green, blue, and yellow, as determined by the HRR Test, 4th Edition. Red or green deficiencies may be acceptable, providing the applicant can read at least nine of the first 13 plates of the Ishihara Test. Officers or applicants who fail to meet the color vision standard may meet the standard by demonstrating that they can correctly discriminate colors via a field test conducted by the employer as approved by the examining licensed physician or surgeon.

**Depth Perception:** Random Stereo Test equal to 60 seconds of arc or better.

**Peripheral Vision:** Visual Field Performance must be 140 degrees in the horizontal meridian combined.

**Hearing:** Law enforcement officers or applicants must have no average hearing loss greater than 25 decibels (db) at the 500, 1,000, 2,000 and 3,000-Hertz levels in either ear with no single loss in excess of 40 db. Law enforcement officers or applicants who fail to meet the hearing standard must be examined by a licensed audiologist or otorhinolaryngologist to determine if an amplification device will allow them to meet the hearing standard. An amplification device may be used to meet the hearing standard, if a licensed audiologist or otorhinolaryngologist determines an amplification device will allow the officer or applicant to meet the hearing standard.

**Cardiovascular:** Resting blood pressure must be less than or equal to 160 mmHg systolic and 100 mmHg diastolic. Law enforcement officers or applicants who fail to meet the cardiovascular standards must be examined by a general practitioner to address the issue. Law enforcement officers or applicants who have a history of organic cardiovascular disease will necessitate further medical evaluation.

**Pulmonary Capacity (New Standard):** Officers and applicants with obstructive or restrictive spirometry (FVC or FEV1 less than 80% or FVC/FEV1 ratio of less than 70%) require further evaluation.

**Medications (New Standard):** The side effects of any prescribed medication must not interfere with the law enforcement officer's or applicant's ability to perform the essential functions and tasks of the job.

**Medical Recommendations (New Standard):** It is recommended that officers or applicants with a history of seizures or diabetes be evaluated following American College of Occupational and Environmental Medicine's Guidance for the Medical Evaluation of Law Enforcement Officers, to include post-employment monitoring. It is recommended that officers or applicants with a history of hypertension (resting blood pressure exceeding 160 mmHg systolic and 100 mmHg diastolic (160/100) have post-employment medical monitoring.

Further, at the suggestion of policy committee members, this proposed rule change eliminates the need for the policy committees and the Board to review and approve or deny physical standard waivers, a process that takes up to six months. Instead, the Department will review all physical standard waivers and make a determination to approve or deny the waiver based on the supporting documentation provided, including recommendations by licensed medical professionals. This will significantly streamline the waiver process for the applicant and the hiring agency.

This proposed rule change also alters the process for submitting a DPSST Medical Examination Report (Form F-2). Rather than submitting the full F-2 Medical Form to DPSST, agencies or applicants will be required to only submit the final page (Form F-2A.) This final page will be signed by the examining licensed physician or surgeon and will attest that the law enforcement officer either met or did not meet DPSST's physical standards.

The expected implementation date for this proposed rule change is January, 2016. DPSST will provide information on our website regarding the new standards, the new waiver process, and the new F2 Medical Form to assist with questions and to eliminate any confusion prior to implementation.

**Rules Coordinator:** Sharon Huck

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

**Telephone:** (503) 378-2432

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**Rule Caption:** Updates physical standards, F2-T Medical Form and the physical standard waiver process for telecommunications/EMD's.

**Stat. Auth.:** ORS 181.640

**Stats. Implemented:** ORS 181.640

**Proposed Amendments:** 259-008-0011

**Last Date for Comment:** 9-21-15, Close of Business

**Summary:** In 2006, Oregon Health Sciences University reviewed the DPSST Job Task Analysis for telecommunications and emergency medical dispatchers and provided recommendations for physical standards. The Telecommunications Policy Committee and the Board on Public Safety Standards and training approved the physical standards recommendations and they were implemented in 2007.

To ensure that DPSST's physical standards for telecommunications and emergency medical dispatchers are still appropriate, DPSST contracted with Doctor Brad Lorber, Medical Director for Northwest Occupational Medicine in Beaverton, Oregon, to review the current physical standards. Doctor Lorber analyzed the critical and essential job tasks, as defined by the 2010 DPSST Job Task Analysis for telecommunications and the 1995 National Highway Traffic Safety

# NOTICES OF PROPOSED RULEMAKING

Administration Emergency Medical Dispatcher National Standards Curriculum. The following are the recommendations for telecommunicators and emergency medical dispatchers.

**Visual Acuity:** Monocular vision must be at least 20/30 (Snellen) corrected in each eye and not worse than 20/100 (Snellen) uncorrected in either eye. Binocular vision must be 20/20 (Snellen) corrected.

**Color Vision:** Telecommunicators, emergency medical dispatchers and applicants must be able to distinguish red, green, blue, and yellow as determined by the HRR Test, 4th Edition. Red or green deficiencies may be acceptable, providing the applicant can read at least nine of the first 13 plates of the Ishihara Test.

Telecommunicators, emergency medical dispatchers or applicants who fail to meet the color vision standard may meet the standard by demonstrating that they can correctly discriminate colors via a field test conducted by the employer as approved by the examining licensed health professional.

**Hearing:** Telecommunicators, emergency medical dispatchers or applicants must meet National Emergency Number Association (NENA) hearing standard NENA-STA-007.2-2014 (June 14, 2014). Telecommunicators, emergency medical dispatchers or applicants who fail to meet the hearing standard must be examined by a licensed audiologist or otorhinolaryngologist to determine if an amplification device will allow them to meet the hearing standard. An amplification device may be used to meet the hearing standard, if a licensed audiologist or otorhinolaryngologist determines an amplification device will allow the telecommunicator, emergency medical dispatcher or applicant to meet the hearing standard.

**Medications (new standard):** The side effects of any prescribed medication must not interfere with the telecommunicator's, emergency medical dispatcher's or applicant's ability to perform the essential functions and tasks of the job.

Further, at the suggestion of policy committee members, this proposed rule change eliminates the need for the policy committees and the Board to review and approve or deny physical standard waivers, a process that takes up to six months. Instead, the Department will review all physical standard waivers and make a determination to approve or deny the waiver based on the supporting documentation provided, including recommendations by licensed medical professionals. This will significantly streamline the waiver process for the applicant and the hiring agency.

This proposed rule change also alters the process for submitting a DPSST Medical Examination Report (Form F-2T). Rather than submitting the full F-2T Medical Form to DPSST, agencies or applicants will be required to only submit the final page (Form F-2TA.) This final page will be signed by the examining health care professional and will attest that the telecommunicator, emergency medical dispatcher or applicant either met or did not meet DPSST's physical standards.

The expected implementation date for this proposed rule change is January, 2016. DPSST will provide information on our website regarding the new standards, the new waiver process, and the new F2-T Medical Form to assist with questions and to eliminate any confusion prior to implementation.

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

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**Higher Education Coordinating Commission,  
 Department of Community Colleges  
 and Workforce Development  
 Chapter 589**

**Rule Caption:** Allows Oregon community colleges to develop and issue non-credit training certificates.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
9-15-15	1 p.m.	775 Court St. NE Salem, OR 97301

**Hearing Officer:** Kelly Dickinson  
**Stat. Auth.:** ORS 326.051  
**Stats. Implemented:** ORS 341.425 & 341.465  
**Proposed Amendments:** 589-006-0050, 589-006-0300  
**Last Date for Comment:** 9-22-15, 5 p.m.

**Summary:** House Bill 2410 changes existing statutory language to allow community colleges to develop and issue noncredit training certificates. The certificates can be awarded for single stand-alone courses or series of courses. In order to meet the needs of local Oregon businesses and communities, the certificate content and rigor would be determined and standardized at the institutional level.

The Non-Credit Training Workgroup, represented by a majority of community colleges in the state, through careful deliberation clarified the definition, approval criteria and rigor to create an oversight system to maintain the integrity of noncredit training certificates, in deference to credit Certificates of Completion and degree programs.

Previously, Oregon community colleges were not permitted to issue certificates for noncredit trainings. Noncredit divisions of the seventeen community colleges could only issue "Recognition Awards".

Noncredit training certificates provide documentation of skill attainment for entry-level positions in a wide variety of industries. They also serve as a gateway to the resources of college, allowing less-skilled workers to attain a college credential. Segments of the workforce are increasingly seeking ways to document competencies and job skills, and many occupational fields value a workforce credential over academic documentation for initial job placement as well as for promotion or advancement. College-sponsored certification programming can also allow for credentialing to be earned in an area where there is no readily available industry standard.

**Rules Coordinator:** Kelly Dickinson  
**Address:** Higher Education Coordinating Commission, Department of Community Colleges and Workforce Development, 775 Court St. NE, Salem, OR 97301  
**Telephone:** (503) 378-5690

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**Land Conservation and Development Department  
 Chapter 660**

**Rule Caption:** Alternative, streamlined process for evaluation and amendment of urban growth boundaries (UGBs)

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
9-24-15	8 a.m.	Holiday Inn Express 2014 W. Marine Dr. Astoria, OR
12-3-15	8 a.m.	LCDC Basement Hearing Rm. 635 Capitol St. Salem, OR

**Hearing Officer:** LCDC  
**Stat. Auth.:** ORS 197.040 & 197A.305  
**Other Auth.:** ORS 195, 197 & Statewide Planning Goals (OAR 660, div. 15)

**Stats. Implemented:** ORS 197A.300-197A.325  
**Proposed Adoptions:** Rules in 660-038, 660-038-0000, 660-038-0010, 660-038-0020, 660-038-0030, 660-038-0040, 660-038-0050, 660-038-0060, 660-038-0070, 660-038-0080, 660-038-0090, 660-038-0100, 660-038-0110, 660-038-0120, 660-038-0130, 660-038-0140, 660-038-0150, 660-038-0160, 660-038-0170, 660-038-0180, 660-038-0190, 660-038-0200, 660-038-0210, 660-038-0220, 660-024-0065

**Proposed Amendments:** Rules in 660-011, 660-024, 660-025  
**Last Date for Comment:** 12-3-15, Close of Hearing

**Summary:** The proposed new rules and rule amendments will establish an optional alternative, streamlined process for local governments outside of Metro to evaluate and amend urban growth boundaries (UGBs) and will implement related legislation enacted by the 2013 Oregon Legislature (HB 2254, codified as ORS 197A) which requires LCDC to adopt administrative rules establishing the new alternative UGB process by January 1, 2016. In addition, the new and

# NOTICES OF PROPOSED RULEMAKING

amended rules will provide interpretive guidance to provisions at ORS 197A.320 that apply to both the existing UGB process described in OAR chapter 660, division 24 and the proposed new alternative process. The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

LCDC will hold two public hearings on the proposed rules at the times and locations listed above. LCDC may adopt the rules after the second hearing. The public is encouraged to provide comments prior to the first hearing.

**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

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## Landscape Contractors Board Chapter 808

**Rule Caption:** Increases Fees to be in alignment with the 2015-17 Budget

Date:	Time:	Location:
9-22-15	9 a.m.	LCB, 2111 Front St. NE Suite 2-101 Salem, OR 97301

**Hearing Officer:** Elizabeth Boxall

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

**Stats. Implemented:** ORS 182.462

**Proposed Amendments:** 808-003-0130

**Last Date for Comment:** 9-22-15, Close of Hearing

**Summary:** Increases Fees to be in alignment with the 2015-17 Budget.

**Rules Coordinator:** Kim Gladwill-Rowley

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

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

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## Oregon Business Development Department Chapter 123

**Rule Caption:** Adjustments to enterprise-zone related rules, specifically E-Commerce Enterprise Zones, for new laws and general housekeeping.

**Stat. Auth.:** ORS 285A.075, 285C.050(5), 285C.060(1) & 285C.370

**Other Auth.:** OL 2015, Ch 648 Sec 14(3)(c)

**Stats. Implemented:** ORS 285C.050, 285C.350-285C.370, 285C.400-285C.420, 315.508, 317.124 & 317.131

**Proposed Amendments:** Rules in 123-662

**Last Date for Comment:** 9-30-15, Close of Business

**Summary:** Proposed modifications to division 662 (Electronic Commerce) improve clarity and specificity of guidance for local government officials and business firms seeking tax abatement, as well as implementation of Oregon Laws 2013-ch. 385 (HB 2981), 2014-ch. 53 (HB 4005), and 2015-ch. 648 (HB 2643)-specifically the local E-commerce overlay designation on a first-come basis potentially after October 5, 2015.

**Rules Coordinator:** Mindee Sublette

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

**Telephone:** (503) 986-0036

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**Rule Caption:** The Amendment of (OAR) chapter 123, division 680 related to Rural Renewable Energy Development Zones.

**Stat. Auth.:** ORS 285A.075, 285C.050(5), 285C.060(1) & 285C.370

**Other Auth.:** OL 2015, Ch. 648, §14(3)(c)

**Stats. Implemented:** ORS 258C.050-285C.250, 285C.350-285C.370, 285C.400-285C.420, 315.507, 315.508, 317.124 & 317.131

**Proposed Amendments:** Rules in 123-680

**Last Date for Comment:** 9-30-15, Close of Business

**Summary:** Proposed modifications to division 680 (Rural Renewable Energy Development Zones) improve clarity and specificity of guidance for local government officials and business firms seeking tax abatement, as well as implementation of Oregon Laws 2013-ch. 385 (HB 2981), 2014-ch. 53 (HB 4005), and 2015-ch. 648 (HB 2643)-specifically the \$5-million local employment waiver in a RRED zone.

**Rules Coordinator:** Mindee Sublette

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

**Telephone:** (503) 986-0036

\*\*\*\*\*

**Rule Caption:** Adjustments to enterprise zone-related rules specifically Long-Term Rural zones for new laws and general house-keeping

**Stat. Auth.:** ORS 285A.075, 285C.050(5), 285C.060(1) & 285C.370

**Other Auth.:** OL 2015, Ch. 648, §14(3)(c)

**Stats. Implemented:** ORS 258C.050-285C.250, 285C.350-285C.370, 285C.400-285C.420, 315.507, 315.508, 317.124 & 317.131

**Proposed Amendments:** Rules in 123-690

**Last Date for Comment:** 9-30-15, Close of Business

**Summary:** Proposed changes to division 690 (Long-term Rural Enterprise Zone Facility Incentives) reflect thorough reworking of language to better address a number of different but intertwined and sometimes inherently complicated issues, given limited statutory guidance in some cases, such as:

- Employment requirements for investments involving existing facilities, including cases of successive use by the same company;
- Potential transfer of jobs within this state to an applicable facility;
- Delineation of what constitutes facility investments by physical location;
- Relationship of minimum investment criteria to the property that is or is not subject to exemption from taxes;
- Updated description of annual determination of where these incentives may be offered based on county economic eligibility;
- Clarity about the order of local certification procedures, respective to such.

**Rules Coordinator:** Mindee Sublette

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

**Telephone:** (503) 986-0036

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## Oregon Department of Education Chapter 581

**Rule Caption:** Standards for public elementary and secondary schools - definitions

Date:	Time:	Location:
9-24-15	1 p.m.	255 Capitol St. NE, Rm. 200A Salem, OR

**Hearing Officer:** Emily Nazarov

**Stat. Auth.:** ORS 326.051 & 329.275

**Stats. Implemented:** ORS 326.051

**Proposed Amendments:** 581-022-0102

**Last Date for Comment:** 9-24-15, 2 p.m.

**Summary:** Instructional time includes up to 15 minutes each day of the time that a student spends consuming breakfast in the classroom if instruction is being provided while the student is consuming breakfast.

**Rules Coordinator:** Felicia Bechtoldt

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

**Telephone:** (503) 947-5801

\*\*\*\*\*

**Rule Caption:** Education Programs for Children at Residential Youth Care Centers

# NOTICES OF PROPOSED RULEMAKING

**Date:** 9-24-15  
**Time:** 1 p.m.  
**Location:** 255 Capitol St. NE, Rm. 200A  
Salem, OR

**Hearing Officer:** Emily Nazarov

**Stat. Auth.:** ORS 326.051

**Stats. Implemented:** ORS 336.580

**Proposed Amendments:** 581-015-2595

**Last Date for Comment:** 9-24-15, 1 p.m.

**Summary:** Allows children placed at a youth care center within a detention facility to receive educational services through the Juvenile Detention Education Program.

**Rules Coordinator:** Felicia Bechtoldt

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

**Telephone:** (503) 947-5801

\*\*\*\*\*

**Rule Caption:** School Emergency Plans and Safety Programs, Facilities and Safety and Emergency Planning

**Date:** 9-24-15  
**Time:** 1 p.m.  
**Location:** 255 Capitol St. NE, Rm. 200A  
Salem, OR

**Hearing Officer:** Emily Nazarov

**Stat. Auth.:** ORS 334.125, 334.217 & 336.071

**Stats. Implemented:** ORS 334.125, 334.217 & 336.071

**Proposed Amendments:** 581-022-1420, 581-024-0275

**Last Date for Comment:** 9-24-15, 1 p.m.

**Summary:** Provides that school drills and instruction on safety threats include procedures related to lockdown, lockout, shelter in place and evacuation. Adds school drills and instruction requirements to school district standards.

**Rules Coordinator:** Felicia Bechtoldt

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

**Telephone:** (503) 947-5801

\*\*\*\*\*

**Rule Caption:** CTE Revitalization Grant Advisory Committee

**Date:** 9-24-15  
**Time:** 1 p.m.  
**Location:** 255 Capitol St. NE, Rm. 200A  
Salem, OR

**Hearing Officer:** Emily Nazarov

**Stat. Auth.:** ORS 344.075

**Stats. Implemented:** ORS 344.075

**Proposed Amendments:** 581-044-0250

**Last Date for Comment:** 9-24-15, 2 p.m.

**Summary:** The Grant Advisory Committee must equally have representatives from business, industry, labor, and education providers.

**Rules Coordinator:** Felicia Bechtoldt

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

**Telephone:** (503) 947-5801

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**Rule Caption:** Retaliation Against Student Prohibited

**Date:** 9-24-15  
**Time:** 1 p.m.  
**Location:** 255 Capitol St. NE, Rm. 200A  
Salem, OR

**Hearing Officer:** Emily Nazarov

**Stat. Auth.:** 2015 OL Ch. 434, Sec. (Enrolled HB 3371)

**Stats. Implemented:** 2015 OL Ch. 434, Sec. (Enrolled HB 3371)

**Proposed Adoptions:** 581-021-0043

**Last Date for Comment:** 9-24-15, 2 p.m.

**Summary:** Establishes the complaint process when a student is subject to retaliation and the consequences of retaliation for education programs.

**Rules Coordinator:** Felicia Bechtoldt

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

**Telephone:** (503) 947-5801

**Rule Caption:** Fiscal Agent for CTE and STEM Grants

**Date:** 9-24-15  
**Time:** 1 p.m.  
**Location:** 255 Capitol St. NE, Rm. 200A  
Salem, OR

**Hearing Officer:** Emily Nazarov

**Stat. Auth.:** 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

**Stats. Implemented:** 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

**Proposed Adoptions:** 581-017-0302

**Last Date for Comment:** 9-24-15, 2 p.m.

**Summary:** Defines the entities that are eligible to be the fiscal agent for the grants available under 581-017-0301 to 0333.

**Rules Coordinator:** Felicia Bechtoldt

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

**Telephone:** (503) 947-5801

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**Rule Caption:** Career Pathway Funding for CTE Programs

**Date:** 9-24-15  
**Time:** 1 p.m.  
**Location:** 255 Capitol St. NE, Rm. 200A  
Salem, OR

**Hearing Officer:** Emily Nazarov

**Stat. Auth.:** 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

**Stats. Implemented:** 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)

**Proposed Adoptions:** 581-017-0287, 581-017-0291, 581-017-0294, 581-017-0297

**Last Date for Comment:** 9-24-15, 2 p.m.

**Summary:** Establishes the definitions, purpose, funding and reporting of the Career Pathway Funding for CTE Programs.

**Rules Coordinator:** Felicia Bechtoldt

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

**Telephone:** (503) 947-5801

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**Rule Caption:** STEM Hubs Grant

**Date:** 9-24-15  
**Time:** 1 p.m.  
**Location:** 255 Capitol St. NE, Rm. 200A  
Salem, OR

**Hearing Officer:** Emily Nazarov

**Stat. Auth.:** 2013 OL Ch. 661, Sec. 4 (Enrolled HB 3232)

**Stats. Implemented:** 2013 OL Ch. 661, Sec. 4 (Enrolled HB 3232)

**Proposed Amendments:** 581-017-0301, 581-017-0309, 581-017-0318

**Last Date for Comment:** 9-24-15, 2 p.m.

**Summary:** Introduces the definition of the education service district; includes additional entities eligible for the Regional STEM Hub Grant; clarifies additional partners that should be included in a Regional STEM Hub; establishes reporting of Regional STEM Hubs.

**Rules Coordinator:** Felicia Bechtoldt

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

**Telephone:** (503) 947-5801

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## Oregon Department of Education, Early Learning Division Chapter 414

**Rule Caption:** Registered Family Child Care Homes - Health

**Date:** 9-24-15  
**Time:** 1 p.m.  
**Location:** 255 Capitol St. NE, Rm. 200A  
Salem, OR

**Hearing Officer:** Emily Nazarov

**Stat. Auth.:** ORS 329A.260

**Stats. Implemented:** ORS 329A

**Proposed Amendments:** 414-205-0100

**Last Date for Comment:** 9-24-15, 1 p.m.

**Summary:** Establishes that effective July 1, 2015, no one under the influence of marijuana shall be on the family child care home premises during child care hours or when child care children are present;

# NOTICES OF PROPOSED RULEMAKING

highlights that no adult under the influence of medical marijuana shall have contact with child care children.

**Rules Coordinator:** Felicia Bechtoldt

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

**Telephone:** (503) 947-5801

.....

**Rule Caption:** Certified Family Child Care Homes Staff - General Requirements

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
9-24-15	1 p.m.	255 Capitol St. NE, Rm. 200A Salem, OR

**Hearing Officer:** Emily Nazarov

**Stat. Auth.:** ORS 329A.260

**Stats. Implemented:** ORS 329A

**Proposed Amendments:** 414-350-0090

**Last Date for Comment:** 9-24-15, 1 p.m.

**Summary:** Establishes that effective July 1, 2015, no one under the influence of marijuana shall be on the family child care home premises during child care hours or when child care children are present; highlights that no adult under the influence medical of marijuana shall have contact with child care children.

**Rules Coordinator:** Felicia Bechtoldt

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

**Telephone:** (503) 947-5801

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

**Rule Caption:** Specific Requirements; Extended Medical Assistance

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
9-15-15	10:30 a.m.	500 Summer St. NE, Rm. 160 Salem, OR 97301

**Hearing Officer:** Sandy Cafourek

**Stat. Auth.:** ORS 411.402, 411.404, 413.042, 414.534

**Other Auth.:** 42 CFR: 435.110, 435.112, 435.115, 435.116, 435.118, 435.403, 435.940, 435.1200, 457.80, 457.340, 458.350, 435.3, 435.4, 435.406, 435.407, 435.940, 435.952, 435.956, 435.1008, 457.320, 457.380, 435.940, 435.956, 435.406, 457.380, 435.117, 435.170, 435.190, 435.916, 435.917, 435.926, 435.952, 435.1200, 435.1205, 447.56, 457.340, 457.350, 457.360, 457.805, 433.145, 433.147, 433.148, 433.146, 435.610, 435.115, 435.403, 435.1200, 457.80, 457.340, 458.350, 435.119, 435.222, 435.118, 433.138, 433.147, 433.148, 435.602 435.608

**Stats. Implemented:** ORS 411.060, 411.095, 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 411.447, 413.032, 413.038, 414.025, 414.231, 414.534, 414.536, 414.706

**Proposed Amendments:** 410-200-0440

**Proposed Repeals:** 410-200-0440(T)

**Last Date for Comment:** 9-17-15, 5 p.m.

**Summary:** The Centers for Medicare and Medicaid Services (CMS) released guidance on 4/1/15 that section 1925 of the Social Security Act sunsetted on 03/31/15. Section 1925 of the Social Security Act allowed Oregon to provide 12 months of Transitional Medical Assistance (TMA - Oregon titled these benefits Extended Medical Assistance) for individuals who lose eligibility for Medicaid under section 1931 of the Social Security Act due to earnings. On 4/14/15, the Senate past HR 2, which the president signed into law. HR 2, in part, maintains section 1925 of the Social Security Act permanently.

**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:** Consolidation of Managed Care Organization Definitions into Chapter 410-120-0000 General Programs Definition Rule

**Stat. Auth.:** ORS 413.042

**Stats. Implemented:** ORS 413.042 & 414.065

**Proposed Amendments:** 410-120-0000

**Last Date for Comment:** 9-17-15, 5 p.m.

**Summary:** The Authority is amending this rule to remove duplicative language and consolidate definitions into one overarching definition rule. The Authority is moving several definitions from OAR 410-141-0000 to OAR 410-120-0000. The definitions being moved apply to general programs and are being consolidated in the Authority's general definition rule. Definitions applicable only to Managed Care Organizations are being retained in OAR 410-141-0000. Additional non-substantive edits are being made to correct formatting and punctuation and improve organization and readability.

**Rules Coordinator:** Sandy Cafourek

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

**Telephone:** (503) 945-6430

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**Rule Caption:** Consolidation of Managed Care Organization Definitions into Chapter 410-120-0000 General Programs Definition Rule

**Stat. Auth.:** ORS 413.042

**Stats. Implemented:** ORS 414.065

**Proposed Amendments:** 410-141-0000

**Last Date for Comment:** 9-17-15, 5 p.m.

**Summary:** The Authority is amending this rule to remove duplicative language and consolidate definitions into one overarching definition rule. The Authority is moving several definitions from OAR 410-141-0000 to OAR 410-120-0000. The definitions being moved apply to general programs and are being consolidated in the Authority's general definition rule. Definitions applicable only to Managed Care Organizations are being retained in OAR 410-141-0000. Additional non-substantive edits are being made to correct formatting and punctuation and improve organization and readability.

**Rules Coordinator:** Sandy Cafourek

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

**Telephone:** (503) 945-6430

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**Rule Caption:** Hospital Assessment Sunset Date Change; Update Language in Rules to Match Oregon Law

**Stat. Auth.:** ORS 413.042

**Stats. Implemented:** 2003 OL Ch. 736, Sec. 1-14, as amended by 2003 OL Ch. 736, Sec. 1-14, 2005 OL, Ch. 757, Sec. 1-2, 2007 OL, Ch. 780, Sec. 1-6, 2009 OL Ch. 828, Sec. 49-54, 2009 OL Ch. 867, Sec. 17-23, 2013 OL Ch. 608, Sec. 2-10 & Sec. 2, HB 2395, 2015 Regular Session.

**Proposed Amendments:** 410-050-0700, 410-050-0710, 410-050-0720, 410-050-0730, 410-050-0740, 410-050-0750, 410-050-0760, 410-050-0770, 410-050-0780, 410-050-0790, 410-050-0800, 410-050-0810, 410-050-0820, 410-050-0830, 410-050-0840, 410-050-0850, 410-050-0860, 410-050-0861, 410-050-0870

**Last Date for Comment:** 9-17-15, 5 p.m.

**Summary:** The Authority is amending OAR 410-050-0870 to extend the sunset date of the hospital assessment four more years, as required by the passage of House Bill 2395 (2015 Regular Session). The Authority is amending OARs 410-050-0700 through 410-050-0870 to change agency references from the Department of Human Services to the Oregon Health Authority and to change the word "tax" to "assessment" to be consistent with Oregon law. The Authority is amending OAR 410-050-0820 to conform to the agency's current practice for identifying a hospital's address and contact person for any notice required under the hospital assessment rules.

**Rules Coordinator:** Sandy Cafourek

# NOTICES OF PROPOSED RULEMAKING

**Address:** Oregon Health Authority, Division of Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301  
**Telephone:** (503) 945-6430

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**Rule Caption:** Update International Classification of Diseases Coding from ICD-9 to ICD-10

**Stat. Auth.:** ORS 413.042, 414.065 & 414.707

**Stats. Implemented:** ORS 414.025, 414.065, 414.152, 414.707 & 688.135

**Proposed Amendments:** 410-120-1280, 410-121-0185, 410-122-0020, 410-122-0205, 410-122-0330, 410-122-0400, 410-122-0662, 410-123-1260, 410-123-1620, 410-124-0000, 410-124-0020, 410-124-0060, 410-124-0063, 410-124-0065, 410-124-0070, 410-124-0080, 410-124-0090, 410-124-0100, 410-124-0105, 410-124-0120, 410-125-0045, 410-125-0141, 410-125-1080, 410-125-2020, 410-127-0040, 410-129-0060, 410-130-0160, 410-130-0190, 410-130-0562, 410-130-0585, 410-131-0080, 410-133-0040, 410-140-0040, 410-140-0120, 410-140-0260, 410-141-0480, 410-146-0040, 410-146-0085, 410-147-0040, 410-147-0120, 410-147-0500, 410-148-0020

**Last Date for Comment:** 9-17-15, 5 p.m.

**Summary:** Currently ICD-9 is the International Classification of Diseases that is used by providers to input diagnosis codes on claims. Effective October 1, 2015 the coding will change to ICD-10. The Authority needs to amend and update these rules to reflect the change to ICD-10. The transition to ICD-10 is required for everyone covered by the Health Insurance Portability and Accountability Act (HIPAA). The change to ICD-10 does not affect CPT coding for outpatient procedures and physician services.

**Rules Coordinator:** Sandy Cafourek

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

**Telephone:** (503) 945-6430

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## Oregon Health Authority, Health Licensing Office Chapter 331

**Rule Caption:** House Bill 2796 created the Music Therapy Program for licensing; rules establish criteria and fees.

Date:	Time:	Location:
9-28-15	9 a.m.	Health Licensing Office Rhoades Conference Rm. 700 Summer St. NE, Suite 320 Salem, OR 97301

**Hearing Officer:** Anne Thompson

**Stat. Auth.:** HB 2796 (2015)

**Stats. Implemented:** HB 2796

**Proposed Adoptions:** 331-300-0010, 331-300-0020, 331-310-0020, 331-310-0025, 331-310-0030, 331-320-0010, 331-320-0020, 331-330-0010, 331-340-0010

**Last Date for Comment:** 9-28-15, 11 a.m.

**Summary:** House Bill 2796 created the Music Therapy Program for licensing; rules establish criteria and fees.

**Rules Coordinator:** Samantha Patnode

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

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

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**Rule Caption:** Adds a pathway to polysomnography licensure for RPSGT credentialed individuals pursuant to HB 2305.

Date:	Time:	Location:
9-18-15	10 a.m.	Health Licensing Office Rhoades Conference Rm. 700 Summer St. NE, Suite 320 Salem, OR 97301

**Hearing Officer:** Samie Patnode

**Stat. Auth.:** ORS 676.615, 688.819, Oregon Law 2015 Ch. 78

**Stats. Implemented:** ORS 688.819, Oregon Law 2015 Ch.78

**Proposed Amendments:** 331-710-0050

**Last Date for Comment:** 9-28-15, 5 p.m.

**Summary:** The 2015 Legislature passed HB 2305 which allows applicants to obtain a polysomnographic technologist license if the applicant meets a combination of education or training as of March 1, 2013 and holds an active credential as a registered polysomnographic technologist (RPSGT) through the Board of Registered Polysomnographic Technologists (BRPT).

The proposed amendment would add an additional pathway to licensure for individuals who have obtained the RPSGT credential through the BRPT either before or after meeting the combined education and training requirements established by the BRPT as of March 1, 2013. This will allow individuals who are coming into Oregon from other states where there is no licensing requirements for polysomnography to obtain licensure in Oregon without have to retake the RPSGT examination or be supervised for 18 months.

The proposed rule also requires information be sent directly to the Health Licensing Office from the BRPT including examination results and completion of education and training.

**Rules Coordinator:** Samantha Patnode

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

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

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## Oregon Health Authority, Health Licensing Office, Behavior Analysis Regulatory Board Chapter 824

**Rule Caption:** Senate Bill 696 changed Behavior Analysis Regulatory Board, and who the board licenses and registers.

Date:	Time:	Location:
9-30-15	9 a.m.	Health Licensing Office Rhoades Conf. Rm. 700 Summer St. NE Suite 320 Salem 97301

**Hearing Officer:** Anne Thompson

**Stat. Auth.:** ORS 676.800 & SB 696 (2015)

**Stats. Implemented:** ORS 676.800 & SB 696 (2015)

**Proposed Adoptions:** 824-035-0005

**Proposed Amendments:** 824-010-0005, 824-030-0010, 824-0030-0020, 824-030-0040, 824-040-0010, 824-050-0010, 824-040

**Proposed Repeals:** 824-010-0010, 824-010-0020, 824-010-0030, 824-010-0040, 824-020-0010, 824-020-0020, 824-020-0030, 824-030-0030

**Last Date for Comment:** 9-30-15, 11 a.m.

**Summary:** Senate Bill 696 changed the Behavior Analysis Regulatory Board, and who the board licenses and registers. It directed the board to adopt rules to license behavior analysts and assistant behavior analysts and directed the Health Licensing Office to establish rules for registration of behavior analysis interventionists. These rules amend those established under ORS 676.800 and meet the requirements of SB 696.

**Rules Coordinator:** Samantha Patnode

**Address:** Health Licensing Office, Behavior Analysis Regulatory Board, 700 Summer St. NE, Suite 320, Salem, OR 97301

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

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

**Rule Caption:** Amends and clarifies capitol project reporting requirements for Oregon hospitals.

**Stat. Auth.:** ORS 442.362

**Stats. Implemented:** ORS 442.361, 442.362 & 442.991

**Proposed Amendments:** 409-024-0000, 409-024-0110, 409-024-0120, 409-024-0130

**Last Date for Comment:** 9-22-15, 5 p.m.

**Summary:** The Oregon Health Authority is filing a rule amendment to clarify the definition "Reporting Entity" includes any Type A,

# NOTICES OF PROPOSED RULEMAKING

Type B, and DRG hospital that is certified as a critical access hospital by the Centers for Medicare and Medicaid Services. "Oregon Health Policy and Research" is being changed to "Oregon Health Authority" to align with the current organizational structure.

**Rules Coordinator:** Zarie Haverkate

**Address:** Oregon Health Authority, Office for Oregon Health Policy and Research, 500 Summer St. NE, E-65, Salem, OR 97301  
**Telephone:** (503) 931-6420

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

**Rule Caption:** Update of Radiation Protection Service's X-ray and radioactive materials program administrative rules

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
9-22-15	10 a.m.	Portland State Office Bldg. 800 NE Oregon St., Rm. 615 Portland, OR 97232

**Hearing Officer:** Jana Fussell

**Stat. Auth.:** ORS 453.605–453.807

**Stats. Implemented:** ORS 453.605–453.807

**Proposed Adoptions:** 333-102-0033, 333-102-0102, 333-102-0104, 333-125-0001, 333-125-0005, 333-125-0010, 333-125-0015, 333-125-0020, 333-125-0025, 333-125-0030, 333-125-0035, 333-125-0040, 333-125-0045, 333-125-0050, 333-125-0055, 333-125-0060, 333-125-0065, 333-125-0070, 333-125-0075, 333-125-0080, 333-125-0085, 333-125-0090, 333-125-0095, 333-125-0100, 333-125-0105, 333-125-0110, 333-125-0115, 333-125-0120, 333-125-0125, 333-125-0130, 333-125-0135, 333-125-0140, 333-125-0145, 333-125-0150, 333-125-0155, 333-125-0165, 333-125-0170, 333-125-0175, 333-125-0180, 333-125-0185, 333-125-0190, 333-125-0195, 333-125-0200

**Proposed Amendments:** 333-100-0005, 333-102-0005, 333-102-0015, 333-102-0025, 333-102-0030, 333-102-0035, 333-102-0075, 333-102-0101, 333-102-0190, 333-102-0200, 333-102-0203, 333-102-0235, 333-102-0285, 333-102-0290, 333-102-0293, 333-102-0305, 333-102-0310, 333-103-0005, 333-105-0420, 333-106-0055, 333-106-0325, 333-116-0680, 333-118-0040, 333-118-0190, 333-120-0710

**Proposed Repeals:** 333-102-0105, 333-120-0800

**Proposed Renumberings:** 333-102-0103 to 333-102-0106

**Last Date for Comment:** 9-22-15, 5 p.m.

**Summary:** The Oregon Health Authority, Public Health Division, Center for Health Protection is proposing to amend, repeal and adopt Oregon Administrative Rules related to the radioactive material licensing and X-ray programs within Radiation Protection Services (RPS).

The Radioactive Materials Licensing (RML) program is proposing to adopt and amend rules for compatibility with the Nuclear Regulatory Commission's regulations 10 CFR parts 20 through 71 within divisions 100, 102, 105, 116, 118, 120, and proposed division 125. The X-ray program is amending rules OAR 333-103-0005, 333-106-0055 and 333-106-0325.

Proposed rules in division 101 are to adopt additional definitions, division 102 is amended to further clarify exempt quantities and general licensing requirements of by-product and source materials. OAR 333-103-0005 is being amended to reflect a 25% fee increase relating to X-ray device registration fees as directed by Senate Bill 228 (Oregon Laws 2015, chapter 778), passed during the 2015 legislative session. Division 105 is being amended to update the address of the American National Standards Institute. Division 106 is being amended by providing better clarity relating to X-ray operator requirements and to repeal the requirement that patients being exposed to radiation from a dental X-ray device are not required to be provided a leaded apron or thyroid collar. OAR 333-116-0680 is being amended by revising one rule title for better clarity. OAR 333-118-0040, Transportation Exemptions, is being revised to meet federal compatibility requirements relating to the transportation of by-

product materials. Division 120 is amended to correct rule cross references and correct an error relating to shallow dose equivalent to the skin.

Within division 120, OAR 333-120-0800, Report of Transactions Involving Nationally Tracked Sources, is being repealed and moved to the proposed division 125. Proposed division 125 is being adopted to meet the Nuclear Regulatory Commission's requirement to have rules developed in order to be compatible with the Physical Protection of Category 1 and Category 2 Quantities of Radioactive Materials federal regulations.

**Rules Coordinator:** Brittany Sande

**Address:** Oregon Health Authority, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232  
**Telephone:** (971) 673-1291

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**Rule Caption:** Update the reference to the current School-Based Health Center (SBHC) Standards for Certification Manual

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
9-22-15	2:30 p.m.	Portland State Office Bldg. 800 NE Oregon St., Rm. 705 Portland, OR 97232

**Hearing Officer:** Jana Fussell

**Stat. Auth.:** ORS 413.223

**Stats. Implemented:** ORS 413.223 & 413.225

**Proposed Amendments:** 333-028-0220

**Proposed Repeals:** 333-028-0220(T)

**Last Date for Comment:** 9-22-15, 5 p.m.

**Summary:** The Oregon Health Authority (OHA), Public Health Division is proposing to revise the version of the School-Based Health Center (SBHC) Standards for Certification that is currently referenced in OAR chapter 333, division 28. The 2014 SBHC Standards for Certification reflect the required elements that SBHCs must meet to be certified by OHA as a School-Based Health Center. Local Public Health Authorities (LPHA) are currently being held to the 2014 Standards for Certification for their currently certified SBHCs and/or planning grantees. This change would allow the rules to reflect the current practice in the field.

**Rules Coordinator:** Brittany Sande

**Address:** Oregon Health Authority, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232  
**Telephone:** (971) 673-1291

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**Rule Caption:** Environmental Laboratory Accreditation to Implement Marijuana Testing

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
9-24-15	11 a.m.	Portland State Office Bldg. 800 NE Oregon St., Suite 918 Portland, OR 97232

**Hearing Officer:** Jana Fussell

**Stat. Auth.:** ORS 438.605–438.620, 448.131, 448.150(1), 448.280(1)(b) & (2) & 2015 OL Ch. 614

**Stats. Implemented:** ORS 438.605–438.620, 448.280(1)(b) & (2) & 2015 OL Ch. 614

**Proposed Amendments:** 333-064-0005, 333-064-0010, 333-064-0025, 333-064-0060

**Last Date for Comment:** 9-24-15, 5 p.m.

**Summary:** The Oregon Health Authority, Public Health Division, Oregon State Public Health Laboratory is proposing to permanently amend administrative rules in chapter 333, division 64 pertaining to environmental laboratory accreditation to implement marijuana testing as a result of the passage of HB 3400 (Oregon Laws 2015, chapter 614). The Oregon Environmental Laboratory Accreditation Program (ORELAP) is a fee based program that accredits laboratories by Matrix-Technology/Method-Analyte. In order for ORELAP to accredit laboratories testing marijuana pursuant to licensure through the Oregon Liquor Control Commission (OLCC), the rule amendments will expand the scope of accreditation by means of adding advanced technology field of testing, defining matrix to

# NOTICES OF PROPOSED RULEMAKING

include cannabinoid products, concentrates or extracts and establishing and collecting the correlating fees for service.

**Rules Coordinator:** Brittany Sande

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

**Telephone:** (971) 673-1291

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**Rule Caption:** Drinking Water Services fee increases necessary to maintain the agency's current level of service

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
9-22-15	9 a.m.	Deschutes County Services Bldg. 1300 NW Wall St., DeArmond Rm. Bend, OR 97701

9-23-15	2 p.m.	800 NE Oregon St., Rm. 1D Portland, OR 97232
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9-29-15	11 a.m.	Springfield Public Library 225 5th St. Springfield, OR 97477
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**Hearing Officer:** Shannon O'Fallon, Jana Fussell

**Stat. Auth.:** ORS 448.131, 448.150, 448.450 & 448.279

**Stats. Implemented:** ORS 448.115, 448.131, 448.150, 448.278, 448.279, 448.450 & 448.465

**Proposed Amendments:** 333-061-0060, 333-061-0072, 333-061-0073, 333-061-0076, 333-061-0265

**Last Date for Comment:** 9-30-15, 5 p.m.

**Summary:** The Oregon Health Authority (Authority), Public Health Division is proposing to permanently amend Oregon Administrative Rules in chapter 333, division 61 relating to the fees for certification of backflow assembly testers, cross connection specialists and water system operators as well as for reviewing construction plans and inspection of public water systems.

Current fees were set in 1994, 2006 and 2008 and are no longer sufficient to support the current level of service provided by the Authority. The proposed fees were approved by the 2015 Legislature as part of the Oregon Health Authority budget, and will allow the Authority to continue to provide the current level of service for certifying and renewing certifications for water system operators and backflow device testers/specialists, reviewing and approving construction plans, and inspecting public water systems.

The Authority anticipates that the proposed fee increases will be effective January 1, 2016, as approved by the 2015 Legislature.

**Rules Coordinator:** Brittany Sande

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

**Telephone:** (971) 673-1291

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**Rule Caption:** International Classification of Diseases, Tenth Revision, Clinical Modification (ICD-10-CM)

**Stat. Auth.:** ORS 413.042

**Stats. Implemented:** ORS 413.032, 413.042 & 431.250

**Proposed Amendments:** 333-004-0080, 333-010-0140, 333-010-0240, 333-010-0245

**Last Date for Comment:** 9-22-15, 5 p.m.

**Summary:** The Oregon Health Authority, Public Health Division is proposing to permanently amend rules in chapter 333, divisions 004 (Oregon ContraceptiveCare (CCare)) and 010 (Breast and Cervical Cancer Program and WISEWOMAN) to update reference to the International Classification of Diseases (ICD) from the Ninth Revision (ICD-9) to the Tenth Revision, Clinical Modification (ICD-10-CM).

**Rules Coordinator:** Brittany Sande

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

**Telephone:** (971) 673-1291

## Oregon Liquor Control Commission Chapter 845

**Rule Caption:** Clarifies proof of compliance and adds a graduated sanction schedule.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
9-22-15	10 a.m.	9079 SE McLoughlin Blvd. Portland OR 97222

**Hearing Officer:** Bryant Haley

**Stat. Auth.:** ORS 183.430 & 471, 471.030, 471.040, 471.168, 471.313, 471.315 & 471.730(1) & (5)

**Stats. Implemented:** ORS 471.168(5), 471.313(2) & 471.315(1)(a)(C)

**Proposed Amendments:** 845-005-0400

**Last Date for Comment:** 10-6-15, 5 p.m.

**Summary:** Under ORS 471.168, certain licensees must maintain liquor liability insurance or a bond that provides coverage for personal injuries caused by intoxicated persons served alcoholic beverages on the licensed premises while visibly intoxicated.

The current rule fails to adequately define proof of compliance during licensure or clearly distinguish between the Commission's authority to immediately suspend license privileges and its authority to sanction a licensee for past failure to comply. It also classifies all coverage gaps, regardless of their duration, as Category I violations.

The amendments: (1) Restructure the rule; (2) Clarify "proof of compliance" requirements; (3) Clearly distinguish between the Commission's authority to immediately suspend license privileges and its authority to sanction licensees; (4) Establish a graduated sanction schedule; and (5) Address seasonal and temporary closures.

**Rules Coordinator:** Bryant Haley

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

**Telephone:** (503) 872-5136

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## Oregon Racing Commission Chapter 462

**Rule Caption:** Rule to govern Pick (n) Jackpot wager with unique ticket jackpot.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
9-17-15	11 a.m.	800 NE Oregon St., Rm. 1A Portland, OR 97232

**Hearing Officer:** Charles Williamson

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

**Stats. Implemented:** ORS 462.270(3)

**Proposed Adoptions:** 462-200-0645

**Last Date for Comment:** 9-17-15, 11 a.m.

**Summary:** The Pick (n) Jackpot is a type of bet encompassing four or more races, the exact number of races being determined by the number substituted for (n), where, unless otherwise provided, only one, unique ticket holder designates the official winners in each of the Pick (n) Jackpot races.

**Rules Coordinator:** Karen Parkman

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

**Telephone:** (971) 673-0208

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## Oregon Youth Authority Chapter 416

**Rule Caption:** OYA is now considered a "criminal justice agency" when conducting criminal records checks.

**Stat. Auth.:** ORS 420A.021

**Stats. Implemented:** ORS 420A.010, 420A.020, 420A.021 & 181.557

**Proposed Amendments:** 416-800-0000, 416-800-0010, 416-800-0020, 416-800-0031, 416-800-0041, 416-800-0045, 416-800-0050, 416-800-0055, 416-800-0065, 416-800-0070, 416-800-0080, 416-800-0090, 416-800-0095

# NOTICES OF PROPOSED RULEMAKING

**Last Date for Comment:** 10-2-15, Close of Business  
**Summary:** OYA is now considered a “criminal justice agency” for purposes of conducting criminal records checks. As a result, a subject individual no longer has the right to a contested case hearing to challenge a fitness determination. However, OYA Foster Care Providers and Foster Care Provider applicants may still appeal a fitness determination by requesting a contested case hearing.  
**Rules Coordinator:** Winifred Skinner  
**Address:** Oregon Youth Authority, 530 Center St. NE, Suite 200, Salem, OR 97301-3765  
**Telephone:** (503) 373-7570

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**Rule Caption:** OYA is adopting the January 2015 Interstate Commission for Juvenile rules by reference.  
**Stat. Auth.:** ORS 420A.025  
**Stats. Implemented:** ORS 417.010–417.080  
**Proposed Amendments:** 416-115-0025  
**Last Date for Comment:** 10-2-15, Close of Business  
**Summary:** OYA is updating its Standards for Juvenile Interstate Transfer of Supervision by adopting the most current version of the Interstate Commission for Juveniles’ rules that were effective January 1, 2015.  
**Rules Coordinator:** Winifred Skinner  
**Address:** Oregon Youth Authority, 530 Center St. NE, Suite 200, Salem, OR 97301-3765  
**Telephone:** (503) 373-7570

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**Rule Caption:** Clarifying authorized representative for purposes of issuing an APB or arrest order on youth offenders.  
**Stat. Auth.:** ORS 420A.025  
**Stats. Implemented:** ORS 420.905, 420.915  
**Proposed Amendments:** 416-320-0010, 416-320-0020, 416-320-0030  
**Last Date for Comment:** 10-2-15, Close of Business  
**Summary:** The amendments clarify who is a superintendent’s authorized representative when issuing an all-points-bulletin or arrest order on youth offenders in the community or who may have escaped from close custody. Also updates definitions and Oregon statute references.  
**Rules Coordinator:** Winifred Skinner  
**Address:** Oregon Youth Authority, 530 Center St. NE, Suite 200, Salem, OR 97301-3765  
**Telephone:** (503) 373-7570

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## **Real Estate Agency Chapter 863**

**Rule Caption:** This notice relates to establishing a condominium filing review hourly rate.  
**Stat. Auth.:** ORS 100.670  
**Stats. Implemented:** ORS 100.670  
**Proposed Adoptions:** 863-060-0011  
**Last Date for Comment:** 9-14-15, 5 p.m.  
**Summary:** The Oregon Real Estate Agency currently has the following statutory authority:  
ORS 100.670 Fees; hourly rate; deposit. (1) A developer or other person required to file materials or information with the Real Estate Commissioner under ORS 100.005 to 100.910 shall pay to the commissioner a fee as required under subsections (2) and (3) of this section for the review, approval and handling of the filings by the commissioner at the time of the initial filing with the commissioner.  
(2) A fee charged by the commissioner under subsection (1) of this section shall be determined by the commissioner to cover the costs of the commissioner’s review, approval or revision activity. The fee shall be based upon an hourly rate that is subject to prior approval of the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fee and shall be

within the budget authorized by the Legislative Assembly as that budget may be modified by the Emergency Board.

(3) The commissioner shall collect a deposit of \$100 from a developer at the time of submitting a filing described in subsection (1) of this section. The amount of the deposit shall be deducted from the final fee computed as provided in subsection (2) of this section. [Formerly 94.354; 1991 c.703 §3]

As defined in subsection (2), the fee shall cover the costs of the review and approval. Currently, our fee of \$46/per hour has not been changed in at least 10 years. There is no record of how that fee was established. It does not cover the costs of the review and approval.

The Real Estate Agency will make clear in rule the hourly rate that captures the costs of the duties charged with condominium review, approval or revision activity.

Suggested language for rule:  
863-060-0011

Condominium Filing Review Fee

The hourly fee for review, approval or revision activities related to materials or information filed by a developer or other person with the Real Estate Commissioner under ORS 100.005 to 100.910 is two hundred dollars (\$200) per hour. The effective date of this rule is October 1, 2015.

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

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

**Rule Caption:** Amends requirements necessary to attain Oregon voting system certification  
**Stat. Auth.:** ORS 246.150  
**Stats. Implemented:** ORS 246.550  
**Proposed Amendments:** 165-007-0350  
**Last Date for Comment:** 9-30-15, 5 p.m.  
**Summary:** The proposed rule amendment specifies the process and designates the form by which a person or company would apply to the Secretary of State for certification or provide notification of any changes or modifications of a voting machine or vote tally system. Additionally this proposed amendment clarifies the standards the voting machine or vote tally system must adhere to and incorporates them into Appendix 1.  
**Rules Coordinator:** Brenda Bayes  
**Address:** Secretary of State, Elections Division, 255 Capitol St. NE, Suite 501, Salem, OR 97310  
**Telephone:** (503) 986-1518

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**Veterinary Medical Examining Board  
Chapter 875**

**Rule Caption:** Implements HB2474 (facility registration). Text on Board’s website following 8/20/15 advisory committee meeting and recommendations.  
**Stat. Auth.:** ORS 686.210  
**Stats. Implemented:** ORS 686.075  
**Proposed Adoptions:** 875-010-0031  
**Last Date for Comment:** 09-30-15, Close of Business  
**Summary:** Implements HB2474 (facility registration). Text on Board’s website following 8/20/15 advisory committee meeting and recommendations.  
**Rules Coordinator:** Lori V. Makinen  
**Address:** Veterinary Medical Examining Board, 800 NE Oregon St., Suite 407, Portland, OR 97232  
**Telephone:** (971) 673-0224

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**Rule Caption:** Implements HB2474 (facility registration). Text on Board’s website following 8/20/15 advisory committee meeting and recommendations.

## NOTICES OF PROPOSED RULEMAKING

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**Stat. Auth.:** ORS 686.210

**Stats. Implemented:** ORS 475.190, 609.405, 686.130, 686.255 & 686.510, 686.020, 686.045 & 686.065, 686.045 & 686.065, 686.110 & 686.255, 686.130, 686.040, 686.020 & 686.130, 686.130, 686.040 & 686.370

**Proposed Amendments:** 875-005-0010, 875-010-0000, 875-010-0006, 875-010-0065, 875-010-0095, 875-011-0005, 875-011-0010, 875-015-0005, 875-015-0020, 875-015-0030

**Last Date for Comment:** 10-9-15 Close of Business

**Summary:** Implements HB2474 (registration and inspection of veterinary facilities). Text will be posted on Board's website following 8/20/15 rule advisory committee meeting and recommendations.

**Rules Coordinator:** Lori V. Makinen

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

**Telephone:** (971) 673-0224

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**Rule Caption:** Implements HB 2475 (cite and fine authority). Text to be available on Board's website by mid-September.

**Stat. Auth.:** ORS 686.210

**Stats. Implemented:** ORS 686.130

**Proposed Adoptions:** 875-011-0012

**Last Date for Comment:** 10-9-15, Close of Business

**Summary:** Implements Board authority under HB2475 to issue citations of civil penalties in-lieu-of discipline for minor, administrative violations of the Veterinary Practice Act that do not involve harm to patients or the public.

**Rules Coordinator:** Lori V. Makinen

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

**Telephone:** (971) 673-0224

# ADMINISTRATIVE RULES

## Appraiser Certification and Licensure Board Chapter 161

**Rule Caption:** Adopts 2015–2017 biennium budget  
**Adm. Order No.:** ACLB 2-2015  
**Filed with Sec. of State:** 7-24-2015  
**Certified to be Effective:** 7-24-15  
**Notice Publication Date:** 7-1-2015  
**Rules Amended:** 161-006-0025  
**Subject:** Amends Oregon Administrative Rule 161, Division 6, Rule 0025 regarding the agency budget.  
**Rules Coordinator:** Gae Lynne Cooper—(503) 485-2555

### 161-006-0025 Budget

The Board hereby adopts by reference the Board's 2015–2017 Biennium Budget of \$1,763,229 covering the period from July 1, 2015 through June 30, 2017. The Board will amend budgeted accounts as necessary within the approved budget of \$1,763,229 for the effective operation of the Board. The Board will not exceed the approved 2015-2017 Biennium Budget without amending this rule, notifying holders of licenses, and holding a public hearing thereon as required by ORS Chapter 182.462(1)(2). Copies of the budget are available from the Board's office, or the Board website.

Stat. Auth.: ORS 674.305(8) & 674.310  
Stats. Implemented: ORS 674

Hist.: ACLB 4-2001(Temp), f. & cert. ef. 9-12-01 thru 3-1-02; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 1-2003(Temp), f. & cert. ef. 1-14-03 thru 7-11-03; ACLB 3-2003, f. & cert. ef. 5-1-03; ACLB 4-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03; ACLB 5-2003, f. & cert. ef. 11-10-03; ACLB 2-2005(Temp), f. 6-16-05, cert. ef. 7-1-05 thru 12-28-05; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 2-2007(Temp), f. 6-6-07, cert. ef. 7-1-07 thru 11-30-07; BOC 1-2007, f. 10-31-07, cert. ef. 11-1-07; ACLB 3-2009(Temp), f. 5-15-09, cert. ef. 7-1-09 thru 11-30-09; ACLB 4-2009, f. & cert. ef. 10-27-09; ACLB 1-2011(Temp), f. 5-2-11, cert. ef. 7-1-11 thru 11-30-11; ACLB 3-2011, f. & cert. ef. 11-17-11; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13; ACLB 1-2013, f. 1-30-13, cert. ef. 1-31-13; ACLB 2-2013(Temp), f. 6-12-13, cert. ef. 7-1-13 thru 12-26-13; ACLB 4-2013, f. 10-29-13, cert. ef. 11-15-13; ACLB 5-2014, f. 12-19-14, cert. ef. 1-1-15; ACLB 1-2015(Temp), f. 6-4-15, cert. ef. 7-20-15 thru 8-17-15; ACLB 2-2015, f. & cert. ef. 7-24-15

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## Board of Parole and Post-Prison Supervision Chapter 255

**Rule Caption:** Amends definition of “victim” for the Board hearings and processes; expands current definition.  
**Adm. Order No.:** PAR 2-2015  
**Filed with Sec. of State:** 7-28-2015  
**Certified to be Effective:** 7-28-15  
**Notice Publication Date:** 7-1-2015  
**Rules Amended:** 255-005-0005  
**Subject:** Amends definition of “victim” for Board hearings and processes; expands current definition.  
**Rules Coordinator:** Shawna Harnden—(503) 945-0914

### 255-005-0005 Definitions

- (1) “Abscond”: Unauthorized absence from parole or post-prison supervision.
- (2) “Active Community Supervision”: A period of supervision in the community, requiring the supervising officer's regular contact and monitoring to assure that the supervisee complies with the conditions of parole or post-prison supervision, has committed no new crimes and has paid restitution, attorney fees, and compensatory fines, if required.
- (3) “Active Supervision”: Supervision requiring the supervising officer's regular contact and monitoring to assure continued compliance with the general and special conditions of parole or post-prison supervision. “Active Supervision” shall not include:
  - (a) The period of confinement in a local, state, or federal correctional facility while serving on parole or post-prison supervision;
  - (b) The period of time between the suspension of parole or post-prison supervision and the date parole or post-prison supervision is continued;
  - (c) Inactive parole or inactive post-prison supervision;
  - (d) Involuntary commitment to a state or federal psychiatric facility.
- (4) “Administrative Sanction”: Local, structured, or intermediate sanctions as those terms used in OAR 291-058-0010 et al, and may include periods of local confinement in jails, restitution centers, treatment facilities, or similar facilities.

(5) “Aggravation”: The factors or elements surrounding the crime which appear to increase the seriousness of the criminal episode or reflect on the character of the offender pursuant to Exhibit E-1 and E-3.

(6) “BAF”: A Board order after a decision called a “Board Action Form”.

(7) “Base Range”: The range for each crime category reflected in Exhibit C under the “excellent” column.

(8) “Board”: Board of Parole and Post-Prison Supervision.

(9) “Board Review Packet”: The information the Board shall consider at the inmate's hearing. Each of the Divisions which establishes a hearing shall list the contents of the packet.

(10) “Compensatory Fines”: A court-imposed penalty for the commission of a crime resulting in injury for which the person injured has a remedy by civil action (unless the issue of punitive damages has been previously decided on a civil case arising out of the same act and transaction). The court may award compensatory fines in addition to restitution.

(11) “Correctional Facility”: Any place used for the confinement of persons charged with or convicted of a crime or otherwise confined under a court order. Correctional Facility includes a juvenile facility, if the juvenile is confined for a felony charge or conviction, and applies to a state hospital only as to persons detained therein after acquittal of a crime by reason of mental disease or defect or after a finding of guilty except for insanity.

(12) “Crime Severity Rating”: A classification for crimes committed prior to November 1, 1989, from a low of one (1) to a high of seven (7) assigned to each crime, based on the seriousness of the crime pursuant to Exhibits A-I, A-II, and A-III.

(13) “Crime Spree”: A set of criminal activities congruent in time or actually overlapping that are so joined by place and circumstances as to be the product of a continuous disposition or intent.

(14) “Date of Return”: The date another in-state or out-of-state jurisdiction physically returns the inmate to the Department of Corrections' custody following a hold.

(15) “De Novo Hearing”: A new initial prison term hearing, required when a court orders additional consecutive sentences for crimes which occurred prior to the first prison term hearing.

(16) “Escape”:

(a) The unlawful or unauthorized departure from custody, a correctional facility or any form of temporary release or transitional leave;

(b) Includes the unauthorized departure or absence from this state or failure to return to this state by a person who is under the jurisdiction of the Psychiatric Security Review Board;

(c) Does not include failure to comply with provisions of a conditional or security release as in ORS 135.245.

(17) “Future Disposition Hearing”: A hearing the Board may set at its discretion for purposes of deciding whether to deny or grant re-release for a violation of parole or post-prison supervision when authorized by law.

(18) “Gang Member”: A person who associates with a group which identifies itself through the use of a name, unique appearance, language (including hand signs), the claiming of geographical territory, or the espousing of a distinctive belief system and one of the purposes of the group is criminal activity.

(19) “Gang-Related Activity”: Crime committed by a gang member:

(a) With other known gang members;

(b) Against other known gang members; or

(c) Against a person who is not a gang member; in order to further the purposes of the gang or impress other gang members.

(20) “History/Risk Score”: A rating from a high of eleven (11) to a low of zero (0) points, reflecting the prisoner's prior record and other factors which predict the likelihood of success on parole pursuant to Exhibit B, Part I and Part II.

(21) “Inactive Parole and “Inactive Post-Prison Supervision”: The offender remains under supervision however;

(a) There is no direct supervision by a supervising officer and no requirement of regular reporting;

(b) There are no additional supervision fees; and

(c) The offender remains subject to arrest by a supervising officer for violation of conditions of supervision and return to active supervision at any time until expiration of the sentence or post-prison supervision term as outlined in Division 94; and

(d) (b) and (c) do not apply to those offenders being supervised in another state via Interstate Compact. Those offenders remain on active parole or post-prison supervision.

(22) “In Camera Hearing”: The inspection of a document by the Hearings Officer in private before the document may be introduced as evidence.

## ADMINISTRATIVE RULES

(23) "Initial Parole Release Date": The date, by month, day and year, assigned to a prisoner for parole release based on the prisoner's matrix range, aggravation, mitigation, and judicially imposed minimum sentence(s).

(24) "Inmate": Any person under the supervision of the Department of Corrections or a local supervisory authority who is not on parole, post-prison supervision or probation status (also referred to as prisoner).

(25) "Inoperative Time": Time spent on abscond, escape, or unauthorized departure from custody, leave, parole or post-prison supervision, which does not count toward service of the sentence.

(26) "Intensive Supervision": means enhanced level of supervision exceeding a county's high risk level supervision standards. Intensive supervision may include, but not be limited to, electronic monitoring, house arrest, curfew, day reporting, supervised housing, multiple supervising officers, adjunct surveillance by law enforcement or other specialists, increased face-to-face offender contacts in the community, increased collateral contacts (such as with family, therapist and employer), community notification, geographic restrictions, offender mileage logs, medication monitoring (such as depo provera, psychotropics, antabuse), intensive outpatient or residential treatment programming, urinalysis, and polygraph.

(27) "Less Than the Sum of the Terms": An action by the Board whereby one or more of the consecutive ranges are treated as if they are concurrent.

(28) "Mail Date" or "Mailed on Date": Is the date from which the Board calculates the timelines of receipt of Administrative Review Requests and other time sensitive responses. The date is computer generated and scheduled to insure actual mailing occurred on or before the listed date.

(29) "Matrix Ranges": Ranges of months within which the Board has the discretion to set a prison term. The ranges are based on crime severity ratings and history/risk scores.

(30) "The Matrix": A table which displays the matrix ranges by showing the intersection of the crime severity rating and the history/risk score pursuant to Exhibit C.

(31) "Mitigation": The factors or elements surrounding the crime which appear to decrease the seriousness of the criminal episode or reflect on the character of the prisoner pursuant to Exhibit E-2 and E-3.

(32) "Offender": Any person under the supervision of the Department of Corrections or a local supervisory authority who is not presently in the custody of a correctional facility, including persons on probation, parole or post-prison supervision.

(33) "Parole": Applies to offenders whose crime(s) were committed before November 1, 1989. A Board authorized conditional release from a state correctional facility into the community or to a detainee.

(34) "Particularly Violent or Otherwise Dangerous Criminal Conduct": Conduct which is not merely unpleasant or offensive, but which is indifferent to the value of human safety or property.

(35) "Parole Board Record": The file the Board maintains for each inmate/offender containing the information listed in ORS 144.185.

(36) "Period Under Review": Under Division 40, the time already served on the prison term, normally the three (3) or (5) year period prior to the personal review hearing.

(37) "Post-Prison Supervision": Applies to crimes committed on or after November 1, 1989. A term, as set by statute or the court under the supervision of the Department of Corrections or a correctional agency designated by the Department or a local supervisory authority.

(38) "Principal Range": The range of months for the crime holding the highest crime severity rating. When the ranges are the same, the Board shall designate one range as the principal range.

(39) "Preponderance": Evidence which is of greater weight or more convincing than the evidence offered in opposition to it.

(40) "Probable Cause": A substantial objective basis for believing that more likely than not an offense or violation has been committed and the person to be arrested has committed it.

(41) "Prison Term": The Board established time the inmate must serve before the initial parole release date, in accordance with applicable laws and the Board's Administrative Rules.

(42) "Prison Term Hearing": The hearing at which the Board establishes an inmate's prison term and initial parole release date.

(43) "Revocation": An action by a Sanction Authority to terminate an offender's parole or post-prison supervision. Sanction Authority may resume an offender's parole or post-prison supervision following the act of revocation.

(44) "Revocation Hearing": A hearing to determine whether a violation of conditions of parole or post-prison supervision occurred and

whether the Hearings Officer should recommend that the parolee or offender return to custody or continue on parole or post-prison supervision with additional conditions. (Commonly known as a Morrissey Hearing)

(45) "Sanction Authority": Means the Board for felony offenders sentenced by the court for crimes occurring before November 1, 1989, or sentenced to more than 12 months in the custody of the Department of Corrections or sentenced to 12 months or less and have additional sentences of greater than 12 months; and the Local Supervisory Authority for felony offenders sentenced by the court to 12 months or less.

(46) "Sexually Violent Dangerous Offender": means an inmate/offender who has psychopathic personality features, sexually deviant arousal patterns or interests and a history of sexual assault, and who the Board or Local Supervisory Authority finds presents a substantial probability of committing an offense listed in OAR 255-060-0008(6). "History of sexual assault" means that an inmate/offender has engaged in unlawful sexual conduct that is not revealed to the crime for which the inmate/offender is currently on parole or post-prison supervision and seriously endangered the life or safety of another person or involved a victim under twelve (12) years of age.

(47) "Serious Physical Injury": Any physical injury which creates a substantial risk of death, or which causes serious and protracted disfigurement, or impairment of health or protracted loss or impairment of the function of any bodily organ.

(48) "Stranger": A person who is either unknown to a victim or with whom the victim has a superficial acquaintance or acquaintance of short duration or infrequent contact.

(49) "Subcategory": The criteria for rating criminal conduct within the crime categories based on the seriousness of the offense (Exhibit A).

(50) "Subordinate Range": Any range less than or equal to the principal range.

(51) "Subpoena Duces Tecum": A subpoena requiring the party to appear at a hearing with a document or piece of evidence to be examined at the hearing.

(52) "Summing the Ranges": Adding ranges of consecutive sentences to produce a unified range pursuant to OAR 255-035-0021.

(53) "Supervising Officer": Parole and post-prison supervision officer.

(54) "Supervisory Authority": The state or local corrections agency or official designated in each county by that county's Board of County Commissioners or County Court to operate correction supervision services, custodial facilities, or both (per ORS 144.087(1)).

(55) "Unauthorized Absence": Time spent outside a state correctional facility without Department of Corrections' or local supervisory authority's authorization, whether it is an escape or an unauthorized departure.

(56) "Unified Range": The total range computed under OAR 255-035-0021 for consecutive sentences.

(57) "Unsum the Ranges": To establish a matrix range at less than the unified range. The effect of unsumming is treatment of one or more ranges as if concurrent.

(58) "Variations": The time periods which the Board may use to set a prison term above or below the matrix range pursuant to Exhibit D.

(59) "Victim":

(a) Any person determined by the prosecuting attorney, the court or the Board to have suffered direct financial, psychological, or physical harm as a result of a crime that is the subject of a proceeding conducted by the State Board of Parole and Post-Prison Supervision.

(b) Any person determined by the Board to have suffered direct financial, social, psychological, or physical harm as a result of some other crime connected to the crime that is the subject of a proceeding conducted by the State Board of Parole and Post-Prison Supervision. The term "some other crime connected to the crime that is the subject of the proceeding" includes: other crime(s) connected through plea negotiations, or admitted at trial to prove an element of the offense. The Board may request information from the District Attorney of the committing jurisdiction to provide substantiation for such a determination.

(c) Any person determined by the Board to have suffered direct financial, social, psychological, or physical harm as a result of some other crime connected to the sentence for which the offender seeks release that is the subject of a proceeding conducted by the State Board of Parole and Post-Prison Supervision. The term "connected to the sentence for which the offender seeks release" includes other crime(s) which were used as a basis for: a departure sentence, a merged conviction, a concurrent or a consecutive sentence, an upper end grid block sentence, a dangerous offender sentence, a sentence following conviction for murder or aggravated murder.

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The Board may request information from the District Attorney of the committing jurisdiction to provide substantiation for such a determination.

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

Stat. Auth.: ORS 144.050 & 144.140

Stats. Implemented:

Hist.: 2PB 2-1986(Temp), f. & ef. 11-13-86; 2PB 3-1986(Temp), f. & ef. 12-2-86; PAR 6-1988, f. & ef. 5-19-88; PAR 7-1988, f. & ef. 7-1-88; PAR 8-1988, f. & ef. 7-1-88; PAR 9-1988(Temp), f. & ef. 7-14-88; PAR 12-1988(Temp), f. & ef. 7-20-88; PAR 13-1988(Temp), f. & ef. 8-5-88; PAR 14-1988(Temp), f. & ef. 9-20-88; PAR 18-1988, f. & ef. 12-6-88; PAR 4-1989, f. & ef. 11-1-89; PAR 5-1990, f. & cert. ef. 10-5-90; PAR 5-1991, f. & cert. ef. 10-15-91; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 1-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 11-1997(Temp), f. & cert. ef. 11-14-97; PAR 1-1998, f. & cert. ef. 5-1-98; PAR 4-2000, f. & cert. ef. 2-15-00; PAR 1-2005, f. & cert. ef. 4-25-05; PAR 4-2010(Temp), f. 7-2-10, cert. ef. 7-6-10 thru 1-1-11; PAR 10-2010, f. & cert. ef. 12-1-10; PAR 2-2015, f. & cert. ef. 7-28-15

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## Bureau of Labor and Industries Chapter 839

**Rule Caption:** Amendments to clarify, conform with authorities, correct citations.

**Adm. Order No.:** BLI 10-2015

**Filed with Sec. of State:** 7-30-2015

**Certified to be Effective:** 7-30-15

**Notice Publication Date:** 10-1-2014

**Rules Amended:** 839-004-0001, 839-004-0003, 839-004-0016, 839-004-0021

**Rules Repealed:** 839-004-0004, 839-004-0011

**Subject:** Amendments to rules to clarify, conform with authorities, correct citations. The purposes of the amendments are to clarify procedure for complaints of violations of ORS 654.062(5), conform the rules with the enabling statutes, and make the rules shorter, less redundant and easier to understand and apply.

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

### 839-004-0001

**Background, Purpose and Scope of the Oregon Safe Employment Act and these Rules**

(1) The Oregon Safe Employment Act (OSEA) includes the statutes described below:

(a) ORS 654.001 to .295, providing for safety and health conditions in places of employment, workplace safety committees, hazard communication and hazardous substances, and health and sanitation inspections.

(b) ORS 654.412 to .423, providing for safety of health care employees.

(c) ORS 654.750 to .780, providing for hazardous chemicals in agriculture.

(2) ORS 654.062 provides that:

(a) An employee should notify the employer of any violation of law, regulation or standard pertaining to safety and health in the place of employment when the violation comes to the knowledge of the employee.

(b) Any employee or representative of the employee may complain of such violation to the Oregon Department of Consumer and Business Services (DCBS) whether or not the employee notifies the employer. DCBS will follow the procedures provided by ORS 654.062(3) and (4).

(c) The Civil Rights Division (division) of the Bureau of Labor and Industries has jurisdiction to enforce ORS 654.062(5), which provides that it is an unlawful employment practice for any person to bar or discharge from employment or otherwise discriminate against any employee or prospective employee because that individual has opposed any practice prohibited by OSEA; made any complaint or instituted or caused to be instituted any proceeding under or related to OSEA; testified or is about to testify in any such proceeding or exercised on behalf of the employee, prospective employee or others any right afforded by OSEA.

(3) Employees and prospective employees are also protected from discrimination under ORS 654.062(5):

(a) By any person, whether or not the person is the employee's or prospective employee's employer;

(b) If the employee or prospective employee is perceived to take any protected actions described in subsection (2)(c) of this rule; or

(c) If the employee or prospective employee opposed a practice that the employee or prospective employee in good faith believed was prohibited under OSEA.

Stat. Auth.: ORS 654.062(5), 659A.805

Stats. Implemented: ORS 654.062(5)

Hist.: BLI 14-2000, f. & cert. ef. 8-11-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 19-2007(Temp), f. & cert. ef. 7-18-07 thru 1-1-08; BLI 29-2007 f. 9-27-07 cert. ef. 10-1-07; BLI 10-2015, f. & cert. ef. 7-30-15

### 839-004-0003

**Definitions: Discrimination for Opposition to Practices Prohibited by Oregon Safe Employment Act (OSEA)**

As defined in ORS 654.005:

(1) "Discrimination" includes but is not limited to:

(a) Barring or discharging an individual from employment;

(b) Treating an individual differently than others in compensation, terms, conditions or privileges of employment;

(c) Retaliating against or harassing an individual for participating in activities protected by ORS 654.062 (5); or

(d) Actions described in (a)-(c) of this section taken against individuals by persons that are not the individual's employer or prospective employer, such as, but not limited to, labor organizations and employment agencies.

(2) "Employee" includes:

(a) Any individual, including a minor whether lawfully or unlawfully employed, who engages to furnish services for remuneration, financial or otherwise, subject to the direction and control of an employer;

(b) Salaried, elected and appointed officials of the state, state agencies, counties, cities, school districts and other public corporations; and

(c) Any individual including but not limited to a volunteer who is provided with workers' compensation coverage as a subject worker pursuant to ORS chapter 656, whether by operation of law or by election.

(3) "Employer" includes:

(a) Any person who has one or more employees;

(b) Any sole proprietor or member of a partnership who elects workers' compensation coverage as a subject worker pursuant to ORS 656.128; and

(c) Any successor or assignee of an employer. As used in this paragraph, "successor" means a business or enterprise that is substantially the same entity as the predecessor employer according to criteria adopted by the Oregon Department of Consumer and Business Services in OAR 437-001-0015.

(4) "Person" means one or more individuals, legal representatives, partnerships, joint ventures, associations, corporations (whether or not organized for profit), business trusts, any organized group of persons, the state, state agencies, counties, municipal corporations, school districts and other public corporations or subdivisions.

(5) "Place of employment" includes:

(a) Every place, whether indoors or out or underground, and the premises and structures appurtenant thereto, where either temporarily or permanently an employee works or is intended to work; and

(b) Every place where there is carried on any process, operation or activity related, either directly or indirectly, to an employer's industry, trade, business or occupation, including a labor camp, wherever located, provided by an employer for employees or by another person engaged in providing living quarters or shelters for employees.

(6) "Place of employment" does not include:

(a) Any place where the only employment involves non subject workers employed in or about a private home; and

(b) Any corporate farm where the only employment involves the farm's family members, including parents, spouses, sisters, brothers, daughters, sons, daughters-in-law, sons-in-law, nieces, nephews or grandchildren.

Stat. Auth.: ORS 654.062(5); ORS 659A.805

Stats. Implemented: ORS 654.005; ORS 654.062

Hist.: BLI 14-2000, f. & cert. ef. 8-11-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 10-2015, f. & cert. ef. 7-30-15

### 839-004-0016

**Scope of Protection under ORS 654.062(5)**

(1) ORS 654.062(5) prohibits discrimination against an employee or prospective employee ("individual") because the individual:

(a) Made any complaint or instituted or caused to be instituted any proceeding under or related to the Oregon Safe Employment Act (OSEA);

(b) Testified or is about to testify in any such proceeding;

(c) Exercised on behalf of the individual or others any right afforded by OSEA;

(d) Engaged in a practice provided for by OSEA; or

(e) Opposed any practice prohibited by OSEA or which the individual in good faith believed was prohibited by OSEA; or

(f) Is perceived to take any actions described in subsections (a) through (e) of this rule.

(2) ORS 654.062(5) does not state to whom or in what manner an individual must oppose a practice in order to be protected from discrimination. Protected actions include the individual communicating opposition to

# ADMINISTRATIVE RULES

practices prohibited by OSEA or which the individual in good faith believes are prohibited by OSEA to anyone, including but not limited to:

- (a) Coworkers;
- (b) Employers; and
- (c) Newspapers and other media.

(3) The protection of ORS 654.062(5) for opposing practices does not generally extend to an individual refusing to work or walking off the job. However, an individual would have protection under ORS 654.062(5) for such actions if the individual has reasonable cause to believe that:

(a) The work, work area, equipment or other factors pose an imminent risk of serious injury or death due to hazardous conditions not inherent in the job;

(b) There is insufficient time or opportunity, or it would be futile for the individual to inform the employer of the risk factors and request that the employer address them because the employer is not available or denies the risk factors exist or refuses to address the risk factors; and

(c) There is insufficient time or opportunity to seek assistance from regulatory enforcement authorities.

(4) ORS 654.062(5) does not protect an employee who refuses to comply with OSEA or the employer's legitimate safety rules.

Stat. Auth.: ORS 654.062(5)  
Stats. Implemented: ORS 654.062(5)  
Hist.: BLI 14-2000, f. & cert. ef. 8-11-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 10-2015, f. & cert. ef. 7-30-15

## 839-004-0021

### Procedures for Complaints; Statutes of Limitation; Private Right of Action; Statutory Construction; Remedies

(1) Employees or prospective employees alleging violations of ORS 654.062(5) of the Oregon Safe Employment Act (OSEA) may file a complaint with the Civil Rights Division (division) of the Bureau of Labor and Industries as aggrieved persons as provided in ORS 659A.820 and OAR 839-003-0031.

(2) Aggrieved persons alleging violations of ORS 654.062(5) must contact the division within 90 days after the date on which the aggrieved person has reasonable cause to believe they have been discriminated against. An aggrieved person would have reasonable cause to believe a violation has occurred on the earliest date that the aggrieved person:

(a) Believed discrimination had occurred against the aggrieved person for opposing practices prohibited by OSEA; and

(b) Knew or should have known of the right to file a complaint with the division and of the requirement to contact the division within 90 days after the alleged discrimination.

(A) If a notice required by OSEA, as provided in OAR 437-001-0275(2)(a), was properly posted in the employee's workplace, continuously on and following the date of the alleged retaliation, the division will find that the employee knew or should have known of the requirement to contact the division within 90 days after the alleged discrimination.

(B) If the employer failed to post the required OSEA poster, the requirement to contact the division within 90 days after the alleged discrimination will begin on the date the employee learned of the right to file a complaint and of the 90 day requirement. The employee may establish this date based on the employee's own statement or other evidence offered by the employee.

(C) If the employer disagrees with the employee's presented date as the date the employee learned of the right to file a complaint, the burden is on the employer to show that the employee knew or should have known on an earlier date.

(D) If extenuating circumstances exist, the division may extend the 90-day period as provided in 29 CFR §1977.15(3).

(3) Upon receipt of a complaint the commissioner of the Bureau of Labor and Industries (commissioner) will process the complaint under the procedures, policies and remedies established by ORS chapter 659A and the policies established by ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780 in the same way and to the same extent that the complaint would be processed if the complaint involved allegations of unlawful employment practices under ORS 659A.030(1)(f).

(4)(a) If the commissioner dismisses the complaint, the commissioner will issue a notice to the aggrieved person pursuant to ORS 659A.880 that a civil action may be filed within 90 days of the dismissal.

(b) The aggrieved person may appeal the dismissal to the Oregon Occupational Safety and Health Division within 15 calendar days of issuance of the determination.

(5) Provisions of OSEA are to be construed to the extent possible in a manner that is consistent with any similar provisions of the federal

Occupational Safety and Health Act of 1970, 29 USC ch.15 § 651-678 as amended (OSHA).

(6) An affected employee or prospective employee may bring a civil action in any circuit court of the State of Oregon against any person alleged to have violated ORS 654.062 (5). The civil action must be commenced within one year after the employee or prospective employee has reasonable cause to believe a violation has occurred, unless a complaint has been timely filed under ORS 659A.820.

(7) The commissioner or the circuit court may order all appropriate relief including rehiring or reinstatement to the employee's former position with back pay.

Stat. Auth.: ORS 654.062(5), ORS 659A.805  
Stats. Implemented: ORS 654.062(5), ORS 659A.030(1)(f)  
Hist.: BLI 14-2000, f. & cert. ef. 8-11-00; BLI 5-2005, f. 1-13-05, cert. ef. 1-19-05; BLI 19-2007(Temp), f. & cert. ef. 7-18-07 thru 1-1-08; BLI 29-2007, f. 9-27-07 cert. ef. 10-1-07; BLI 10-2015, f. & cert. ef. 7-30-15

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**Rule Caption:** Amendments to clarify, conform with authorities, correct citations; adoption to implement new statute.

**Adm. Order No.:** BLI 11-2015

**Filed with Sec. of State:** 8-4-2015

**Certified to be Effective:** 8-4-15

**Notice Publication Date:** 10-1-2014

**Rules Adopted:** 839-005-0036

**Rules Amended:** 839-005-0000, 839-005-0003, 839-005-0005, 839-005-0010, 839-005-0011, 839-005-0013, 839-005-0014, 839-005-0021, 839-005-0026, 839-005-0030, 839-005-0031, 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080, 839-005-0085, 839-005-0130, 839-005-0135, 839-005-0138, 839-005-0140, 839-005-0160, 839-005-0170, 839-005-0195, 839-005-0200, 839-005-0205, 839-005-0206, 839-005-0210, 839-005-0215, 839-005-0220, 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325, 839-005-0400

**Subject:** Amendments to rules to clarify, conform with authorities, correct citations. The purposes of the amendments are to replace "complainant" with "aggrieved person" in conformance with statute; conform career school rules by editing in new statutory definition for "agent;" clarify that veteran preference voluntary hiring by private employer does not preclude discrimination complaint regarding hiring. Adoption of rule to implement ORS 659A.550, discrimination based on employment status.

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

## 839-005-0000

### Purpose and Scope of these Rules

(1) It is the policy of the State of Oregon that unlawful discrimination on the basis of race, color, religion, sex, sexual orientation, national origin, marital status, age, disability and other classes protected under Oregon statutes is a matter of state concern and that such discrimination threatens individual rights and privileges and menaces the institutions and foundations of a free democratic state.

(2) Prohibited discrimination is a basis of unlawful practices described in ORS chapter 659A and other chapters of the Oregon statutes.

(3) The Civil Rights Division of the Bureau of Labor and Industries (division) is responsible for protecting individual rights through the enforcement of civil rights statutes prohibiting unlawful practices.

(4) The purpose of these rules is to implement, interpret and describe the division's approach to civil rights enforcement under the bureau's jurisdiction.

(5) These rules apply to all inquiries and complaints received by the division on or after the effective date of these rules.

(6) An individual claiming a violation of the civil rights statutes may file a complaint with the division as provided in OAR 839-003-0025, or 839-003-0200 for complaints alleging housing discrimination filed under ORS 659A.145, 659A.421 or the federal Fair Housing Act (42 U.S.C. §3601-3617).

Stat. Auth.: ORS 659A.805  
Stats. Implemented: ORS 659A  
Hist.: BL 9-1982, f. & ef. 6-11-8; BL 4-1996, f. & cert. ef. 3-12-96; BLI 19-2000, f. & cert. ef. 9-15-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 36-2007, f. 12-27-07 cert. ef. 1-1-08; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 8-2010, f. & cert. ef. 2-24-10; BLI 11-2015, f. & cert. ef. 8-4-15

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## 839-005-0003

### Definitions: Enforcement of Laws Prohibiting Unlawful Practices

As used in enforcing ORS chapter 659A, including housing discrimination under 659A.145 or 659A.421 or the federal Fair Housing Act (42 U.S.C. §3601–3617):

(1) “Aggrieved Person” means either:

(a) A person who is, or was at any time, eligible to file a complaint under ORS 659A.820 or who is otherwise similarly situated; or

(b) A person who files a complaint under ORS 659A.825.

(2) “Bureau” means the Bureau of Labor and Industries.

(3) “Division” means the Civil Rights Division of the Bureau of Labor and Industries.

(4) “Employee” does not include any individual employed by that individual’s parents, spouse or child or in the domestic service of any person.

(5) “Employer” means any person in this state who, directly or through an agent, engages or utilizes the personal service of one or more employees, reserving the right to control the means by which such service is or will be performed. Employer also includes any public body that, directly or through an agent, engages or utilizes the personal service of one or more employees, reserving the right to control the means by which such service is or will be performed, including all officers, agencies, departments, divisions, bureaus, boards and commissions of the legislative, judicial and administrative branches of the state, all county and city governing bodies, school districts, special districts, municipal corporations and all other political subdivisions of the state. Employer also includes any person who is in an employment relationship with an intern as defined in subsection (10) of this rule.

(6) “Employment agency” includes any person undertaking to procure employees or opportunities to work.

(7) “Federal housing law” means the federal Fair Housing Act (42 U.S.C. §3601–3617).

(8) “Gender expression” means the manner in which an individual’s gender identity is expressed, including, but not limited to, through dress, appearance, manner, or speech, whether or not that expression is different from that traditionally associated with the individual’s assigned sex at birth.

(9) “Gender identity” means an individual’s gender-related identity, whether or not that identity is different from that traditionally associated with the individual’s assigned sex at birth, including, but not limited to, a gender identity that is transgender or androgynous.

(10) “Intern” means a person who performs work for an employer for the purpose of training if:

(a) The employer is not committed to hire the person performing the work at the conclusion of the training period;

(b) The employer and the person performing the work agree in writing that the person performing the work is not entitled to wages for the work performed; and

(c) The work performed:

(A) Supplements training given in an education environment that may enhance employability of the intern;

(B) Provides experience for the benefit of the person performing the work;

(C) Does not displace regular employees;

(D) Is performed under the close supervision of existing staff; and

(E) Provides no immediate advantage to the employer providing the training and may occasionally impede the operations of the employer.

(d) An intern is considered to be in an employment relationship with an employer for the purposes of employee protections provided under ORS 659A.030, 659A.082, 659A.109, 659A.112, 659A.136, 659A.142, 659A.199, 659A.230, 659A.233, 659A.236, 659A.290, 659A.300, 659A.303, 659A.306, and 659A.315.

(e) “Intern” includes any person meeting the description set forth in this rule regardless of the title of the person’s position or whether they are currently enrolled in an education or training program.

(11) “Labor organization” includes any organization that is constituted for the purpose, in whole or in part, of collective bargaining or in dealing with employers concerning grievances, terms or conditions of employment or of other mutual aid or protection in connection with employees.

(12) “Person” includes one or more individuals, partnerships, associations, labor organizations, limited liability companies, joint-stock companies, corporations, legal representatives, trustees, and trustees in bankruptcy or receivers. “Person” also includes a public body as defined in ORS 30.260. For the purposes of 659A.145 or 659A.421 or the federal Fair Housing Act (42 U.S.C. §3601–3617), “person” also includes fiduciaries, mutual companies, trusts and unincorporated organizations.

(13) “Protected class” means a group of people protected by law from discrimination on the basis of a shared characteristic, such as race, sex, sexual orientation, disability, or other, or a perception of that characteristic.

(14) “Respondent” includes any person against whom a complaint or charge of unlawful practices is filed with the division or whose name has been added to such complaint or charge pursuant to ORS 659A.835(1).

(15) “Sex” means the anatomical, physiological and genetic characteristics associated with being male or female.

(16) “Sexual orientation” means an individual’s actual or perceived heterosexuality, homosexuality, bisexuality, or gender identity, regardless of whether the individual’s gender identity, appearance, expression or behavior differs from that traditionally associated with the individual’s assigned sex at birth.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.001 & 659A.350

Hist.: BLI 19-2000, f. & cert. ef. 9-15-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 36-2007, f. 12-27-07 cert. ef. 1-1-08; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 8-2010, f. & cert. ef. 2-24-10; BLI 14-2013, f. & cert. ef. 12-30-13; BLI 11-2015, f. & cert. ef. 8-4-15

## 839-005-0005

### Unlawful Discrimination Defined

(1) To discriminate means to make a distinction between individuals or groups based on common characteristics, real or perceived. Certain kinds of discrimination are unlawful. Oregon civil rights laws generally prohibit making decisions in employment, housing, places of public accommodation and career schools because an individual is a member of a class protected by these statutes.

(2) When an individual files a complaint with the division alleging unlawful discrimination, the division must determine whether substantial evidence of such discrimination exists.

(3) That a private employer may give employment preference in the hiring or promotion of employees under OL Ch. 86, Sec. 2 2014 (persons in uniformed service and their widows and widowers) does not preclude the filing of a complaint under ORS chapter 659A.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A; OL Ch. 86, Sec. 2 2014

Hist.: BL 9-1982, f. & ef. 6-11-82; BL 4-1996, f. & cert. ef. 3-12-96; BLI 19-2000, f. & cert. ef. 9-15-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 8-2010, f. & cert. ef. 2-24-10; BLI 11-2015, f. & cert. ef. 8-4-15

## 839-005-0010

### Discrimination Theories: Employment

(1) Substantial evidence of intentional unlawful discrimination exists if the division’s investigation reveals evidence that a reasonable person would accept as sufficient to support the following elements:

(a) The respondent is a respondent as defined by ORS 659A.001(10) and OAR 839-005-0003(14) of these rules;

(b) The aggrieved person is a member of a protected class;

(c) The aggrieved person was harmed by an action of the respondent; and

(d) The aggrieved person’s protected class was the motivating factor for the respondent’s action. In determining whether the aggrieved person’s protected class was the reason for the respondent’s action, the division uses whichever of the following theories applies:

(A) Specific Intent Theory: The respondent knowingly and purposefully discriminates against an individual because of that individual’s membership in a protected class, unless the respondent can show that a bona fide occupational qualification or a bona fide voluntary, court-ordered affirmative action plan (OAR 839-005-0013) allows the action.

(B) Different or Unequal Treatment Theory: The respondent treats members of a protected class differently than others who are not members of that protected class. When the respondent makes this differentiation because of the individual’s protected class and not because of legitimate, non-discriminatory reasons, unlawful discrimination exists. In establishing a case of different or unequal treatment:

(i) There must be substantial evidence that the aggrieved person was harmed by an action of the respondent under circumstances that make it appear that the respondent treated the aggrieved person differently than comparably situated individuals who were not members of the aggrieved person’s protected class. Substantial evidence of discrimination exists if the division’s investigation reveals evidence that a reasonable person would accept as sufficient to support that protected class membership was a motivating factor for the respondent’s alleged unlawful action. If the respondent fails to rebut this evidence with evidence of a legitimate non-discriminatory reason, the division will conclude that substantial evidence of unlawful discrimination exists.

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(I) Pretext: If the respondent rebuts the evidence with evidence of a legitimate non-discriminatory reason, but there is substantial evidence that the respondent's reason is a pretext for discrimination, the division will conclude there is substantial evidence of unlawful discrimination.

(II) Mixed Motive: If the respondent presents substantial evidence that a legitimate, non-discriminatory reason contributed to the respondent's action, but the division finds the individual's protected class membership was also a motivating factor in the respondent's action, the division will determine there is substantial evidence of discrimination.

(ii) The aggrieved person at all times has the burden of proving that the aggrieved person's protected class was the reason for the respondent's unlawful action.

(2) Adverse Impact Discrimination: Substantial evidence of adverse impact discrimination does not require establishment of intentional discrimination as provided in (1) of this rule. Adverse impact discrimination exists if the division's investigation reveals evidence that a reasonable person would accept as sufficient to support the following elements:

(a) The respondent is a respondent as defined by ORS 659A.001(10) and OAR 839-005-0003(14) of these rules;

(b) The respondent has a standard or policy that is applied equally.

(c) The standard or policy has the effect of screening out or otherwise affecting members of a protected class at a significantly higher rate than others who are not members of that protected class; and

(d) The aggrieved person is a member of the protected class adversely affected by the respondent's standard or policy and has been harmed by the respondent's application of the standard or policy.

(3) An employer must reasonably accommodate an employee or applicant's religious belief, observance or practice unless the employer can demonstrate that such accommodation would cause undue hardship on the employer's business (see OAR 839-005-0140).

(4) Harassment: Harassment based on an individual's protected class is a type of intentional unlawful discrimination. In cases of alleged unlawful sexual harassment in employment see OAR 839-005-0030.

(a) Conduct of a verbal or physical nature relating to protected classes other than sex is unlawful when substantial evidence of the elements of intentional discrimination, as described in section (1) of this rule, is shown and:

(A) Such conduct is sufficiently severe or pervasive to have the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment;

(B) Submission to such conduct is made either explicitly or implicitly a term or condition of employment; or

(C) Submission to or rejection of such conduct is used as the basis for employment decisions affecting that individual.

(b) The standard for determining whether harassment is sufficiently severe or pervasive to create a hostile, intimidating or offensive working environment is whether a reasonable person in the circumstances of the complaining individual would so perceive it.

(c) Employer Proxy: An employer is liable for harassment when the harasser's rank is sufficiently high that the harasser is the employer's proxy, for example, the employer's president, owner, partner or corporate officer.

(d) Harassment by Supervisor plus Tangible Employment Action: An employer is liable for harassment by a supervisor with immediate or successively higher authority over an individual when the harassment results in a tangible employment action that the supervisor takes or causes to be taken against the individual. A tangible employment action includes, but is not limited to, any of the following:

(A) Terminating employment, including constructive discharge;

(B) Failing to hire;

(C) Failing to promote; or

(D) Changing a term or condition of employment, such as work assignment, work schedule, compensation or benefits or making a decision that causes a significant change in an employment benefit.

(e) Harassment by Supervisor, No Tangible Employment Action: When harassment by a supervisor with immediate or successively higher authority over the individual is found to have occurred, but no tangible employment action was taken, the employer is liable if:

(A) The employer knew of the harassment, unless the employer took immediate and appropriate corrective action.

(B) The employer should have known of the harassment. The division will find that the employer should have known of the harassment unless the employer can demonstrate:

(i) That the employer exercised reasonable care to prevent and promptly correct any harassing behavior; and

(ii) That the complaining individual unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to otherwise avoid harm.

(f) Harassment by Coworkers or Agents: An employer is liable for harassment by the employer's employees or agents who do not have immediate or successively higher authority over the complaining individual when the employer knew or should have known of the conduct, unless the employer took immediate and appropriate corrective action.

(g) Harassment by Non-Employees: An employer is liable for harassment by non-employees in the workplace when the employer or the employer's agents knew or should have known of the conduct unless the employer took immediate and appropriate corrective action. In reviewing such cases, the division will consider the extent of the employer's control and any legal responsibility the employer may have with respect to the conduct of such non-employees.

(h) Withdrawn Consent: An employer may be liable for harassment by the employer's supervisory or non-supervisory employees, agents or non-employees even if the acts complained of were of a kind previously consented to by the complaining individual, if the employer knew or should have known that the complaining individual had withdrawn consent to the offensive conduct.

(i) When employment opportunities or benefits are granted because of an individual's submission to an employer's harassment, the employer is liable for unlawful discrimination against other individuals who were qualified for but denied that opportunity or benefit.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A

Hist.: BL 9-1982, f. & ef. 6-11-82; BL 4-1996, f. & cert. ef. 3-12-96; BLI 6-1998, f. & cert. ef. 10-22-98; BLI 19-2000, f. & cert. ef. 9-15-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 3-2007, f. 1-29-07, cert. ef. 2-2-07; BLI 36-2007, f. 12-27-07 cert. ef. 1-1-08; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 8-2010, f. & cert. ef. 2-24-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11; BLI 11-2015, f. & cert. ef. 8-4-15

## 839-005-0011

### Constructive Discharge from Employment

Constructive discharge occurs when an individual leaves employment because of unlawful discrimination. The elements of a constructive discharge are:

(1) The employer intentionally created or intentionally maintained discriminatory working conditions related to the individual's protected class status;

(2) The working conditions were so intolerable that a reasonable person in the individual's circumstances would have resigned because of them;

(3) The employer desired to cause the individual to leave employment as a result of those working conditions, or knew or should have known that the individual was certain, or substantially certain, to leave employment as a result of the working conditions; and

(4) The individual left employment as a result of the working conditions.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A

Hist.: BLI 19-2000, f. & cert. ef. 9-15-00; BLI 10-2002, f. & cert. ef. 5-17-02; Renumbered from 839-005-0035, BLI 7-2010, f. & cert. ef. 2-24-10; BLI 14-2013, f. & cert. ef. 12-30-13; BLI 11-2015, f. & cert. ef. 8-4-15

## 839-005-0013

### Bona Fide Occupational Qualification (BFOQ) and Affirmative Action Plan Exceptions in Employment

(1) Discrimination is not unlawful if it is based on a bona fide occupational qualification (BFOQ), as provided in ORS 659A.030(1)(a). To prove a BFOQ, the employer must show that the BFOQ is reasonably necessary to the normal operation of the business. If so, the employer must then show:

(a) A factual basis exists for believing that all or substantially all individuals in the protected class adversely affected by the BFOQ would be unable to perform safely and efficiently the tasks required in the job; or

(b) It is impossible or highly impractical to screen applicants on an individual basis.

(2) An employer may not claim a BFOQ for such reasons as:

(a) Customer, co-worker or employer preference;

(b) Stereotypes or assumed characteristics of a protected class.

(3) When discrimination is based on a bona fide voluntary affirmative action plan, it is not unlawful if the plan:

(a) Is a temporary measure;

(b) Has the purpose of eliminating the effects of past discrimination; and

# ADMINISTRATIVE RULES

(c) Does not unnecessarily trammel the interests of other protected classes.

Stat. Auth.: ORS 659A.805  
Stats. Implemented: ORS 659A.030  
Hist.: BLI 19-2000, f. & cert. ef. 9-15-00; BLI 10-2002, f. & cert. ef. 5-17-02; Renumbered from 839-005-0045, BLI 7-2010, f. & cert. ef. 2-24-10; BLI 11-2015, f. & cert. ef. 8-4-15

## 839-005-0014

### Successors in Interest: Employment Discrimination

An employer's liability for unlawful discrimination under ORS 659A.030 and OAR 839-005-0010 to 839-005-0045 extends to a successor employer. Determining whether a respondent is a successor employer involves a nine-part test. Not every element of the test need be present to find an employer to be a successor; the facts must be considered together to reach a determination:

- (1) Whether respondent had notice of the charge at the time of acquiring or taking over the business;
- (2) The ability of the predecessor to provide relief;
- (3) Whether there has been a substantial continuity of business operations;
- (4) Whether the respondent uses the same plant as the predecessor;
- (5) Whether respondent uses the same or substantially the same work force as the predecessor;
- (6) Whether respondent uses the same or substantially the same supervisory personnel as the predecessor;
- (7) Whether under respondent the same jobs exist under substantially the same working conditions as under the predecessor;
- (8) Whether respondent uses the same machinery, equipment and methods of production as the predecessor;
- (9) Whether respondent produces the same product as the predecessor.

Stat. Auth.: ORS 659A.805  
Stats. Implemented: 659A  
Hist.: BLI 10-2002, f. & cert. ef. 5-17-02; Renumbered from 839-005-0050, BLI 7-2010, f. & cert. ef. 2-24-10; BLI 11-2015, f. & cert. ef. 8-4-15

## 839-005-0021

### Discrimination Based On Sex

(1) Employers are not required to treat all employees exactly the same, but are prohibited from using sex as the basis for employment decisions with regard to hiring, promotion or discharge; or in terms, conditions or privileges of employment such as benefits and compensation.

(2) Discrimination because of sex includes sexual harassment, discrimination based on pregnancy, childbirth and medical conditions and occurrences related to pregnancy and childbirth.

(3) In very rare instances, sex may be a bona fide occupational qualification (BFOQ), as defined in OAR 839-005-0013.

Stat. Auth.: ORS 659A.805  
Stats. Implemented: ORS 659A.029 & 659A.030  
Hist.: BLI 19-2000, f. & cert. ef. 9-15-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 35-2007, f. 12-27-07 cert. ef. 1-1-08; BLI 8-2010, f. & cert. ef. 2-24-10; BLI 11-2015, f. & cert. ef. 8-4-15

## 839-005-0026

### Employment Protections and Rights Relating to Pregnancy

(1) Pregnant women are protected from sex discrimination in employment.

(2) In judging the physical ability of an individual to work, pregnant women must be treated the same as males, non-pregnant females and other employees with off-the-job illnesses or injuries.

(3) The statutes prohibit discrimination regarding employee and dependent spouse or domestic partner benefits for pregnancy when employee and dependent spouse or domestic partner benefits exist for other medical conditions.

(4) Women needing to be absent from work because of pregnancy or childbirth may have rights under the Oregon Family Leave Act, as provided in ORS 659A.150 to 659A.186 and OAR 839-009-0200 to 839-009-0320.

Stat. Auth.: ORS 659A.805  
Stats. Implemented: ORS 659A.029, 659A.030, 659A.150-186  
Hist.: BLI 19-2000, f. & cert. ef. 9-15-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 35-2007, f. 12-27-07 cert. ef. 1-1-08; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11; BLI 11-2015, f. & cert. ef. 8-4-15

## 839-005-0030

### Sexual Harassment in Employment

(1) Sexual harassment is unlawful discrimination on the basis of sex and includes the following types of conduct:

(a) Unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature when such conduct is directed toward an individual because of that individual's sex and:

(A) Submission to such conduct is made either explicitly or implicitly a term or condition of employment; or

(B) Submission to or rejection of such conduct is used as the basis for employment decisions affecting that individual.

(b) Any unwelcome verbal or physical conduct that is sufficiently severe or pervasive to have the purpose or effect of unreasonably interfering with work performance or creating a hostile, intimidating or offensive working environment.

(2) The standard for determining whether harassment based on an individual's sex is sufficiently severe or pervasive to create a hostile, intimidating or offensive working environment is whether a reasonable person in the circumstances of the complaining individual would so perceive it.

(3) Employer proxy: An employer is liable for harassment when the harasser's rank is sufficiently high that the harasser is the employer's proxy, for example, the respondent's president, owner, partner or corporate officer.

(4) Harassment by Supervisor plus Tangible Employment Action: An employer is liable for sexual harassment by a supervisor with immediate or successively higher authority over an individual when the harassment results in a tangible employment action that the supervisor takes or causes to be taken against that individual. A tangible employment action includes but is not limited to the following:

(a) Terminating employment, including constructive discharge;

(b) Failing to hire;

(c) Failing to promote; or

(d) Changing a term or condition of employment, such as work assignment, work schedule, compensation or benefits or making a decision that causes a significant change in an employment benefit.

(5) Harassment by Supervisor, No Tangible Employment Action: When sexual harassment by a supervisor with immediate or successively higher authority over an individual is found to have occurred, but no tangible employment action was taken, the employer is liable if:

(a) The employer knew of the harassment, unless the employer took immediate and appropriate corrective action.

(b) The employer should have known of the harassment. The division will find that the employer should have known of the harassment unless the employer can demonstrate:

(A) That the employer exercised reasonable care to prevent and promptly correct any sexually harassing behavior; and

(B) That the aggrieved person unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to otherwise avoid harm.

(6) Harassment by Co-Workers or Agents: An employer is liable for sexual harassment by the employer's employees or agents who do not have immediate or successively higher authority over the aggrieved person when the employer knew or should have known of the conduct, unless the employer took immediate and appropriate corrective action.

(7) Harassment by Non-Employees: An employer is liable for sexual harassment by non-employees in the workplace when the employer or the employer's agents knew or should have known of the conduct unless the employer took immediate and appropriate corrective action. In reviewing such cases the division will consider the extent of the employer's control and any legal responsibility the employer may have with respect to the conduct of such non-employees.

(8) Withdrawn Consent: An employer is liable for sexual harassment of an individual by the employer's supervisory or non-supervisory employees, agents or non-employees, even if the acts complained of were of a kind previously consented to by the aggrieved person, if the employer knew or should have known that the aggrieved person had withdrawn consent to the offensive conduct.

(9) When employment opportunities or benefits are granted because of an individual's submission to an employer's sexual advances, requests for sexual favors, or other sexual harassment, the employer is liable for unlawful sex discrimination against other individuals who were qualified for but denied that opportunity or benefit.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.030

Hist.: BLI 19-2000, f. & cert. ef. 9-15-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 46-2006, f. 12-29-06, cert. ef. 1-3-07; BLI 35-2007, f. 12-27-07 cert. ef. 1-1-08; BLI 14-2013, f. & cert. ef. 12-30-13; BLI 11-2015, f. & cert. ef. 8-4-15

# ADMINISTRATIVE RULES

## 839-005-0031

### Exceptions to Discrimination in Employment and Housing Based on Sexual Orientation or Religion

(1) The following actions are not unlawful practices under ORS chapter 659A, including housing discrimination under ORS 659A.145 or 659A.421 or the federal Fair Housing Act (42 U.S.C. §3601–3617):

(a) Housing and the use of facilities. It is not an unlawful practice for a bona fide church or other religious institution to take any action with respect to housing or the use of facilities when:

(A) The action taken is based on a bona fide religious belief about sexual orientation; and

(B) The housing or the use of facilities involved is closely connected with or related to the primary purpose of the church or institution; and

(C) The housing or the use of facilities involved is not connected with a commercial or business activity that has no necessary relationship to the church or institution.

(b) Employment Preference. It is not an unlawful employment practice for a bona fide church or other religious institution, including but not limited to a school, hospital or church camp, to prefer an employee, or an applicant for employment, of one religious sect or persuasion over another if:

(A) The employee or applicant belongs to the same religious sect or persuasion as the church or institution; and

(B) In the opinion of the church or institution, the preference will best serve the purposes of the church or institution; and

(C) The employment involved is closely connected with or related to the primary purposes of the church or institution; and

(D) The employment involved is not connected with a commercial or business activity that has no necessary relationship to the church or institution.

(c) Employment Actions. It is not an unlawful employment practice for a bona fide church or other religious institution to take any employment action based on a bona fide religious belief about sexual orientation when:

(A) The employment position involved is directly related to the operation of the church or other place of worship, such as clergy, religious instructors and support staff;

(B) The employment position involved is in a nonprofit religious school, nonprofit religious camp, nonprofit religious day care center, nonprofit religious thrift store, nonprofit religious bookstore, nonprofit religious radio station or nonprofit religious shelter; or

(C) The employment position involves religious activities, as long as the employment position:

(i) Is closely connected with or related to the primary purpose of the church or institution; and

(ii) Is not connected with a commercial or business activity that has no necessary relationship to the church or institution.

(d) Dress Code. An employer is not prohibited from enforcing an otherwise valid dress code or policy, as long as the employer provides, on a case-by-case basis, for reasonable accommodation of an individual based on the health and safety needs of the individual.

(2) The above exceptions do not excuse a failure to provide reasonable and appropriate accommodations permitting all persons access to restrooms consistent with their expressed gender.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS Ch 659A

Hist.: BLI 35-2007, f. 12-27-07 cert. ef. 1-1-08; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; Renumbered from 839-005-0016, BLI 7-2010, f. & cert. ef. 2-24-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11; BLI 11-2015, f. & cert. ef. 8-4-15

## 839-005-0036

### Commissioner's Complaint for Discrimination Based on Employment Status

(1) Pursuant to ORS 659A.550 and except as permitted under ORS chapter 240 or any other provision of law, it is an unlawful practice for an employer or employment agency to knowingly or purposefully publish in print or on the Internet an advertisement for a job vacancy in Oregon that provides that:

(a) The qualifications for a job include current employment;

(b) The employer or employment agency will not consider or review an application for employment submitted by a job applicant who is currently unemployed; or

(c) The employer or employment agency will only consider or review applications for employment submitted by job applicants who are currently employed.

(2) For purposes of the statute and this rule "employer" includes an employer's agent, representative or designee.

(3) ORS 659A.550 does not prohibit an employer or employment agency from publishing in print or on the Internet an advertisement for a job vacancy in Oregon:

(a) Setting forth qualifications for a job vacancy, including but not limited to:

(i) Holding a current and valid professional or occupational license, certificate, registration, permit or other credential; or

(ii) A minimum level of education or training, or professional, occupational or field experience; or

(b) Stating that only applicants who are current employees of the employer will be considered for the position.

(4) A complaint of a violation of ORS 659A.550 may be filed only by the Commissioner of the Bureau of Labor and Industries (commissioner), under ORS 659A.885.

(5) The Civil Rights Division of the Bureau of Labor and Industries has jurisdiction to accept and investigate commissioners' complaints of alleged violations of ORS 659A.550 and to pursue enforcement against violations. Commissioner's complaint procedures are found at OAR 839-003-0100.

(6) An employer or employment agency found by the commissioner to have violated ORS 659A.550 shall be assessed a civil penalty as provided under ORS 659A.855.

(7) The commissioner may issue a cease and desist order under the provisions of ORS 659.885(3).

(8) ORS 659A.550 does not create or authorize a private cause of action by an aggrieved person against an employer or employment agency that is alleged to violate or has violated ORS 659A.550.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.550

Hist.: BLI 11-2015, f. & cert. ef. 8-4-15

## 839-005-0060

### Purpose and Scope of these Rules

(1) It is the policy of the State of Oregon to guarantee individuals the fullest possible participation in the social and economic life of the state, including employment. Pursuant to ORS 659A.320, obtainment or use by an employer of information in an applicant's credit history impacts the individual's privacy, and must relate only to the position for which the individual is being considered or holds. The people of Oregon have the right to employment without unlawful discrimination on the basis of credit history.

(2) Prohibited discrimination is a basis of unlawful practices described in ORS chapter 659A and other chapters of the Oregon statutes.

(3) The Civil Rights Division (division) of the Bureau of Labor and Industries enforces ORS 659A.320. These rules implement and interpret that statute.

(4) Any individual claiming to be aggrieved by an unlawful practice including a violation of ORS 659A.320 may file a complaint with the division under ORS 659A.820 or may bring a civil action under ORS 659A.885.

(5) These rules apply to all inquiries and complaints received by the division on or after the effective date of these rules.

Stat. Auth.: 659A.805

Stats. Implemented: ORS 659A.320

Hist.: BLI 16-2010, f. 6-1-10, cert. ef. 7-1-10; BLI 14-2013, f. & cert. ef. 12-30-13; BLI 11-2015, f. & cert. ef. 8-4-15

## 839-005-0065

### Definitions Regarding Employer Obtainment or Use of Credit History Information

(1) "Applicant" means an individual who has submitted information for the purpose of gaining employment.

(2) "Credit history" means any written or other communication of any information by a consumer reporting agency that bears on a consumer's creditworthiness, credit standing or credit capacity.

(3) "Division" means the Civil Rights Division of the Bureau of Labor and Industries.

(4) "Employer" means any person who in this state, directly or through an agent, engages or uses the personal service of one or more employees, reserving the right to control the means by which such service is or will be performed.

(5) "Respondent" includes any person against whom a complaint or charge of unlawful practices is filed with the division or whose name has been added to such complaint or charge pursuant to ORS 659A.835(1).

(6) "Substantially job-related" is defined in OAR 839-005-0080.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.320

# ADMINISTRATIVE RULES

Hist.: BLI 16-2010, f. 6-1-10, cert. ef. 7-1-10; BLI 14-2013, f. & cert. ef. 12-30-13; BLI 11-2015, f. & cert. ef. 8-4-15

## 839-005-0070

### Unlawful Discrimination Based on Credit History of Applicant or Employee

(1) It is an unlawful employment practice for an employer to obtain or use for employment purposes information contained in the credit history of an applicant for employment or an employee, or to refuse to hire, discharge, demote, suspend, retaliate or otherwise discriminate against an applicant or an employee with regard to promotion, compensation or the terms, conditions or privileges of employment based on information in the credit history of the applicant or employee.

(2) Obtainment or use of credit history information may not be conducted in a manner that results in adverse impact discrimination as prohibited by 42 U.S.C. § 2000e-2, ORS 659A.030 and OAR 839-005-0010. A finding of adverse impact discrimination does not require establishment of intentional discrimination.

(3) ORS 659A.320 permits an employer to obtain or use for employment purposes information contained in the credit history of an applicant or employee under circumstances described at 659A.320(2). ORS 659A.320(2)(d) permits an employer to obtain or use information contained in the credit history of an applicant or employee if the credit history information is substantially job-related, and the employer's reasons for the use of such information are disclosed to the employee or prospective employee in writing.

(4) The burden of proving the employer's disclosure to the employee of its reasons for the use of such information rests with the employer.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.320

Hist.: BLI 16-2010, f. 6-1-10, cert. ef. 7-1-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11; BLI 14-2013, f. & cert. ef. 12-30-13; BLI 11-2015, f. & cert. ef. 8-4-15

## 839-005-0075

### Exceptions to Application of Prohibition on Obtainment or Use of Credit History

ORS 659A.320 does not apply to:

(1) Employers that are federally insured banks or credit unions;

(2) Employers that are required by state or federal law to use individual credit history for employment purposes;

(3) Employees in or applicants for positions responsible for enforcing the criminal laws of this state, including:

(a) A public safety officer who is a member of a law enforcement unit;

(b) A peace officer commissioned by a city, port, school district, mass transit district, county, Indian reservation, or the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, the Governor; or

(c) Employees in positions responsible for enforcing the criminal laws of this state or ordinances related to airport security; or

(4)(a) The obtainment or use by an employer of information in the credit history of an applicant or employee because the information is substantially job-related, and the employer's reasons for the use of such information are disclosed to the employee or prospective employee in writing.

(b) The burden of proving the employer's disclosure to the employee rests with the employer.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.320

Hist.: BLI 14-2011, f. 12-30-11, cert. ef. 1-1-12; BLI 3-2012, f. & cert. ef. 2-8-12; BLI 14-2013, f. & cert. ef. 12-30-13; BLI 11-2015, f. & cert. ef. 8-4-15

## 839-005-0080

### Determining whether Credit History Is Substantially Job-Related

(1) The determination of whether credit history information is substantially job-related must be evaluated with respect to the position for which the individual is being considered or holds.

(2) Credit history information of an applicant or employee is substantially job-related if:

(a) An essential function of the position at issue requires access to financial information not customarily provided in a retail transaction that is not a loan or extension of credit. Financial information customarily provided in a retail transaction includes information related to the exchange of cash, checks and credit or debit card numbers; or

(b) The position at issue is one for which an employer is required to obtain credit history as a condition of obtaining insurance or a surety or fidelity bond.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.320

Hist.: BLI 16-2010, f. 6-1-10, cert. ef. 7-1-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11; BLI 14-2013, f. & cert. ef. 12-30-13; BLI 11-2015, f. & cert. ef. 8-4-15

## 839-005-0085

### Enforcement and Retaliation Regarding Unlawful Obtainment or Use of Credit History

(1) An employer's duties and obligations under ORS 659A.320 extend to an employer that is a successor in interest as defined in OAR 839-005-0014.

(2) An applicant or employee claiming a violation of ORS 659A.320 or these rules may file a complaint with the Civil Rights Division of the Bureau of Labor and Industries in the manner provided by 659A.820.

(3) An applicant or employee claiming a violation of ORS 659A.320 may bring a civil action under 659A.885.

(4) Pursuant to ORS 659A.030(1)(f), it is an unlawful employment practice for an employer to discharge, expel or otherwise discriminate against any person because the person has filed a complaint, testified or assisted in any proceeding in connection with 659A.320.

(5) Pursuant to ORS 659A.030(1)(g), it is an unlawful employment practice for any person, whether an employer or an employee, to aid, abet, incite, compel or coerce the doing of any of the acts in violation of 659A.320 or to attempt to do so.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.320

Hist.: BLI 16-2010, f. 6-1-10, cert. ef. 7-1-10; BLI 14-2013, f. & cert. ef. 12-30-13; BLI 11-2015, f. & cert. ef. 8-4-15

## 839-005-0130

### Discrimination Against Employees Serving or Scheduled to Serve as Jurors

(1) An employer commits an unlawful employment practice under ORS chapter 659A if the employer discharges, threatens to discharge, intimidates or coerces any employee by reason of the employee's service or scheduled service as a juror on a grand jury, trial jury or jury of inquest.

(2) An employee who alleges a violation of subsection (1) of this rule may bring a civil action under ORS 659A.885 or may file a complaint with the Commissioner of the Bureau of Labor and Industries in the manner provided by ORS 659A.820.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 10.090

Hist.: BLI 14-2011, f. 12-30-11, cert. ef. 1-1-12; BLI 3-2012, f. & cert. ef. 2-8-12; BLI 11-2015, f. & cert. ef. 8-4-15

## 839-005-0135

### Insurance Coverage for Employees Serving as Jurors

(1) An employer who employs 10 or more persons commits an unlawful employment practice under ORS chapter 659A if:

(a) The employer ceases to provide health, disability, life or other insurance coverage for an employee during times when the employee serves or is scheduled to serve as a juror; and

(b) The employee elected to have coverage continued while the employee served or was scheduled to serve as a juror, and the employee provided notice of that election to the employer in compliance with the employer's policy for notification.

(2) Notwithstanding ORS 652.610(3), if, following an election described in subsection (1) of this section, an employer is required or elects to pay any part of the costs of providing health, disability, life or other insurance coverage for the employee that should have been paid by the employee, the employer may deduct from the employee's pay such amounts upon the employee's return to work until the amount the employer advanced toward the payments is paid. The total amount deducted for insurance under this subsection may not exceed 10 percent of the employee's gross pay each pay period.

(3) Notwithstanding ORS 652.610(3), if the employer pays any part of the costs of providing health, disability, life or other insurance coverage for an employee under subsection (2) of this section, and the employee ceases to work for the employer before the total amount the employer advanced toward the payments is paid, the employer may deduct the remaining amounts from any amounts owed by the employer to the employee or may seek to recover those amounts by any other legal means.

(4) An employee who alleges a violation of this section may bring a civil action under ORS 659A.885 or may file a complaint with the Commissioner of the Bureau of Labor and Industries in the manner provided by ORS 659A.820.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 10.090

Hist.: BLI 14-2011, f. 12-30-11, cert. ef. 1-1-12; BLI 3-2012, f. & cert. ef. 2-8-12; BLI 11-2015, f. & cert. ef. 8-4-15

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## 839-005-0138

### Discrimination in Employment Based on Child Support Obligations

- (1) For purposes of this rule:
  - (a) "Child" has the meaning given that term in ORS 110.303.
  - (b) "Child support" means an obligation imposed or imposed by law to provide support, including but not limited to medical support and an unsatisfied obligation to provide support to a child under ORS chapter 25.
  - (c) "Obligor" means an individual or the estate of a decedent:
    - (A) Who owes or is alleged to owe a duty of support;
    - (B) Who is alleged but has not been adjudicated to be a parent of a child; or
    - (C) Who is liable under a support order.
  - (d) "Order to withhold" means an order or other legal process that requires a withholder to withhold support from the income of an obligor.
  - (e) "Withholder" means any person who disburses income and includes but is not limited to an employer, conservator, trustee or insurer of the obligor.
- (2) It is an unlawful employment practice for an employer to discharge, refuse to hire or in any other manner discriminate, retaliate, or take disciplinary action against an employee because of the entry or service of an order to withhold under ORS 25.378 and 25.402 or because of the obligations or additional obligations that the order imposes upon the employer.
- (3) An obligor may bring an action under ORS 659A.885 or may file a complaint with the Bureau of Labor and Industries in the manner provided by ORS 659A.820.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 25.424, 659A.885

Hist.: BLI 9-2010, f. & cert. ef. 2-24-10; BLI 11-2015, f. & cert. ef. 8-4-15

## 839-005-0140

### Accommodation of Employee Religious Practices

(1) An employer violates ORS 659A.030 if the employer does not allow an employee to use vacation leave, or other leave available to the employee, for the purpose of allowing an employee to engage in the religious observance or practices of the employee.

(a) This requirement applies only to leave that is not restricted as to the manner in which the leave may be used and that the employer allows the employee to take by adjusting or altering the work schedule or assignment of the employee.

(2) An employer is required to accommodate such leave only when reasonably accommodating use of the leave by the employee will not impose an undue hardship on the operation of the business of the employer.

(a) A reasonable accommodation imposes an undue hardship on the operation of the business of the employer for the purposes of this section if the accommodation requires significant difficulty or expense. For the purpose of determining whether an accommodation requires significant difficulty or expense, the following factors shall be considered:

(A) The nature and the cost of the accommodation needed.

(B) The overall financial resources of the facility or facilities involved in the provision of the accommodation, the number of persons employed at the facility and the effect on expenses and resources or other impacts on the operation of the facility caused by the accommodation.

(C) The overall financial resources of the employer, the overall size of the business of the employer with respect to the number of persons employed by the employer and the number, type and location of the employer's facilities.

(D) The type of business operations conducted by the employer, including the composition, structure and functions of the workforce of the employer and the geographic separateness and administrative or fiscal relationship of the facility or facilities of the employer.

(E) The safety and health requirements in a facility, including requirements for the safety of other employees and any other person whose safety may be adversely impacted by the requested accommodation.

(3) An employer violates ORS 659A.030 if the employer imposes an occupational requirement that restricts the ability of an employee to wear religious clothing, to take time off for a holy day or to take time off to participate in a religious observance or practice when:

(a) Reasonably accommodating those activities does not impose an undue hardship on the operation of the business of the employer as described in this rule; and

(b) The activities have only a temporary or tangential impact on the employee's ability to perform the essential functions of the job.

(4) "Undue hardship" for purposes of ORS 659A.033 and this rule is described in ORS 659A.033.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.033

Hist.: BLI 9-2010, f. & cert. ef. 2-24-10; BLI 11-2015, f. & cert. ef. 8-4-15

## 839-005-0160

### Unlawful Employment Practices Against Victims of Domestic Violence, Harassment, Sexual Assault or Stalking

(1) ORS 659A.290 provides that it is an unlawful practice for an employer, because an individual is a victim of domestic violence, harassment, sexual assault or stalking to:

(a) Refuse to hire an otherwise qualified individual;

(b) Discharge, threaten to discharge, demote, suspend or in any way discriminate or retaliate against an individual with respect to promotion, compensation or any other terms, conditions or privileges of employment; or to

(c) Refuse to make a reasonable safety accommodation requested by an individual who is a victim of domestic violence, harassment, sexual assault or stalking, unless the employer can demonstrate that the accommodation would impose an undue hardship on the operation of the business of the employer as determined by ORS 659A.121.

(2) The Civil Rights Division of the Bureau of Labor and Industries enforces ORS 659A.290 and OAR 839-005-0160 to 839-005-0170, which implement ORS 659A.290.

(3) "Victim of domestic violence" means an individual who has been threatened with abuse or who is a victim of abuse as defined in ORS 107.705.

(4) "Victim of harassment" means an individual against whom harassment has been committed as described in Oregon's criminal code at ORS 166.065.

(5) "Victim of sexual assault" means an individual against whom a sexual offense has been threatened or committed as described in ORS 163.305 to 163.467 or 163.525.

(6) "Victim of stalking" means:

(a) An individual against whom stalking has been threatened or committed as described in ORS 163.732; or

(b) An individual who has obtained a temporary or permanent court's stalking protective order under ORS 30.866.

(7) In no event will an alleged perpetrator of domestic violence, harassment, sexual assault or stalking be considered a victim for the purposes of ORS 659A.290 or rules implementing ORS 659A.290.

Stat. Auth.: ORS 659A.805 & 659A.270

Stats. Implemented: ORS 659A.290

Hist.: BLI 9-2010, f. & cert. ef. 2-24-10; BLI 14-2011, f. 12-30-11, cert. ef. 1-1-12; BLI 3-2012, f. & cert. ef. 2-8-12; BLI 14-2013, f. & cert. ef. 12-30-13; BLI 11-2015, f. & cert. ef. 8-4-15

## 839-005-0170

### Reasonable Safety Accommodation; Certification; Records Confidential

(1) A "reasonable safety accommodation" for a victim of domestic violence, harassment, sexual assault or stalking as provided in ORS 659A.290 may include, but is not limited to, a transfer, reassignment, modified schedule, use of available paid leave from employment, unpaid leave from employment, changed work telephone number, changed work station, installed lock, implemented safety procedure or any other adjustment to a job structure, workplace facility or work requirement in response to actual or threatened domestic violence, harassment, sexual assault or stalking.

(2) Use of available paid and unpaid leave from employment is provided for in ORS 659A.270-.285 and OAR 839-009-0325 through OAR 839-009-0365.

(3) "Undue hardship" for purposes of ORS 659A.290 is defined as ORS 659A.121: An accommodation imposes an undue hardship on the operation of the business of the employer if the accommodation requires significant difficulty or expense, considering the following:

(a) The nature and the cost of the accommodation needed.

(b) The overall financial resources of the facility or facilities involved in the provision of the accommodation, the number of persons employed at the facility and the effect on expenses and resources or other impacts on the operation of the facility caused by the accommodation.

(c) The overall financial resources of the employer, the overall size of the business of the employer with respect to the number of its employees and the number, type and location of the employer's facilities.

(d) The type of operations conducted by the employer, including the composition, structure and functions of the workforce of the employer and the geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the employer.

(4) Prior to making a reasonable safety accommodation, an employer may require an individual to provide certification that the individual is a victim of domestic violence, harassment, sexual assault, or stalking within a reasonable time after receiving the employer's request. Any of the following constitutes sufficient certification:

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cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 8-2010, f. & cert. ef. 2-24-10; BLI 11-2015, f. & cert. ef. 8-4-15

(a) A copy of a police report indicating that the individual was or is a victim of domestic violence, harassment, sexual assault or stalking as defined in OAR 839-005-0160 and ORS 659A.290; or

(b) A copy of a protective order authorized by ORS 30.866, 107.095(1)(c), 107.700 to 107.735, 124.005 to 124.040 or 163.730 to 163.750; or any other order that restrains an individual from contact with an individual; an order authorized by ORS 30.866, 107.095(1)(c), 107.700 to 107.735, 124.005 to 124.040 or 163.730 to 163.750) or other evidence from a court or attorney that the employee appeared in or is preparing for a civil, criminal or administrative proceeding related to domestic violence, harassment, sexual assault or stalking; or

(c) Documentation from an attorney; law enforcement officer (defined as all police, corrections, and parole and probation officers who are included in the Public Safety Standards and Training Act as described in ORS 181.610 and 181.651); health care professional (defined as a physician or other health care practitioner who is licensed, certified or otherwise authorized by law to provide health care services); licensed mental health professional or counselor; member of the clergy; or victim services provider (defined at ORS 659A.270(8) as a prosecutor-based victim assistance program or a nonprofit program offering safety planning, counseling, support or advocacy) that the individual was or is undergoing treatment or counseling, obtaining services or relocating as a result of domestic violence, harassment, sexual assault or stalking.

(5) All records and information kept by an employer regarding a reasonable safety accommodation made for an individual are confidential and may not be released without the express permission of the individual, unless otherwise required by law.

(6) Consistent with ORS 659A.306, the employer must pay the cost of any medical verification related to ORS 659A.290 or these rules that is not covered by insurance or other benefit plan.

(7) If the State of Oregon has knowledge, or reasonably should have knowledge, that its employee is a victim of domestic violence, harassment, sexual assault or stalking and that any direct or indirect communication to the employee related to the victimization of the employee is made or attempted to be made in the workplace, the State of Oregon shall immediately inform the employee and offer to report the communication to law enforcement.

(8) The State of Oregon shall annually inform all of its employees of the provisions of ORS 659A.290.

(9) Pursuant to ORS 659A.030(1)(g), it is an unlawful employment practice for any person, whether an employer or an employee, to aid, abet, incite, compel or coerce the doing of any of the acts in violation of ORS 659A.290 or to attempt to do so.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.290

Hist.: BLI 9-2010, f. & cert. ef. 2-24-10; BLI 14-2011, f. 12-30-11, cert. ef. 1-1-12; BLI 3-2012, f. & cert. ef. 2-8-12; BLI 14-2013, f. & cert. ef. 12-30-13; BLI 11-2015, f. & cert. ef. 8-4-15

## 839-005-0195

### Purpose and Scope

(1) The public policy of the State of Oregon guarantees all individuals the fullest possible participation in the social and economic life of the state, including the right to purchase, lease, rent or occupy property without discrimination on the basis of race, color, religion, sex, sexual orientation, national origin, marital status, disability, familial status, source of income and other classes protected under Oregon statutes. The Bureau of Labor and Industries, through the Civil Rights Division, protects these rights by enforcement of ORS 659A.145, 659A.421 and the federal Fair Housing Act (42 U.S.C. §3601–3617) over which the U.S. Department of Housing and Urban Development has jurisdiction.

(2) An individual claiming to be aggrieved by an alleged unlawful practice under ORS 659A.145 or 659A.421 or discrimination under the federal Fair Housing Act (42 U.S.C. §3601–3617) may file a complaint with the Civil Rights Division as described in OAR 839-003-0200.

(a) An individual claiming to be aggrieved by an alleged unlawful practice under ORS 659A.145 or 659A.421 or discrimination under the federal Fair Housing Act (42 U.S.C. §3601–3617) includes an individual who believes that the individual has been injured by an unlawful practice or discriminatory housing practice or will be injured by an unlawful practice or discriminatory housing practice that is about to occur.

(3) These rules apply to all complaints and inquiries relating to these sections received on or after the effective date of these rules.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.103, 659A.142 & 659A.145, 659A.421; 42 U.S.C. §3601–3617

Hist.: BLI 36-2007, f. 12-27-07 cert. ef. 1-1-08; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08,

## 839-005-0200

### Definitions: Housing Discrimination

(1) “Aggrieved person” includes a person who believes that the person:

(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.

(2) “Disability” means:

(a) A physical or mental impairment that substantially limits one or more major life activities of the individual.

(b) A record of having a physical or mental impairment that substantially limits one or more major life activities of the individual. An individual has a record of having a physical or mental impairment if the individual has a history of, or has been misclassified as having, a physical or mental impairment that substantially limits one or more major life activities of the individual.

(c) A physical or mental impairment that the individual is regarded as having.

(A) An individual is regarded as having a physical or mental impairment if the individual has been subjected to an action prohibited under ORS 659A.112 to 659A.139 because of an actual or perceived physical or mental impairment, whether or not the impairment limits or is perceived to limit a major life activity of the individual.

(B) An individual is not regarded as having a physical or mental impairment if the individual has an impairment that is minor and that has an actual or expected duration of six months or less.

(3) “Dwelling” means any building, structure, or portion of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land that is offered for sale or lease for the construction or location of any such building, structure, or portion of such a building or structure.

(4) “Family” includes but is not limited to a single individual.

(5) “Familial status” means the relationship between one or more individuals who have not attained 18 years of age and the individual with whom they are domiciled who is:

(a) A parent or another person having legal custody of the individual; or

(b) The designee of the parent or other person having such custody, with the written permission of the parent or other person.

(c) “Familial status” includes any individual, regardless of age or domicile, who is pregnant or is in the process of securing legal custody of an individual who has not attained 18 years of age.

(d) “Domiciled” includes but is not limited to part-time residence in a dwelling where an individual has a reasonable expectation of a continuing right to return.

(6) “Major life activity” includes, but is not limited to:

(a) Caring for oneself;

(b) Performing manual tasks;

(c) Seeing;

(d) Hearing;

(e) Eating;

(f) Drinking;

(g) Sleeping;

(h) Walking;

(i) Standing;

(j) Lifting;

(k) Bending;

(l) Twisting;

(m) Speaking;

(n) Breathing;

(o) Cognitive functioning;

(p) Learning;

(q) Education;

(r) Reading;

(s) Concentrating;

(t) Remembering;

(u) Thinking;

(v) Communicating;

(w) Working: To be substantially limited in the major life activity of working, an individual must be significantly restricted in the ability to perform a class of jobs or a broad range of jobs in various classes as compared to the ability of an average person with comparable skill, experience, edu-

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cation or other job-related requirements needed to perform those same positions;

- (x) Socialization;
- (y) Sitting;
- (z) Reaching;
- (aa) Interacting with others;
- (bb) Sexual relations;
- (cc) Employment;
- (dd) Ambulation;
- (ee) Transportation;
- (ff) Operation of a major bodily function, including but not limited to:
  - (A) Functions of the immune system;
  - (B) Normal cell growth; and
  - (C) Digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions; and
- (gg) Ability to acquire, rent or maintain property.

(8) "Misclassified," as used in ORS 659A.100(2)(b), means an erroneous or unsupported medical diagnosis, report, certificate or evaluation.

(9) "Person" includes one or more individuals, partnerships, associations, labor organizations, limited liability companies, joint stock companies, corporations, legal representatives, trustees, trustees in bankruptcy or receivers, fiduciaries, mutual companies, trusts and unincorporated organizations and public bodies as defined in ORS 30.260 that have the primary purpose of serving, representing or otherwise benefiting the protected class.

(10) "Physical or mental impairment" means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, traumatic brain injury, emotional or mental illness, and specific learning disabilities.

(11) "Property" and "real property" means property used or intended for commercial, business or residential purposes including, but not limited to a dwelling.

(12) "Purchaser" includes an occupant, prospective occupant, renter, prospective renter, lessee, prospective lessee, buyer or prospective buyer.

(13) "Receipt or alleged receipt of treatment for a mental disorder," as used in ORS 659A.142(5), means actual treatment of an individual for a mental condition or an assertion that the person received such treatment.

(14) "Regarded as having an impairment," as used in ORS 659A.100(2)(c), means:

(a) An individual having a physical or mental impairment that does not substantially limit a major life activity but who has been treated as having an impairment by a seller, lessor, advertiser, real estate broker or salesperson, or the agent of any seller, lessor, advertiser, real estate broker or salesperson;

(b) An individual having a physical or mental impairment that substantially limits a major life activity only as a result of the attitude of others toward such impairment; or

(c) An individual having no physical or mental impairment but who is treated as having an impairment by a seller, lessor, advertiser, real estate broker or salesperson, or the agent of any seller, lessor, advertiser, real estate broker or salesperson.

(15) "Residential real estate related transaction" means any of the following:

(a) The making or purchasing of loans or providing other financial assistance:

(A) For purchasing, constructing, improving, repairing or maintaining a dwelling; or

(B) Secured by residential real estate; or

(b) The selling, brokering or appraising of residential real property.

(16) "Substantially limits" means that an individual has an impairment, had an impairment or is perceived as having an impairment that restricts one or more major life activities of the individual as compared to most people in the general population.

(a) An impairment need not prevent, or significantly or severely restrict, the individual from performing a major life activity in order to be considered substantially limiting.

(b) An impairment that substantially limits one major life activity of the individual need not limit other major life activities of the individual.

(c) To have a disability (or to have a record of a disability) an individual must be substantially limited in performing a major life activity as compared to most people in the general population.

(d) An impairment that is episodic or in remission is considered to substantially limit a major life activity of the individual if the impairment would substantially limit a major life activity of the individual when the impairment is active. Nonetheless, not every impairment will constitute a disability within the meaning of this section.

(e) The term "substantially limits" shall be construed in favor of broad coverage of individuals to the maximum extent permitted by the terms of ORS 659A.100 to 659A.145 and 659A.400 to 659A.425, and should not require extensive analysis.

(17) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(18) "Treatment" includes examination, evaluation, diagnosis and therapy by a health professional within the scope of the professional's applicable license.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.103-.142; 659A.145, 659A.421

Hist.: BLI 36-2007, f. 12-27-07 cert. ef. 1-1-08; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 8-2010, f. & cert. ef. 2-24-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11; BLI 14-2013, f. & cert. ef. 12-30-13; BLI 11-2015, f. & cert. ef. 8-4-15

## 839-005-0205

### Prohibited Discrimination in Real Property Transactions

(1) A person may not, because of race, color, religion, sex, sexual orientation, national origin, marital status, disability, familial status, source of income or other protected class of any individual:

(a) Refuse to sell, lease or rent any real property to a purchaser except that a person may refuse to lease or rent real property to a prospective renter or prospective lessee:

(A) Based upon the past conduct of a prospective renter or prospective lessee provided the refusal to lease or rent based on past conduct is consistent with local, state and federal law, including but not limited to fair housing laws; or

(B) Based upon the prospective renter's or prospective lessee's inability to pay rent, taking into account the value of the prospective renter's or prospective lessee's local, state and federal housing assistance, provided the refusal to lease or rent based on inability to pay rent is consistent with local, state and federal law, including but not limited to fair housing laws.

(b) Expel a purchaser from any real property;

(c) Make any distinction, discrimination or restriction against a purchaser in price, terms, conditions or privileges relating to the sale, rental, lease or occupancy of real property or in the furnishing of any facilities or services in connection with real property;

(d) Attempt to discourage the sale, rental, lease or occupancy of any real property to a purchaser;

(e) Publish, circulate, issue or display or cause to be published, circulated, issued or displayed, any communication, notice, advertisement, or sign of any kind whether oral, written or electronic, relating to the sale, rental or leasing of real property that indicates any preference, limitation, specification or unlawful discrimination based on race, color, religion, sex, sexual orientation, national origin, marital status, disability, familial status, source of income and other classes protected under Oregon statutes;

(f) Assist, induce, incite or coerce another person to commit an act or engage in a practice that violates ORS 659A.145, 659A.421, the federal Fair Housing Act (42 U.S.C. §3601-3617) or these rules;

(g) Coerce, intimidate, threaten or interfere with any individual in the exercise or enjoyment of, or on account of having exercised or enjoyed, or on account of having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by ORS 659A.145, 659A.421, the federal Fair Housing Act (42 U.S.C. §3601-3617) or these rules;

(h) Deny access to, or membership or participation in, any multiple listing service, real estate broker's organization or other service, organization or facility relating to the business of selling or renting dwellings, or discriminate against any individual in the terms or conditions of the access, membership or participation;

(i) Represent to an individual that a dwelling is not available for inspection, sale, rental or lease when the dwelling in fact is available for inspection, sale, rental or lease;

(j) Otherwise make unavailable or deny a dwelling to an individual.

(2) A person whose business includes engaging in residential real estate related transactions may not discriminate against any individual in making a transaction available, or in the terms or conditions of the transaction, because of race, color, religion, sex, sexual orientation, national ori-

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gin, marital status, disability, familial status, source of income and other classes protected under Oregon statutes.

(3) A real estate licensee may not accept or retain a listing of real property for sale, lease or rental with an understanding that a purchaser may be discriminated against with respect to the sale, rental or lease thereof because of race, color, religion, sex, sexual orientation, national origin, marital status, disability, familial status, source of income and other classes protected under Oregon statutes.

(4) A person may not, for profit, induce or attempt to induce any other person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of an individual or individuals of a particular race, color, religion, sex, sexual orientation, national origin, marital status, disability, familial status, source of income and other classes protected under Oregon statutes.

(5) For purposes of OAR 839-005-0205(1) to (4), "source of income" includes federal rent subsidy payments under 42 U.S.C. §1437f, and any other local, state, or federal housing assistance. "Source of income" does not include income from specific occupations or income derived in an illegal manner.

Stat. Auth.: ORS 659A.805  
Stats. Implemented: ORS 659A.103, 659A.142 & 659A.145, 659A.421; 42 U.S.C. §3601-3617  
Hist.: BLI 36-2007, f. 12-27-07 cert. ef. 1-1-08; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 8-2010, f. & cert. ef. 2-24-10; BLI 9-2014, f. & cert. ef. 7-3-14; BLI 11-2015, f. & cert. ef. 8-4-15

## 839-005-0206

### Discrimination Theories: Housing

(1) For the purposes of housing discrimination complaints under ORS 659A.145 or 659A.421 or discrimination complaints under the federal Fair Housing Act (42 U.S.C. §3601-3617) an aggrieved person need not be a member of a protected class in order to file a complaint of housing discrimination.

(2) Substantial evidence of intentional unlawful discrimination exists if the division's investigation reveals reasonable cause for the commissioner to believe the facts concerning the alleged discriminatory housing practice are sufficient to warrant the initiation of a civil action in circuit court under one of the following theories:

(a) Specific Intent Theory: The respondent knowingly and purposefully discriminates against an individual because of that individual's membership in a protected class.

(b) Different or Unequal Treatment Theory: The respondent treats members of a protected class differently than others who are not members of that protected class. When the respondent makes this differentiation because of the individual's protected class and not because of legitimate, non-discriminatory reasons, unlawful discrimination exists. In establishing a case of different or unequal treatment:

(A) There must be substantial evidence that the individual was harmed or was about to be harmed by the action of the respondent under circumstances that make it appear that the respondent treated the individual differently than comparably situated individuals who were not members of the individual's protected class. Substantial evidence of discrimination exists if the division's investigation reveals evidence that a reasonable person would accept as sufficient to support that protected class membership was a motivating factor for the respondent's alleged unlawful action. If the respondent fails to rebut this evidence with evidence of a legitimate non-discriminatory reason, the division will conclude that substantial evidence of discrimination exists.

(i) Pretext: If the respondent rebuts the evidence with evidence of a legitimate non-discriminatory reason, but there is substantial evidence that the respondent's reason is a pretext for discrimination, the division will conclude there is substantial evidence of unlawful discrimination.

(ii) Mixed Motive: If the respondent presents substantial evidence that a legitimate, non-discriminatory reason contributed to the respondent's action, but the division finds the individual's protected class membership was also a substantial factor in the respondent's action, the division will determine there is substantial evidence of unlawful discrimination.

(B) The aggrieved person at all times has the burden of proving that the individual's protected class was the motivating factor for the respondent's unlawful action.

(3) Adverse Impact Discrimination in Housing:

(a) For the purposes of interpreting ORS 90.390, a court or the commissioner may find that a person has violated or is going to violate 659A.145 or 659A.421 if:

(A) The person applies a facially neutral housing policy to a member of a protected class;

(B) Application of the policy adversely impacts members of the protected class to a greater extent than the policy impacts persons generally.

(b) In determining under subsection (a) of this section whether a violation has occurred or will occur and, if it is determined that a violation has occurred or will occur, what relief should be granted, a court or the commissioner will consider:

(A) The significance of the adverse impact on the protected class;

(B) The importance and necessity of any business purpose for the facially neutral housing policy; and

(C) The availability of less discriminatory alternatives for achieving the business purpose for the facially neutral housing policy.

(4) As used in enforcing ORS 659A.145 or 659A.421 or the federal Fair Housing Act (42 U.S.C. §3601-3617), harassment on the basis of a protected class is an unlawful practice in housing when:

(a) Conduct of a verbal or physical nature relating to protected classes is unlawful when substantial evidence of the elements of intentional discrimination, as described in section (2) of this rule is shown; and

(A) Such conduct is sufficiently severe or pervasive to have the purpose or effect of creating an intimidating, hostile, or offensive environment; or

(B) Submission to such conduct is made either explicitly or implicitly a term or condition of housing; or

(C) Submission to or rejection of such conduct is used as the basis for housing decisions affecting that individual.

(b) The standard for determining whether harassment is sufficiently severe or pervasive to create a hostile, intimidating or offensive environment is whether a reasonable person in the circumstances of the individual against whom the harassment is directed would so perceive it.

(5) Tenant-on-tenant harassment: A housing provider is liable for a resident's harassment of another resident when the housing provider knew or should have known of the conduct, unless the housing provider took immediate and appropriate corrective action.

(6) Harassment by Employees or Agents: A housing provider is liable for harassment of a resident by the housing provider's employees or agents when the housing provider knew or should have known of the conduct, unless the housing provider took immediate and appropriate corrective action.

(7) Discrimination based on disability may involve intentional discrimination, including harassment, or discrimination that need not be intentional, including adverse impact, or the failure to permit reasonable modifications, the refusal to make reasonable accommodations or the failure to design and construct covered buildings under applicable rules. To be protected from discrimination based on disability, an individual must have a disability, as described in ORS 659A.104 and the relevant rules. Reasonable accommodation in real property transactions is covered by 659A.145 and OAR 839-005-0220. Reasonable modifications in housing and the design and construction of covered buildings are covered by ORS 659A.145. Claims of disability discrimination brought under federal housing law are defined under that law.

Stat. Auth.: ORS 659A.805  
Stats. Implemented: ORS 659A.103 - 659A.142; 659A.145, 659A.421  
Hist.: BLI 8-2010, f. & cert. ef. 2-24-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11; BLI 14-2013, f. & cert. ef. 12-30-13; BLI 11-2015, f. & cert. ef. 8-4-15

## 839-005-0210

### Exceptions to Application of Housing Discrimination Statutes and Rules

(1) OAR 839-005-0205 does not apply with respect to sex distinction, discrimination or restriction if the real property involved is such that the application of OAR 839-005-0205 would necessarily result in common use of bath or bedroom facilities by unrelated persons of opposite sex.

(2) The provisions of OAR 839-005-0205 (1)(a) to (d) and (f) that prohibit actions based upon sex, sexual orientation or familial status do not apply to the renting of space within a single-family residence if the owner actually maintains and occupies the residence as the owner's primary residence and all occupants share some common space within the residence.

(3)(a) OAR 839-005-0205 does not apply to familial status distinction, discrimination or restriction with respect to housing for older persons.

(b) As used in this subsection, "housing for older persons" means housing:

(A) Provided under any state or federal program that is specifically designed and operated to assist elderly persons, as defined by the state or federal program;

(B) Intended for, and solely occupied by, persons 62 years of age or older; or

# ADMINISTRATIVE RULES

(C) Intended and operated for occupancy by at least one person 55 years of age or older per unit. Housing qualifies as housing for older persons under this subparagraph if:

(i) At least 80 percent of the dwellings are occupied by at least one person 55 years of age or older per unit; and

(ii) Policies and procedures that demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older are published and adhered to.

(c) Housing does not fail to meet the requirements for housing for older persons if:

(A) Persons residing in the housing as of September 13, 1988, do not meet the requirements of paragraph (b)(B) or (C) of this subsection. However, new occupants of such housing will meet the age requirements of paragraph (b)(B) or (C) of this subsection; or

(B) The housing includes unoccupied units that are reserved for occupancy by persons who meet the age requirements of paragraph (b)(B) or (C) of this subsection.

(d) Nothing in this section limits the applicability of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.103, 659A.142 & 659A.145, 659A.421, 42 U.S.C. §3601-3617

Hist.: BLI 36-2007, f. 12-27-07 cert. ef. 1-1-08; BLI 11-2015, f. & cert. ef. 8-4-15

## 839-005-0215

### Religious Exemption

It is not an unlawful practice for a bona fide church or other religious institution to take any action with respect to housing based on a bona fide religious belief about sexual orientation as long as the housing is closely connected with or related to the primary purpose of the church or institution and is not connected with a commercial or business activity that has no necessary relationship to the church or institution (see OAR 839-005-0031).

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.103, 659A.142 & 659A.145, 659A.421, 42 U.S.C. §3601-3617

Hist.: BLI 36-2007, f. 12-27-07 cert. ef. 1-1-08; BLI 8-2010, f. & cert. ef. 2-24-10; BLI 11-2015, f. & cert. ef. 8-4-15

## 839-005-0220

### Discrimination in Real Property Transactions Against Individuals Based on Disabilities

(1) Individuals protected from discrimination on the basis of disability in real property transactions include any individual with a disability associated with a purchaser.

(2) In addition to the prohibitions in OAR 839-005-0205, discrimination in real property transactions based on an individual's disability includes, but is not limited to:

(a) Failure to design and construct a covered multifamily dwelling as required by the Fair Housing Act (42 U.S.C. 3601 et seq.);

(b) Refusing to permit, at the expense of an individual with a disability, reasonable modifications of existing premises occupied or to be occupied by that individual if such modifications may be necessary to afford that individual full enjoyment of the premises, except that, in the case of rental, the landlord may, where it is reasonable to do so, condition permission for modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

(A) In the case of a rental, a disabled renter is only required to restore the interior premises to the condition that existed before the modification when the landlord required restoration as a condition to granting the disabled renter's reasonable modification request.

(c) Refusing to make reasonable accommodations in rules, policies, practices or services when such accommodations may be necessary to afford an individual with a disability equal opportunity to use and enjoy a dwelling;

(A) A housing provider may not require verification of the disability-related need for a requested accommodation if that need is readily apparent or otherwise known;

(B) If a disability or a disability-related need for a requested accommodation is not readily apparent or otherwise known, the provider may request only information that is necessary to evaluate the disability-related need for the accommodation;

(C) It is a violation of this section for a housing provider to refuse to permit a disabled person to live in a covered dwelling with an animal that mitigates one or more of the person's disability-related needs, except when

a specific animal poses a direct threat to the health or safety of other individuals and the threat cannot be eliminated or significantly reduced; and

(D) A housing provider may not charge a resident or applicant deposits or other fees for keeping an animal covered under this section.

(3) Direct Threat. A lessor or agent may engage in conduct otherwise prohibited by ORS 659A.145 when:

(a) Leasing or rental of the subject property by an individual with a disability would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others; and

(b) No reasonable accommodation is possible that would eliminate or acceptably minimize the risk to health and safety.

(4) A determination that a direct threat exists must rely on an individualized assessment that is based on reliable objective evidence (e.g., current conduct, or a recent history of overt acts posing a risk to health and safety). The assessment must consider:

(a) The nature, duration and severity of the risk of injury;

(b) The probability that injury will actually occur; and

(c) Whether there are any reasonable accommodations that will eliminate the direct threat.

(5) A lessor or agent must allow alterations of existing premises if the premises are occupied by or to be occupied by an individual with a disability, and the individual with a disability pays for the alterations, as provided in section 2 of this rule.

(6) Receipt or alleged receipt of treatment for a mental disorder does not constitute evidence of an individual's inability to acquire, rent or maintain property.

(7) In the sale, lease or rental of real estate, a person may not disclose to any person that an occupant or owner of real property has or died from human immunodeficiency virus or acquired immune deficiency syndrome.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.103 – 659A.142; 659A.145 & 659A.421

Hist.: BLI 36-2007, f. 12-27-07 cert. ef. 1-1-08; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 8-2010, f. & cert. ef. 2-24-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11; BLI 11-2015, f. & cert. ef. 8-4-15

## 839-005-0300

### Purpose and Scope

(1) ORS 345.240 prohibits unlawful discrimination by career schools licensed under ORS 345.010 to 345.450.

(2) A violation of ORS 345.240 is an unlawful practice under ORS chapter 659A. The provisions of ORS chapter 659A that apply to unlawful practices, apply to alleged violations of ORS 345.240, including but not limited to ORS 659A.030(1)(f) and 659A.800 through 659A.865.

(3) Any individual claiming to be aggrieved by an unlawful practice including a violation of ORS 345.240 may file a complaint with the Commissioner of the Bureau of Labor and Industries under ORS 659A.820.

(4) The Civil Rights Division of the Bureau of Labor and Industries enforces ORS 345.240. These rules implement and interpret ORS 345.240.

Stat. Auth.: ORS 651.060

Stats. Implemented: ORS 345.240

Hist.: BLI 14-2013, f. & cert. ef. 12-30-13; BLI 11-2015, f. & cert. ef. 8-4-15

## 839-005-0305

### Definitions: Career Schools

For purposes of ORS 345.240 and these rules:

(1) "Agent" means an individual who:

(a) Is employed by or for a career school, or is working on behalf of the school under a contract, for the purpose of procuring students, enrollees or subscribers of the school by solicitation in any form that is made at a place or places other than the school office or place of business of the school; or

(b) At the request of a career school or under a contract with a career school, provides information technology services for the school and has control over information technology systems that are used for the purpose of procuring students, enrollees or subscribers of the school by solicitation in any form that is made by technology that is accessed at a place or places other than the school office or place of business of the school.

(2) "Career school" includes any private proprietary professional, technical, home study, correspondence, business or other school instruction, organization or person that offers any instruction or training for the purpose or purported purpose of instructing, training or preparing persons for any profession. "Career school" includes those required to be licensed under ORS 345.010 to 345.450, and excludes entities described in ORS 345.015. Entities excluded by ORS 345.015 but receiving state funds, may

# ADMINISTRATIVE RULES

be subject to ORS 659.850, which is under the jurisdiction of the State Board of Higher Education.

(3) "Discrimination" means any act that unreasonably differentiates treatment, intended or unintended, or any act that is fair in form but discriminatory in operation, either of which is based on age, disability, national origin, race, color, marital status, religion, sex or sexual orientation.

(4) "Sexual orientation" means an individual's actual or perceived heterosexuality, homosexuality, bisexuality or gender identity, regardless of whether the individual's gender identity, appearance, expression or behavior differs from that traditionally associated with the individual's sex at birth.

Stat. Auth.: ORS 651.060

Stats. Implemented: ORS 345.240, 345.010 & 659.850

Hist.: BLI 14-2013, f. & cert. ef. 12-30-13; BLI 11-2015, f. & cert. ef. 8-4-15

## 839-005-0310

### Unlawful Discrimination by Career Schools or Agents

(1) No career school or its agent may, based on the protected classes of age, disability, national origin, race, color, marital status, religion, sex or sexual orientation of an individual or any other individual with whom that individual associates:

(a) Refuse admission to any individual;

(b) Discriminate in any aspect of admission or enrollment against any individual;

(c) Discriminate in giving instruction to any individual;

(d) Discriminate in requirements for or the provision of aid, benefits, or services;

(e) Discriminate in application of rules of behavior, sanctions, or any other treatment; or

(f) Otherwise limit any individual in the enjoyment of any right, privilege, advantage, or opportunity.

(2) No career school may aid or perpetuate discrimination by joining or remaining a member of any organization that discriminates, based on the protected classes in subsection (1) of this rule, in providing any aid, benefit, or service to students or employees.

Stat. Auth.: ORS 651.060

Stats. Implemented: ORS 345.240 & 659.850

Hist.: BLI 14-2013, f. & cert. ef. 12-30-13; BLI 11-2015, f. & cert. ef. 8-4-15

## 839-005-0315

### Discrimination Theories for Career Schools

(1) Intentional Unlawful Discrimination: Substantial evidence of intentional unlawful discrimination exists if the division's investigation reveals evidence that a reasonable person would accept as sufficient to support the following elements:

(a) The respondent is a respondent as defined by ORS 659A.001(10) and OAR 839-005-0003(12) of these rules;

(b) The aggrieved person is a member of a protected class;

(c) The aggrieved person was harmed by an action of the respondent; and

(d) The aggrieved person's protected class was the motivating factor for the respondent's action. In determining whether the aggrieved person's protected class was the reason for the respondent's action, the division uses whichever of the following theories applies:

(A) Specific Intent Theory: The respondent knowingly and purposefully discriminates against an individual because of that individual's membership in a protected class, unless the respondent can show that a bona fide voluntary, court-ordered affirmative action plan (OAR 839-005-0013(3)) allows the action.

(B) Different or Unequal Treatment Theory: The respondent treats members of a protected class differently than others who are not members of that protected class. When the respondent makes this differentiation because of the individual's protected class and not because of legitimate, non-discriminatory reasons, unlawful discrimination exists. In establishing a case of different or unequal treatment:

(i) There must be substantial evidence that the aggrieved person was harmed by an action of the respondent under circumstances that make it appear that the respondent treated the aggrieved person differently than comparably situated individuals who were not members of the aggrieved person's protected class. Substantial evidence of discrimination exists if the division's investigation reveals evidence that a reasonable person would accept as sufficient to support that protected class membership was a motivating factor for the respondent's alleged unlawful action. If the respondent fails to rebut this evidence with evidence of a legitimate non-discriminatory reason, the division will conclude that substantial evidence of unlawful discrimination exists.

(I) Pretext: If the respondent rebuts the evidence with evidence of a legitimate non-discriminatory reason, but there is substantial evidence that the respondent's reason is a pretext for discrimination, the division will conclude there is substantial evidence of unlawful discrimination.

(II) Mixed Motive: If the respondent presents substantial evidence that a legitimate, non-discriminatory reason contributed to the respondent's action, but the division finds the individual's protected class membership was also a substantial factor in the respondent's action, the division will determine there is substantial evidence of discrimination.

(ii) The aggrieved person [complainant] at all times has the burden of proving that the aggrieved person's protected class was the reason for the respondent's unlawful action.

(2) Harassment based on an individual's protected class is a type of intentional unlawful discrimination.

(a) Conduct of a verbal or physical nature relating to protected classes other than sex is unlawful when substantial evidence of the elements of intentional discrimination, as described in section (1) of this rule, is shown and:

(A) Such conduct is sufficiently severe or pervasive to have the purpose or effect of unreasonably interfering with an individual's performance or creating an intimidating, hostile or offensive environment;

(B) Submission to such conduct is made either explicitly or implicitly a term or condition of enrollment; or

(C) Submission to or rejection of such conduct is used as the basis for enrollment decisions affecting that individual.

(b) The standard for determining whether harassment is sufficiently severe or pervasive to create a hostile, intimidating or offensive environment is whether a reasonable person in the circumstances of the complaining individual would so perceive it.

(3) Adverse Impact Discrimination: Substantial evidence of adverse impact discrimination does not require establishment of intentional discrimination as provided in (1) of this rule. Adverse impact discrimination exists if the division's investigation reveals evidence that a reasonable person would accept as sufficient to support the following elements:

(a) The respondent is a respondent as defined by ORS 659A.001(10) and OAR 839-005-0003(10) of these rules;

(b) The respondent has a standard or policy that is applied equally.

(c) The standard or policy has the effect of screening out or otherwise affecting members of a protected class at a significantly higher rate than others who are not members of that protected class; and

(d) The aggrieved person is a member of the protected class adversely affected by the respondent's standard or policy and has been harmed by the respondent's application of the standard or policy.

(4) Reasonable Accommodation of Religion: A career school must reasonably accommodate a student's or applicant's religious belief, observance or practice unless the career school can demonstrate that such accommodation would cause it undue hardship.

Stat. Auth.: ORS 651.060

Stats. Implemented: ORS 345.240, 345.120 & 345.060

Hist.: BLI 14-2013, f. & cert. ef. 12-30-13; BLI 11-2015, f. & cert. ef. 8-4-15

## 839-005-0320

### Authority of Superintendent of Public Instruction Related to Complaints under ORS 345.240

(1) Pursuant to ORS 345.120, the Superintendent of Public Instruction of the State of Oregon has authority to suspend or revoke licenses of career schools violating ORS 345.010 to 345.450 or any applicable rule. A certified copy of a finding by the Commissioner of the Bureau of Labor and Industries in a contested case proceeding under ORS 659A.850 that the school has violated ORS 345.240 is adequate proof of the violation.

(2) Pursuant to ORS 345.060, the Superintendent of Public Instruction may accept service of all actions or proceedings brought against a career school not domiciled in Oregon.

Stat. Auth.: ORS 651.060

Stats. Implemented: ORS 345.240, 345.120 & 345.060

Hist.: BLI 14-2013, f. & cert. ef. 12-30-13; BLI 11-2015, f. & cert. ef. 8-4-15

## 839-005-0325

### Retaliation or Discrimination by Career Schools Prohibited

Pursuant to ORS 659A.030(1)(f), it is an unlawful practice for a career school or its agent to retaliate or discriminate against any individual because the individual has filed a complaint, testified or assisted in any proceeding in connection with ORS 345.240 or ORS chapter 659A.

Stat. Auth.: ORS 651.060

Stats. Implemented: ORS 345.240 & 659A.030

Hist.: BLI 14-2013, f. & cert. ef. 12-30-13; BLI 11-2015, f. & cert. ef. 8-4-15

# ADMINISTRATIVE RULES

839-005-0400

## Unlawful Employment Practice

(1) It is an unlawful employment practice for an employer to:

(a) Require or request an employee or an applicant for employment to disclose or to provide access through the employee's or applicant's user name and password, password or other means of authentication that provides access to a personal social media account;

(b) Compel an employee or applicant for employment to add the employer or an employment agency to the employee's or applicant's list of contacts associated with a social media website;

(c) Except as provided in subsection (4)(b) of this section, compel an employee or applicant for employment to access a personal social media account in the presence of the employer and in a manner that enables the employer to view the contents of the personal social media account that are visible only when the personal social media account is accessed by the account holder's user name and password, password or other means of authentication;

(d) Take, or threaten to take, any action to discharge, discipline or otherwise penalize an employee for the employee's refusal to disclose, or to provide access through, the employee's user name and password, password or other means of authentication that is associated with a personal social media account, to add the employer to the employee's list of contacts associated with a social media website or to access a personal social media account as described in paragraph (c) of this subsection; or

(e) Fail or refuse to hire an applicant for employment because the applicant refused to disclose, or to provide access through, the applicant's user name and password, password or other means of authentication that is associated with a personal social media account, to add the employer to the applicant's list of contacts associated with a social media website or to access a personal social media account as described in paragraph (c) of this subsection.

(2) An employer may require an employee to disclose any username and password, password or other means for accessing an account provided by, or on behalf of, the employer or to be used on behalf of the employer.

(3) An employer may not be held liable for the failure to request or require an employee or applicant to disclose the information specified in subsection (1)(a) of this section.

(4) Nothing in this section prevents an employer from:

(a) Conducting an investigation, without requiring an employee to provide a user name and password, password or other means of authentication that provides access to a personal social media account of the employee, for the purpose of ensuring compliance with applicable laws, regulatory requirements or prohibitions against work-related employee misconduct based on receipt by the employer of specific information about activity of the employee on a personal online account or service.

(b) Conducting an investigation permitted under this subsection that requires an employee, without providing a user name and password, password or other means of authentication that provides access to a personal social media account of the employee, to share content that has been reported to the employer that is necessary for the employer to make a factual determination about the matter.

(c) Complying with state and federal laws, rules and regulations and the rules of self-regulatory organizations.

(5) Nothing in this section prohibits an employer from accessing information available to the public about the employee or applicant that is accessible through an online account.

(6) If an employer inadvertently receives the user name and password, password or other means of authentication that provides access to a personal social media account of an employee through the use of an electronic device or program that monitors usage of the employer's network or employer-provided devices, the employer is not liable for having the information but may not use the information to access the personal social media account of the employee.

(7) As used in this section, "social media" means an electronic medium that allows users to create, share and view user-generated content, including, but not limited to, uploading or downloading videos, still photographs, blogs, video blogs, podcasts, instant messages, electronic mail or Internet website profiles or locations.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.330

Hist.: BLI 14-2013, f. & cert. ef. 12-30-13; BLI 11-2015, f. & cert. ef. 8-4-15

## Department of Agriculture Chapter 603

**Rule Caption:** Amends the quarantine boundary for *Phytophthora ramorum* in Curry County; updates the quarantine's statutory authority.

**Adm. Order No.:** DOA 9-2015

**Filed with Sec. of State:** 7-23-2015

**Certified to be Effective:** 7-23-15

**Notice Publication Date:** 6-1-2015

**Rules Amended:** 603-052-1230

**Subject:** The most recent survey and detection data from the Oregon Department of Forestry and epidemiology research from Oregon State University indicate that *Phytophthora ramorum* has increased its rate of spread within Curry County from 1- to 2-mi per year pre-2011, to a current rate of 3- to 4-mi per year. In addition, new infestations have been found near the border of and outside of the existing quarantine boundary. In response, the ODA is proposing to expand the quarantine boundary in the county to encompass the new infestations and to address the increased rate of spread. The ODA is also updating the statutory authorities used to promulgate this rule.

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

### 603-052-1230

#### Quarantine: *Phytophthora ramorum*

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

(2) Area under quarantine:

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

(b) The following portion of Curry County that lies inside the area starting at the point where the mouth of the Rogue River meets the Pacific Ocean and continuing east along the Rogue River to the northeast corner of T35S R12W section 31, then south to the northeast corner of T38S R12W section 18, then east to the northeast corner of T38S R12W section 13, then south to the northeast corner of T38S R12W section 25, then east to the northeast corner of T38S R11W section 29, then south to the northeast corner of T40S R11W section 8, then east to the northeast corner of T40S R11W section 10, then south to the state border with California, then west to the intersection of the Oregon/California state border with US Highway 101, and then northwest along US Highway 101 to the intersection with West Benham Lane and then west along West Benham Lane and continuing directly west to the Pacific Coastline; then following the coastline north-northwest back to the point of beginning;

(c) Any country, state, county, province or area covered by the federal Domestic Quarantine for *Phytophthora ramorum*, 7 CFR 301.92;

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

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

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

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

(c) "Generally-infested area" means the area within the quarantine boundary where *P. ramorum* has been commonly found or in which there is reason to believe *P. ramorum* is present because of the proximity, one-quarter (1/4) mile or less, to known infested sites. A map showing the generally infested area is available from the Oregon Department of

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Agriculture, [http://www.oregon.gov/ODA/CID/PLANT\\_HEALTH/](http://www.oregon.gov/ODA/CID/PLANT_HEALTH/), 635 Capitol St. NE, Salem, OR 97301, telephone: 503-986-4620.

(d) "Hosts and associated plants" means plants on the USDA APHIS List of Regulated Hosts and Plants Proven or Associated with Phytophthora ramorum, effective date November 27, 2013.

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

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

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

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

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

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

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

(4) Commodities regulated:

(a) All plants and plant parts of hosts and associated plants: Examples of regulated commodities include all portions of the plants including, but not limited to nursery stock, logs, bark, wood chips, mulch, firewood, sawdust, green waste, other plant products that may contain bark or foliage;

(b) Any other plant found to be naturally infected with *P. ramorum*, any product or article that an official inspector determines to present a risk of spreading *P. ramorum*, and all life stages of *P. ramorum*.

(5) Provisions of the quarantine: Movement out of the quarantined area of regulated commodities originating from the area under quarantine, and any other area found to be infested with *P. ramorum* during the life of this quarantine, is prohibited unless one of the following requirements has been met:

(a) The regulated commodity meets the official treatment and certification requirements for interstate movement as defined in the federal domestic quarantine, 7 CFR 301.92. The regulated commodity must be accompanied by an official certificate that includes the following additional declaration "The (type of covered commodity) from (name of county or other location identifier) has been treated for *Phytophthora ramorum* as required prior to shipment." As applicable, the specific requirements of the treatment must be recorded on the official certificate;

(b) Provisions for Douglas fir, grand fir, alder, and other non-hosts and non-bole hosts (as defined in 7 CFR 301.92) harvested within the quarantine area, including the generally-infested area. Logs and firewood of non-hosts and non-bole hosts are not regulated per 7 CFR 301.92 and can move freely within or outside the quarantine area. Soil, needles, foliage, and plant debris (including branches less than or equal to one (1) inch in diameter) must stay within the quarantine area.

(c) Provisions for tanoak logs and firewood harvested within the quarantine area.

(A) Tanoak logs and firewood - Intrastate. Tanoak logs and firewood may be shipped intrastate provided the logs were harvested from a disease-free area and the logs and firewood are safeguarded from contamination prior to shipment out of the quarantine area.

(B) Tanoak logs and firewood - Interstate. Tanoak logs and firewood may be shipped interstate provided the logs and firewood were harvested from a disease-free area, have been debarked according to federal requirements (see 7 CFR 301.92), and are accompanied by an official phytosanitary certificate verifying the debarking of the logs and firewood prior to shipment.

(C) Tanoak logs and firewood harvested within the generally-infested area are not eligible for movement outside of the quarantine area.

(d) Nursery stock grown in a quarantined county or area may be eligible for shipment to and within Oregon providing the nursery is part of an official certification program and has been inspected and tested as required

by the federal domestic quarantine, 7 CFR 301.92, for *P. ramorum*. The official certificate must include the following additional declaration: "The (covered commodity) from (name of county or other location identifier) has met the *Phytophthora ramorum* quarantine requirements for shipment into and within Oregon."

**NOTE:** Recipients of tree and shrub nursery stock imported into the state must notify the ODA no later than two business days after its arrival as required by OAR 603-054-0027.

(e) Soil and potting media from the quarantine area at a known infested site or from within four (4) meters of an infested host plant must be sterilized before shipment. The soil or potting media must reach a minimum temperature of 50 degrees C (122 degrees F) for 30-minutes measured at the center of the mass of soil or potting media. Soil or potting media that has never been associated with the covered commodities is exempt. Treatments must be officially verified. The official certificate must include the following additional declaration "The (soil or potting media) from (name of county or other location identifier) has been treated for *Phytophthora ramorum* as required prior to shipment." The length and temperature of the treatment must be recorded on the official certificate.

(6) Infested properties in Oregon: Confirmation of a *P. ramorum* infection must be made by the ODA or an official cooperator. The required response depends on whether the infested site is of high priority (Type 1) or normal priority (Type 2) in terms of importance for slowing disease spread as determined by ODA or an official cooperator. The ODA or an official cooperator will notify the landowner when a Type 1 infested site has been detected on their property.

(a) Type 1 sites must be treated as quickly as possible in accordance with USDA APHIS's Official Regulatory Protocol for *Phytophthora ramorum* Detections in Residential or Landscaped Commercial Settings, last revised January 15, 2013 or the USDA Forest Service, USDA APHIS, National Association of State Foresters, and National Plant Board's National Framework for Managing Sudden Oak Death caused by *Phytophthora ramorum* in Forests and Wildlands, October 2011. Subject to the availability of funds dedicated to the rapid treatment of *P. ramorum* infested sites, the cost of treatment will be borne by the State.

**NOTE:** These protocols are available from the Oregon Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301, telephone: 503-986-4644. Affected property owners will be issued infestation and treatment area location and treatment requirements in the form of an Administrative Directive. For public and private forested lands, the Oregon Departments of Agriculture and Forestry (ODF) will work with the landowner to develop a treatment plan that will be based on the best available science. The treatment plan may include some or all of the following activities:

(A) Cutting and piling susceptible trees and shrubs;

(B) Burning the wood and plant debris when safe to do so;

(C) Herbicide treatment of stumps, standing trees, and sprouts;

(D) Fungicide application;

(E) Sampling and monitoring;

(F) Replanting with suitable plant species to meet landowner objectives and to prevent intensification and spread of the disease.

(b) On Type 2 sites disease suppression through the implementation of best management practices is encouraged. Subject to availability of funds dedicated to the suppression of *P. ramorum* in urban and forested environments, a cost-share program may be available through the ODF to help defray costs of implementing best management practices to suppress disease spread (Oregon Department of Forestry, 415 Redwood Street, Brookings, OR 97415, telephone: 541-469-5040). A landowner with a Type 2 site may, after consultation with the ODA and ODF, allow use of their infested site(s) for *P. ramorum*-related research by Oregon State University, ODF, or ODA. Trees killed by *P. ramorum* within an infested Type 2 treatment area may be used as firewood under the following conditions:

(A) The firewood from the infected tree(s) is for non-commercial use only;

(B) The firewood does not leave the generally-infested area or any other infested site outside of the generally-infested area.

**NOTE:** Best management practices for managing *P. ramorum* infestations within the generally infested area are available on the California Oak Mortality website, <http://www.suddenoakdeath.org>, or from the Oregon Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301, telephone: 503-986-4644, or the Oregon Department of Forestry - Coos Bay, 63612 Fifth Road, Coos Bay, 97420, telephone: 541-267-4136.

(7) Infested nurseries in Oregon: Confirmation of a *P. ramorum* infestation must be made by the ODA or an official cooperator. Nurseries are required to eradicate the disease as quickly as possible in accordance with USDA APHIS's Official Regulatory Protocol for Nurseries Containing Plants Infected with *Phytophthora ramorum* Version 8.2, revised March 27, 2014. Infested nurseries must also notify their customers of shipments of high-risk nursery stock [Camellia, Kalmia, Pieris, Rhododendron (including Azalea), and Viburnum] to non-regulated areas as required by the Federal Order for *Phytophthora ramorum*, (DA-2012-53, December 10, 2012). Nurseries from within the federally regulated area for *P. ramorum* (7 CFR 301.92) are subject to the following requirements:

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(a) Nurseries from which *P. ramorum* has been detected in multiple growing seasons will be required to implement best management practices as described in USDA APHIS's official regulatory protocols for positive nurseries for the mitigation of *Phytophthora* disease in plants for planting. Alternatively, such nurseries may enter Oregon's Grower Assisted Inspection Program;

(b) Nurseries within the federally regulated area that ship interstate and from which *P. ramorum* has been detected since March 31, 2011, must comply with the requirements as described by the Federal Order Domestic Quarantine *Phytophthora ramorum* (DA-2014-02, January 10, 2014);

(c) Nurseries within the federally regulated area that do not ship interstate and from which *P. ramorum* has been detected since March 31, 2011, must be inspected annually as described in 7 CFR 301.92;

(d) Nurseries within the federally regulated area that ship interstate and from which *P. ramorum* has not been detected since March 31, 2011, must be inspected as described in ORS 571.145.

(e) Nurseries within the federally quarantined area must be inspected as described in 7 CFR 301.92.

**NOTE:** These best management practices and protocols and information about the GAIP for nurseries are available from the Oregon Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301, telephone: 503-986-4644.

(8) Special permits: The Department, upon receipt of an application in writing, may issue a special permit allowing movement into this state, or movement within this state, of regulated commodities not otherwise eligible for movement under the provisions of this quarantine order. Movement of such commodities will be subject to any conditions or restrictions stipulated in the permit, and these conditions and restrictions may vary depending upon the intended use of the commodity and the potential risk of escape or spread of *P. ramorum*.

(9) Violation of quarantine: Violation of this quarantine may result in a fine, if convicted, of not less than \$500 no more than \$5,000, as provided by ORS 561.990. In addition, violators will be subject to civil penalties of up to \$10,000 as provided by 561.995. Commodities shipped in violation of this quarantine may be treated, destroyed or returned to their point of origin without expense or indemnity paid by the state.

Stat. Auth.: ORS 561 & 570

Stats. Implemented: ORS 561.510 - 561.545, 570.105 - 570.190, & 570.990 - 570.995

Hist.: DOA 1-2001(Temp), f. & cert. ef. 1-5-01 thru 4-4-01, DOA 5-2001, f. & cert. ef. 3-27-01; DOA 1-2005, f. & cert. ef. 1-24-05; DOA 4-2006, f. & cert. ef. 3-10-06; DOA 7-2007, f. & cert. ef. 3-27-07; DOA 5-2008, f. & cert. ef. 1-16-08; DOA 5-2009, f. & cert. ef. 4-9-09; DOA 21-2010, f. & cert. ef. 12-17-10; DFW 14-2011, f. & cert. ef. 9-9-11; DOA 6-2012, f. & cert. ef. 3-22-12; DOA 4-2013, f. & cert. ef. 3-1-13; DOA 5-2014, f. & cert. ef. 4-29-14; DOA 14-2014, f. & cert. ef. 8-22-14; DOA 9-2015, f. & cert. ef. 7-23-15

## Department of Fish and Wildlife Chapter 635

**Rule Caption:** Statewide Emergency Sport Fishing Regulation Changes Due to Severe Drought Conditions

**Adm. Order No.:** DFW 88-2015(Temp)

**Filed with Sec. of State:** 7-16-2015

**Certified to be Effective:** 7-18-15 thru 12-31-15

**Notice Publication Date:**

**Rules Amended:** 635-014-0090, 635-016-0090, 635-017-0090, 635-017-0095, 635-018-0090, 635-019-0090, 635-021-0090

**Rules Suspended:** 635-014-0090(T), 635-016-0090(T), 635-017-0090(T), 635-019-0090(T), 635-021-0090(T)

**Subject:** These amended rules will set daily closures for trout, salmon, steelhead, and sturgeon fisheries statewide. Unless specified as exceptions the following regulation will apply:

"Closed to angling for trout, salmon, steelhead, and sturgeon from 2:00 p.m. daily until one hour before sunrise the following day. Where applicable along coastal streams: All streams above tidewater closed to angling for trout, salmon, steelhead, and sturgeon from 2:00 p.m. daily until one hour before sunrise on the following day."

**Rules Coordinator:** Michelle Tate—(503) 947-6044

### 635-014-0090

#### Inclusions and Modifications

(1) The **2015 Oregon Sport Fishing Regulations** provide requirements for the Northwest 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 **2015 Oregon Sport Fishing Regulations** pamphlet.

(2) Notwithstanding all other requirements provided in the **2015 Oregon Sport Fishing Regulations** pamphlet, the following additional

rules apply to wild coho salmon angling in waters of the Northwest Zone during the period September 1–December 31, 2015:

(a) For the purposes of regulations described in section (2) of this rule, wild coho are defined as fish with an intact adipose fin.

(b) For all waters in the Northwest and Southwest zones that are open to wild coho harvest, anglers may not take more than 1 wild adult coho and 1 wild jack coho per day regardless of location. There is no seasonal limit on wild coho jacks regardless of location. The seasonal limit on wild coho adults for the Northwest and Southwest zones is 5 fish in aggregate from all waters. Harvest of wild coho salmon is allowed in the following waterbodies with restrictions as specified in sections (2)(c) through (2)(i) of this rule.

(A) No more than 1 adult wild coho may be harvested for the season from either the Nestucca River Basin or the Tillamook River Basin. Wild adult coho taken from these areas do not count towards the 2 fish limit described in section (2)(b)(B) of this rule, but do count towards the overall 5 fish aggregate limit for the Northwest and Southwest zones;

(B) No more than 2 adult wild coho in total for the season may come from any combination of the following areas: Siletz River, Yaquina River, Alsea River, Siuslaw River, Umpqua River, Beaver Creek (Ona Beach), Floras Creek/New River, Coos River, and Coquille River. Wild adult coho taken from these areas do not count towards the 1 fish limit described in section (2)(b)(A) of this rule, but do count towards the overall 5 fish aggregate limit for the Northwest and Southwest zones; and

(C) No more than 5 adult wild coho in total for the season may come from any combination of the following areas: Siltcoos Lake, Tahkenitch Lake, and Tenmile Lake (SW Zone). Wild adult coho taken from these areas do not count against aggregate limits described in sections (2)(b)(A) and (2)(b)(B) of this rule, but do count towards the overall 5 fish limit for the Northwest and Southwest zones as specified in section (2)(b) of this rule.

(c) Tillamook Bay tidewater from the jetty tips upstream to Highway 101 Bridge on Miami, Kilchis, Wilson, and Trask rivers and Burton Bridge on Tillamook River is open on Fridays and Saturdays only for wild coho salmon from September 18 through October 31. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(d) Nestucca Bay tidewater (excluding Little Nestucca tidewater) from the bay mouth upstream to the Cloverdale Bridge (RM 7.1) is open on Sundays and Mondays only for wild coho salmon from September 20 through November 2. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(e) Siletz River and Bay upstream to an ODFW marker sign approximately 1,200 feet upstream of Ojalla Bridge (RM 31) is open for wild coho salmon from September 15 through October 6; Siletz River and Bay upstream to Illahee Boat Ramp is open for wild coho salmon from October 7–November 30. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(f) The Yaquina River and Bay upstream to the confluence of the Yaquina River and Big Elk Creek are open for wild coho salmon from September 15 through November 30. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(g) The Alsea River and Bay upstream to the USFS River Edge Boat Landing are open for wild coho salmon from September 15 through October 15. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(h) The Siuslaw River and Bay upstream to the confluence of the Siuslaw River with Lake Creek is open for wild coho salmon from September 15 through October 15. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(i) Beaver Creek (at Ona Beach between Newport and Waldport) from footbridge west of Highway 101 upstream to the power line crossing near the confluence of South Fork Beaver Creek (Ona Beach) open for wild coho salmon from November 1-30 or until attainment of an adult wild coho quota of 150 fish. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(3) Siletz River and Bay, upstream to painted boulder located 900 feet downstream from Siletz Falls at river mile 64.4 including tidewater:

(a) Open for adipose fin-clipped steelhead all year;

(b) Open for spring Chinook salmon April 1–July 31, upstream to deadline marker at Moonshine Park boat ramp, one non fin-clipped spring Chinook salmon per day and 2 per year;

(c) Open for fall Chinook salmon August 1–December 31 upstream to marker sign approximately 1200 feet upstream of Ojalla Bridge;

(d) Open for fall Chinook salmon October 7–December 31 upstream to Illahee boat ramp; and

(e) Use of bait is allowed.

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(4) Beginning Saturday, July 18, 2015 until further notice, all waterbodies defined as 'streams' in the **2015 Oregon Sport Fishing Regulations** will be closed to angling for trout, salmon, steelhead, and sturgeon from 2:00 p.m. daily until one hour before sunrise the following day with the following exception: Angling hours in tidewater areas, as defined in the **2015 Oregon Sport Fishing Regulations**, remain in effect as shown in the **2015 Oregon Sport Fishing Regulations**.

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

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

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 28-1995(Temp), f. 3-31-95, cert. ef. 5-1-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 39-1995, f. 5-10-95, cert. ef. 5-12-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 19-1996, f. & cert. ef. 5-16-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 29-1996, f. & cert. ef. 5-31-96; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 55-1996(Temp), f. 9-25-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 58-1997, f. 9-8-97, cert. ef. 10-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 12-1998(Temp), f. & cert. ef. 2-24-98 thru 4-24-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 69-1998, f. 8-28-98, cert. ef. 9-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 81-2001, f. & cert. ef. 8-29-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp) f. 1-11-02 cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 91-2002(Temp) f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 118-2002(Temp), f. 10-22-02, cert. ef. 12-1-02 thru 3-31-03; DFW 120-2002(Temp), f. 10-24-02, cert. ef. 10-26-02 thru 3-31-03; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 18-2003(Temp) f. 1-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 38-2003(Temp), f. 5-7-03, cert. ef. 5-10-03 thru 10-31-03; DFW 51-2003(Temp), f. & cert. ef. 6-13-03 thru 10-31-03; DFW 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03; DFW 108-2003(Temp), f. 10-28-03, cert. ef. 12-1-03 thru 3-31-04; DFW 123-2003(Temp), f. 12-10-03, cert. ef. 12-11-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 126-2003(Temp), f. 12-11-03, cert. ef. 1-1-04 thru 3-31-04; DFW 60-2004(Temp), f. 6-29-04, cert. ef. 7-1-04 thru 7-15-04; DFW 90-2004(Temp), f. 8-30-04, cert. ef. 10-1-04 thru 12-31-04; DFW 103-2004(Temp), f. & cert. ef. 10-4-04 thru 12-31-04; DFW 108-2004(Temp), f. & cert. ef. 10-18-04 thru 12-31-04; DFW 111-2004(Temp), f. 11-16-04, cert. ef. 11-20-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 62-2005(Temp), f. 6-29-05, cert. ef. 7-1-05 thru 7-10-05; Administrative correction 7-20-05; DFW 105-2005(Temp), f. 9-12-05, cert. ef. 10-1-05 thru 12-15-05; DFW 127-2005(Temp), f. & cert. ef. 11-23-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 53-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 7-9-06; Administrative correction 7-20-06; DFW 64-2006(Temp), f. 7-17-06, cert. ef. 8-1-06 thru 12-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 104-2006(Temp), f. 9-19-06, cert. ef. 10-1-06 thru 12-31-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 63-2007(Temp), f. 8-6-07, cert. ef. 8-11-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 25-2008(Temp), f. 3-13-08, cert. ef. 3-15-08 thru 9-10-08; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 43-2009(Temp), f. 5-5-09, cert. ef. 5-22-09 thru 10-31-09; DFW 67-2009(Temp), f. 6-9-09, cert. ef. 6-15-09 thru 10-31-09; DFW 77-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 99-2009(Temp), f. 8-26-09, cert. ef. 9-1-09 thru 12-31-09; DFW 115-2009(Temp), f. & cert. ef. 9-22-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 44-2010(Temp), f. 4-20-10, cert. ef. 4-21-10 thru 9-30-10; DFW 73-2010(Temp), f. 5-27-10, cert. ef. 6-1-10 thru 9-30-10; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10; DFW 89-2010(Temp), f. 6-28-10, cert. ef. 7-1-10 thru 9-30-10; Administrative correction 10-26-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 57-2011(Temp), f. 5-27-11, cert. ef. 6-1-11 thru 6-30-11; DFW 83-2011, f. 6-30-11, cert. ef. 7-1-11; DFW 139-2011(Temp), f. 10-3-11, cert. ef. 10-6-11 thru 12-31-11; DFW 141-2011(Temp), f. 10-6-11, cert. ef. 10-10-11 thru 12-31-11; DFW 143-2011(Temp), f. 10-10-11, cert. ef. 10-11-11 thru 12-31-11; DFW 148-2011(Temp), f. 10-20-11, cert. ef. 10-21-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 53-2012(Temp), f. 5-29-12, cert. ef. 6-1-12 thru 10-31-12; DFW 62-2012, f. 6-12-12, cert. ef. 7-1-12; DFW 63-2012(Temp), f. & cert. ef. 6-12-12 thru 10-31-12; DFW 71-2012(Temp), f. 6-27-12, cert. ef. 7-1-12 thru 11-30-12; DFW 130-2012(Temp), f. 10-10-12, cert. ef. 10-13-12 thru 12-31-12; DFW 135-2012(Temp), f. 10-22-12, cert. ef. 10-24-12 thru 12-31-12; DFW 139-2012(Temp), f. 10-30-12, cert. ef. 10-31-12 thru 12-31-12; DFW 152-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 23-2013(Temp), f. 3-20-13, cert. ef. 4-1-13 thru 9-27-13; DFW 43-2013(Temp), f. 5-29-13, cert. ef. 6-1-13 thru 10-31-13; DFW 50-2013, f. 6-10-13, cert. ef. 7-1-13; DFW 60-2013(Temp), f. 6-24-13, cert. ef. 6-30-13 thru 9-30-13; Administrative correction 11-1-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 74-2014(Temp), f. 6-23-14, cert. ef. 6-30-14 thru 9-30-14; DFW 110-2014, f. & cert. ef. 8-4-14; DFW 111-2014(Temp), f. & cert. ef. 8-4-14 thru 9-30-14; DFW 133-2014(Temp), f. 9-16-14 & cert. ef. 9-17-14 thru 12-31-14; DFW 148-2014(Temp), f. 10-13-14, cert. ef. 10-15-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 23-2015(Temp), f. & cert. ef. 4-1-15 thru 7-31-15; DFW 73-2015, f. 6-22-15, cert. ef. 6-23-15; DFW 75-2015(Temp), f. 6-23-15, cert. ef. 6-24-15 thru 7-31-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15

## 635-016-0090

### Inclusions and Modifications

(1) The **2015 Oregon Sport Fishing Regulations** provide requirements for the Southwest 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 **2015 Oregon Sport Fishing Regulations** pamphlet

(2) Notwithstanding all other requirements provided in the 2015 Oregon Sport Fishing Regulations pamphlet, the following additional rules apply to wild coho salmon angling in waters of the Southwest Zone during the period September 1–December 31, 2015:

(a) For the purposes of regulations described in section (2) of this rule, wild coho are defined as fish with an intact adipose fin.

(b) For all waters in the Northwest and Southwest zones that are open to wild coho harvest, anglers may not take more than 1 wild adult coho and 1 wild jack coho per day regardless of location. There is no seasonal limit on wild coho jacks regardless of location. The seasonal limit on wild coho adults for the Northwest and Southwest zones is 5 fish in aggregate from all waters. Harvest of wild coho salmon is allowed in the following waterbodies with restrictions as specified in sections (2)(c)–(2)(i) of this rule.

(A) No more than 1 adult wild coho may be harvested from either the Nestucca River Basin or the Tillamook River Basin. Wild adult coho taken from these areas do not count towards the 2 fish limit described in section (2)(b)(B) of this rule, but do count towards the overall 5 fish aggregate limit for the Northwest and Southwest zones;

(B) No more than 2 adult wild coho in total may come from any combination of the following areas: Siletz River, Yaquina River, Alsea River, Siuslaw River, Umpqua River, Beaver Creek (Ona Beach), Floras Creek/New River, Coos River, and Coquille River. Wild adult coho taken from these areas do not count towards the 1 fish limit described in section (2)(b)(A) of this rule, but do count towards the overall 5 fish aggregate limit for the Northwest and Southwest zones; and

(C) No more than 5 adult wild coho in total may come from any combination of the following areas: Siltcoos Lake, Tahkenitch Lake, and Tenmile Lake (SW Zone). Wild adult coho taken from these areas do not count against aggregate limits described in sections (2)(b)(A) and (2)(b)(B) of this rule, but do count towards the overall 5 fish limit for the Northwest and Southwest zones as specified in section (2)(b) of this rule.

(c) Open for wild coho salmon in the Mainstem Umpqua River and Bay from the mouth to Scottsburg Bridge at RM 27.5 from September 15 through October 15. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(d) Coos Basin open for wild coho salmon from the tips of the jetties upstream to the head of tide at Dellwood at RM 10.0 on the South Coos River and to the East Fork/West Fork Millicoma confluence from September 15 through November 30. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(e) Open for wild coho salmon in Coquille River and Bay upstream to the Highway 42S bridge (Sturdivant Park) at RM 24.0 from September 15 through November 30. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(f) Within the Tenmile Lakes Basin the following additional rules apply: North and South Tenmile Lakes (Coos County) upstream from Hilltop Bridge are open for wild coho salmon from October 1 through December 31. Daily and seasonal catch limits as described in section (2)(b) of this rule apply. Only 1 rod per angler may be used while angling for coho. Streams that empty into North and South Tenmile Lakes are not open to coho salmon angling, nor is the canal that connects North and South Tenmile Lakes.

(g) Floras Creek/New River from the Bureau of Land Management boat ramp at Storm Ranch upstream to the confluence with the Floras Lake outlet open for wild coho salmon from November 1-30 or until attainment of an adult coho quota of 200 fish. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(3) Umpqua River mainstem, including tidewater, from the tips of the jetties upstream to confluence with North and South Forks (includes Winchester Bay):

(a) Open for spring Chinook salmon February 1 through June 30, 2015. Bag limit is 2 adult non adipose fin-clipped Chinook per day, 5 per year.

(b) Open for fall Chinook salmon July 1 through December 31, 2015. Bag limit is 2 adult non adipose fin-clipped Chinook per day, 20 per year in combination with all other salmon or steelhead marked on your tag.

(c) Closed to all angling within a radius of 200 feet from the mouths of all tributaries (including 200 feet into the tributary) of the Umpqua River between the Scottsburg Bridge (Hwy 38) and the Riverforks Park Boat Ramp until October 1, 2015.

(4) Beginning Saturday, July 18, 2015 until further notice, all waterbodies defined as 'streams' in the 2015 Oregon Sport Fishing Regulations will be closed to angling for trout, salmon, steelhead, and sturgeon from 2:00 p.m. daily until one hour before sunrise the following day. Angling hours in the following waterbodies remain unchanged from the 2015 Oregon Sport Fishing Regulations:

(a) Tidewater areas, as defined in the **2015 Oregon Sport Fishing Regulations**.

# ADMINISTRATIVE RULES

(b) Mainstem Rogue River from Fishers Ferry upstream to William Jess Dam and all Rogue River tributaries upstream of William Jess Dam/Lost Creek Reservoir.

(5) All other regulations as shown in the **2015 Oregon Sport Fishing Regulations** remain in effect.

[Publications: Publications referenced are available from the agency.]

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

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

Hist.: FWC 80-1993(Temp), f. 12-21-93, cert. ef. 1-1-94; FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 79-1994(Temp), f. 10-21-94, cert. ef. 7-22-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 57-1995(Temp), f. 7-3-95, cert. ef. 7-4-95; FWC 59-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 82-1995(Temp), f. 9-29-95, cert. ef. 10-1-95; FWC 90-1995(Temp), f. 11-29-95, cert. ef. 1-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 52-1996, f. & cert. ef. 9-11-96; FWC 61-1996, f. & cert. ef. 10-9-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 32-1997(Temp), f. & cert. ef. 5-23-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 24-1998(Temp), f. & cert. ef. 3-25-98 thru 9-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 52-1998(Temp), f. 7-10-98, cert. ef. 7-11-98 thru 7-24-98; DFW 55-1998(Temp), f. & cert. ef. 7-24-98 thru 12-31-98; DFW 70-1998, f. & cert. ef. 8-28-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 48-2000(Temp), f. 8-14-00, cert. ef. 8-15-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 8-2001, f. & cert. ef. 3-5-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 42-2001(Temp), f. 5-25-01, cert. ef. 5-29-01 thru 7-31-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 97-2001(Temp), f. 10-4-01, cert. ef. 11-1-01 thru 12-31-01; DFW 105-2001(Temp), f. 10-26-01, cert. ef. 11-1-01 thru 12-31-01; DFW 122-2001(Temp), f. & cert. ef. 12-31-01 thru 5-31-02; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02 cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 55-2002(Temp), f. 5-28-02, cert. ef. 7-1-02 thru 11-31-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 124-2002(Temp), f. & cert. ef. 10-30-02 thru 12-31-02 (Suspended by DFW 125-2002(Temp), f. 11-8-02, cert. ef. 11-9-2002); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 127-2004, f. 12-22-04, cert. ef. 1-1-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 24-2006(Temp), f. 4-25-06, cert. ef. 5-13-06 thru 10-31-06; DFW 37-2006(Temp), f. 6-2-06, cert. ef. 6-5-06 thru 12-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 47-2007(Temp), f. 6-18-07, cert. ef. 6-21-07 thru 10-31-07; DFW 56-2007(Temp), 7-6-07, cert. ef. 8-1-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 137-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 54-2008(Temp), f. 5-28-08, cert. ef. 6-1-08 thru 7-31-08; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; DFW 138-2008(Temp), f. 10-28-08, cert. ef. 11-1-08 thru 11-30-08; DFW 140-2008(Temp), f. 11-4-08, cert. ef. 11-5-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 57-2009(Temp), f. 5-27-09, cert. ef. 6-1-09 thru 7-31-09; DFW 77-2009(Temp), f. 6-29-09, cert. ef. 7-1-09 thru 7-31-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 113-2009(Temp), f. & cert. ef. 9-18-09 thru 12-31-09; DFW 141-2009(Temp), f. 11-4-09, cert. ef. 11-7-09 thru 12-21-09; DFW 143-2009(Temp), f. 11-17-09, cert. ef. 11-19-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 65-2010(Temp), f. 5-18-10, cert. ef. 5-22-10 thru 5-31-10; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10; DFW 143-2010(Temp), f. 10-8-10, cert. ef. 10-10-10 thru 12-31-10; DFW 152-2010(Temp), f. 10-27-10, cert. ef. 10-30-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 31-2011(Temp), f. 4-18-11, cert. ef. 5-1-11 thru 10-27-11; DFW 83-2011, f. 6-30-11, cert. ef. 7-1-11; DFW 137-2011(Temp), 9-30-11, cert. ef. 10-1-11 thru 12-31-11; DFW 145-2011(Temp), f. 10-11-11, cert. ef. 10-12-11 thru 12-31-11; DFW 149-2011(Temp), f. 10-20-11, cert. ef. 10-22-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 62-2012, f. 6-12-12, cert. ef. 7-1-12; DFW 138-2012(Temp), f. 10-29-12, cert. ef. 10-31-12 thru 12-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 155-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-29-13; DFW 23-2013(Temp), f. 3-20-13, cert. ef. 4-1-13 thru 9-27-13; DFW 50-2013, f. 6-10-13, cert. ef. 7-1-13; DFW 124-2013(Temp), f. 10-29-13, cert. ef. 11-1-13 thru 12-31-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 110-2014, f. & cert. ef. 8-4-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 73-2015, f. 6-22-15, cert. ef. 6-23-15; DFW 74-2015(Temp), f. & cert. ef. 6-23-15 thru 12-19-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15

## 635-017-0090

### Inclusions and Modifications

(1) The **2015 Oregon Sport Fishing Regulations** provide requirements for the Willamette Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2015 Oregon Sport Fishing Regulations**.

(2) Pacific Lamprey Harvest:

(a) Pursuant to OAR 635-044-0130(1)(b), authorization from the Oregon Fish and Wildlife Commission must be in possession by individuals collecting or possessing Pacific lamprey for personal use. Permits are available from ODFW, 17330 SE Evelyn Street, Clackamas, OR 97015;

(b) Open fishing period is June 1 through July 31 from 7:00 A.M. to 6:00 P.M.; personal use harvest is permitted Friday through Monday each week. All harvest is prohibited Tuesday through Thursday;

(c) Open fishing area is the Willamette River at Willamette Falls on the east side of the falls only, excluding Horseshoe Area at the peak of the falls;

(d) Gear is restricted to hand or hand-powered tools only;

(e) Catch must be recorded daily on a harvest record card prior to leaving the open fishing area. Harvest record cards will be provided by ODFW. All harvest record cards must be returned to the ODFW Clackamas

office by August 31 to report catch. Permit holders who do not return the harvest record cards by August 31 will be ineligible to receive a permit in the following year.

(f) Harvesters must allow sampling or enumeration of catches by ODFW personnel.

(3) Beginning Wednesday, May 27, 2015 on the South Santiam River, from the Waterloo Road Bridge to 200 feet above Waterloo Falls, the following regulations are in effect:

(a) Anglers are restricted to the use of fly angling and bobber angling gears only;

(b) Bobber angling gear must include a bobber and a leader no longer than 36 inches in length;

(c) Any weight attached to the line (except the bobber) may be no more than 36 inches from the lowermost hook when suspended vertically;

(d) The leader below the bobber must remain suspended in the water column and not residing on the river bottom; and

(4) Beginning Friday, June 12 through Saturday, August 15, 2015 anglers are allowed to fish from a floating device on the mainstem Sandy River from the mouth upstream to the bridge over the Sandy River at Ten Eyck Road (a.k.a. Revenue Bridge).

(5) Beginning Saturday, July 18, 2015 until further notice, all waterbodies defined as 'streams' in the **2015 Oregon Sport Fishing Regulations** will be closed to angling for trout, salmon, steelhead, and sturgeon from 2:00 p.m. daily until one hour before sunrise the following day. Angling hours in the following waterbodies remain unchanged from the **2015 Oregon Sport Fishing Regulations**:

(a) The mainstem South Santiam River downstream of Foster Dam, Quartzville Creek, North Santiam River upstream of Detroit Reservoir, and the Breitenbush River.

(b) The McKenzie River and tributaries, Middle Fork Willamette River downstream of Dexter Dam, Middle Fork Willamette River and tributaries upstream of Lookout Point Reservoir, and Alton Baker Canoe Canal.

(6) Beginning Saturday, July 18, 2015 until further notice, angling for trout, salmon, steelhead, and sturgeon is prohibited at all times in the Willamette River downstream of Willamette Falls, including Multnomah Channel and the Gilbert River, and in the Clackamas River downstream of the Interstate 205 bridge. Angling for warmwater gamefish and other fish, as defined in the **2015 Oregon Sport Fishing Regulations**, remains open.

(7) All other regulations as shown in the **2015 Oregon Sport Fishing Regulations** remain in effect.

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

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

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 3-1994, f. 1-25-94, cert. ef. 1-26-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 86-1994(Temp), f. 10-31-94, cert. ef. 11-1-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 32-1995, f. & cert. ef. 4-24-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 14-1996, f. 3-29-96, cert. ef. 4-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 22-1996(Temp), f. 5-9-96 & cert. ef. 5-10-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 13-1997, f. 3-5-97, cert. ef. 3-11-97; FWC 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 24-1997(Temp), f. & cert. ef. 4-10-97; FWC 31-1997(Temp), f. 5-14-97, cert. ef. 5-15-97; FWC 39-1997(Temp), f. 6-17-97, cert. ef. 6-18-97; FWC 69-1997, f. & cert. ef. 11-6-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 19-1998, f. & cert. ef. 3-12-98; DFW 28-1998(Temp), f. & cert. ef. 4-9-98 thru 4-24-98; DFW 31-1998(Temp), f. & cert. ef. 4-24-98 thru 7-31-98; DFW 33-1998(Temp), f. & cert. ef. 4-30-98 thru 5-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 35-1998(Temp), f. & cert. ef. 5-10-98 thru 5-15-98; DFW 37-1998(Temp), f. & cert. ef. 5-15-98 thru 7-31-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 15-1999, f. & cert. ef. 3-9-99; DFW 16-1999(Temp), f. & cert. ef. 3-10-99 thru 3-19-99; DFW 19-1999(Temp), f. & cert. ef. 3-19-99 thru 4-15-99; DFW 27-1999(Temp), f. & cert. ef. 4-23-99 thru 10-20-99; DFW 30-1999(Temp), f. & cert. ef. 4-27-99 thru 5-12-99; DFW 35-1999(Temp), f. & cert. ef. 5-13-99 thru 7-31-99; DFW 39-1999(Temp), f. 5-26-99, cert. ef. 5-27-99 thru 7-31-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 88-1999(Temp), f. 11-5-99, cert. ef. 11-6-99 thru 11-30-99; administrative correction 11-17-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 13-2000, f. & cert. ef. 3-20-00; DFW 22-2000, f. 4-14-00, cert. ef. 4-16-00 thru 7-31-00; DFW 23-2000(Temp), f. 4-19-00, cert. ef. 4-22-00 thru 7-31-00; DFW 58-2000(Temp), f. & cert. ef. 9-1-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 6-2001, f. & cert. ef. 3-1-01; DFW 23-2001(Temp), f. & cert. ef. 4-23-01 thru 10-19-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 46-2001(Temp), f. 6-8-01, cert. ef. 6-16-01 thru 12-31-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 95-2001(Temp), f. 9-27-01, cert. ef. 10-20-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02 cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 42-2002, f. & cert. ef. 5-3-02; DFW 44-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 11-3-02; DFW 70-2002(Temp), f. 7-10-02 cert. ef. 7-12-02 thru 12-31-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 16-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 7-1-03; DFW 42-2003, f. & cert. ef. 5-16-03; DFW 53-2003(Temp), f. 6-17-03, cert. ef. 6-18-03 thru 12-14-03; DFW 57-2003(Temp), f. & cert. ef. 7-8-03 thru 12-31-03; DFW 59-2003(Temp), f. & cert. ef. 7-11-03 thru 12-31-03; DFW 70-2003(Temp), f. & cert. ef. 7-23-03 thru 12-31-03; DFW 71-2003(Temp), f. 7-24-03, cert. ef. 7-25-03 thru 12-31-03; DFW 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 33-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 48-2004(Temp), f. 5-26-04, cert. ef. 5-28-04 thru 11-23-04; DFW 69-2004(Temp), f. & cert. ef. 7-12-04 thru 11-23-04; DFW 117-2004, f. 12-13-04, cert.

# ADMINISTRATIVE RULES

ef. 1-1-05; DFW 24-2005, f. 4-15-05, cert. ef. 5-1-05; DFW 78-2005(Temp), f. 7-19-05, cert. ef. 7-21-05 thru 7-22-05; Administrative correction 8-17-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 36-2006(Temp), f. & cert. ef. 6-1-06 thru 9-30-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 121-2006(Temp), f. & cert. ef. 10-20-06 thru 12-31-06; DFW 32-2007, f. 5-14-07, cert. ef. 6-1-07; DFW 65-2007(Temp), f. & cert. ef. 8-6-07 thru 10-31-07; DFW 105-2007(Temp), f. 10-4-07, cert. ef. 10-6-07 thru 11-30-07; Administrative correction 12-20-07; DFW 134-2007, f. 12-26-07, cert. ef. 1-1-08; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 1-2008(Temp), f. & cert. ef. 1-9-08 thru 7-6-08; DFW 5-2008(Temp), f. 1-25-08, cert. ef. 2-1-08 thru 7-6-08; DFW 15-2008(Temp), f. 2-26-08, cert. ef. 3-1-08 thru 7-29-08; DFW 46-2008(Temp), f. 5-9-08, cert. ef. 5-12-08 thru 7-29-08; DFW 55-2008(Temp), f. 5-30-08, cert. ef. 6-2-08 thru 10-31-08; DFW 82-2008(Temp), f. 7-21-08, cert. ef. 7-29-08 thru 12-31-08; DFW 110-2008(Temp), f. 9-15-08, cert. ef. 9-17-08 thru 12-31-08; DFW 124-2008(Temp), f. 10-1-08, cert. ef. 10-2-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 9-2009(Temp), f. 2-13-09, cert. ef. 3-1-09 thru 8-15-09; DFW 15-2009, f. & cert. ef. 2-25-09; DFW 74-2009(Temp), f. 6-25-09, cert. ef. 6-30-09 thru 7-2-09; Administrative correction 7-21-09; DFW 103-2009(Temp), f. 8-27-09, cert. ef. 9-1-09 thru 12-31-09; DFW 118-2009(Temp), f. & cert. ef. 9-28-09 thru 12-31-09; DFW 123-2009(Temp), f. & cert. ef. 10-5-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 61-2010, f. & cert. ef. 5-14-10; DFW 62-2010(Temp), f. 5-14-10, cert. ef. 5-22-10 thru 11-17-10; DFW 84-2010(Temp), f. 6-17-10, cert. ef. 6-18-10 thru 10-31-10; DFW 94-2010(Temp), f. & cert. ef. 7-1-10 thru 10-31-10; DFW 96-2010(Temp), f. 7-7-10, cert. ef. 7-8-10 thru 10-31-10; DFW 123-2010(Temp), f. 8-26-10, cert. ef. 9-1-10 thru 12-31-10; DFW 134-2010(Temp), f. 9-22-10, cert. ef. 9-23-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 158-2011(Temp), f. 12-14-11, cert. ef. 1-1-12 thru 4-30-12; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 21-2012, f. & cert. ef. 3-12-12; DFW 89-2012(Temp), f. 7-17-12, cert. ef. 7-26-12 thru 8-31-12; DFW 99-2012(Temp), f. 7-31-12, cert. ef. 8-1-12 thru 12-31-12; DFW 152-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 67-2013(Temp), f. 7-3-13, cert. ef. 7-11-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 62-2014(Temp), f. & cert. ef. 6-10-14 thru 10-31-14; DFW 70-2014(Temp), f. & cert. ef. 6-13-14 thru 6-30-14; DFW 73-2014(Temp), f. 6-20-14, cert. ef. 6-23-14 thru 10-31-14; DFW 141-2014(Temp), f. 9-25-14, cert. ef. 9-26-14 thru 12-31-14; DFW 150-2014(Temp), f. 10-14-14, cert. ef. 10-15-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 49-2015(Temp), f. & cert. ef. 5-27-15 thru 11-22-15; DFW 66-2015(Temp), f. 6-10-15, cert. ef. 6-12-15 thru 11-22-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15

## 635-017-0095 Sturgeon Season

(1) The **2015 Oregon Sport Fishing Regulations** provide requirements for the Willamette Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2015 Oregon Sport Fishing Regulations**.

(2) Beginning Saturday, July 18, 2015 until further notice, angling for sturgeon is prohibited at all times in the Willamette River downstream of Willamette Falls including the Multnomah Channel and Gilbert River, and in the Clackamas River downstream of the Interstate 205 bridge.

(3) All other regulations as shown in the **2015 Oregon Sport Fishing Regulations** remain in effect.

[Publications: Publications referenced are available from the agency.]

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

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

Hist.: DFW 2-2005(Temp), f. & cert. ef. 1-21-05 thru 7-19-05; DFW 55-2005, f. & cert. ef. 6-17-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 145-2005(Temp), f. 12-21-05, cert. ef. 1-1-06 thru 3-31-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 74-2007(Temp), f. 8-17-07, cert. ef. 8-18-07 thru 12-31-07; DFW 135-2007(Temp), f. 12-28-07, cert. ef. 1-1-08 thru 6-28-08; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 7-2008, f. & cert. ef. 2-11-08; DFW 86-2008(Temp), f. & cert. ef. 7-25-08 thru 12-31-08; DFW 148-2008(Temp), f. 12-19-08, cert. ef. 1-1-09 thru 6-29-09; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 15-2009, f. & cert. ef. 2-25-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 34-2010, f. 3-16-10, cert. ef. 4-1-10; DFW 90-2010(Temp), f. 6-29-10, cert. ef. 7-5-10 thru 12-31-10; DFW 154-2010(Temp), f. & cert. ef. 11-8-10 thru 12-31-10; DFW 163-2010(Temp), f. 12-28-10, cert. ef. 1-1-11 thru 6-29-11; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 10-2011(Temp), f. 2-10-11, cert. ef. 2-17-11 thru 6-29-11; DFW 22-2011(Temp), f. 3-16-11, cert. ef. 3-17-11 thru 6-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 9-2012(Temp), f. 2-6-12, cert. ef. 2-17-12 thru 4-30-12; DFW 17-2012(Temp), f. 2-22-12, cert. ef. 2-23-12 thru 4-30-12; Administrative correction, 5-25-12; DFW 152-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 13-2013(Temp), f. 2-13-13, cert. ef. 2-14-13 thru 7-31-13; DFW 17-2013(Temp), f. 2-27-13, 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 79-2013(Temp), f. 7-23-13, cert. ef. 7-25-13 thru 12-31-13; DFW 103-2013(Temp), f. 9-13-13, cert. ef. 10-19-13 thru 12-31-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15

## 635-018-0090

### Inclusions and Modifications

(1) The **2015 Oregon Sport Fishing Regulations** provide requirements for the Central Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2015 Oregon Sport Fishing Regulations**.

(2) Beginning Saturday, July 18, 2015 until further notice, all waterbodies defined as 'streams' in the **2015 Oregon Sport Fishing Regulations** will be closed to angling for trout, salmon, steelhead, and sturgeon from 2:00 p.m. daily until one hour before sunrise the following day. Angling hours in the following waterbodies remain unchanged from the **2015 Oregon Sport Fishing Regulations**:

- (a) Hood River and tributaries, and White River and tributaries.
- (b) Deschutes River upstream from Macks Canyon, Metolius River, Fall River, Crooked River upstream from Bowman Dam, and Tumalo Creek.
- (3) All other regulations as shown in the **2015 Oregon Sport Fishing Regulations** remain in effect.

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

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

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 20-1994(Temp), f. & cert. ef. 4-11-94; FWC 24-1994(Temp), f. 4-29-94, cert. ef. 4-30-94; FWC 34-1994(Temp), f. 6-14-94, cert. ef. 6-16-94; FWC 54-1994, f. 8-25-94, cert. ef. 9-1-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 67-1994(Temp), f. & cert. ef. 9-26-94; FWC 70-1994, f. 10-4-95, cert. ef. 11-1-94; FWC 18-1995, f. 3-2-95, cert. ef. 4-1-95; FWC 60-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 11-1996(Temp), f. 3-8-96, cert. ef. 4-1-96; FWC 32-1996(Temp), f. 6-7-96, cert. ef. 6-16-96; FWC 38-1996(Temp), f. 6-14-96, cert. ef. 7-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 20-1997, f. & cert. ef. 3-24-97; FWC 21-1997, f. & cert. ef. 4-1-97; FWC 27-1997(Temp), f. 5-2-97, cert. ef. 5-9-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 28-2000, f. 5-23-00, cert. ef. 3-25-98 thru 8-31-98; DFW 56-1998(Temp), f. 7-24-98, cert. ef. 8-1-98 thru 10-31-98; DFW 70-1998, f. & cert. ef. 8-28-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 12-2000(Temp), f. 3-20-00, cert. ef. 4-15-00 thru 7-31-00; DFW 27-2000(Temp), f. 5-15-00, cert. ef. 8-1-00 thru 10-31-00; DFW 28-2000, f. 5-23-00, cert. ef. 5-24-00 thru 7-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 13-2001(Temp), f. 3-12-01, cert. ef. 4-7-01 thru 7-31-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 44-2001(Temp), f. 5-25-01, cert. ef. 6-1-01 thru 7-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02, cert. ef. 1-12-02 thru 10-31-02; DFW 23-2002(Temp), f. 3-21-02, cert. ef. 4-6-02 thru 7-31-02; DFW 25-2002(Temp), f. 3-22-02, cert. ef. 4-6-02 thru 7-31-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 62-2002, f. 6-14-02, cert. ef. 7-11-02; DFW 74-2002(Temp), f. 7-18-02, cert. ef. 8-1-02 thru 10-31-02; DFW 91-2002(Temp) f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 97-2002(Temp), f. & cert. ef. 8-29-02 thru 10-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 26-2003(Temp), f. 3-28-03, cert. ef. 4-15-03 thru 7-31-03; DFW 66-2003(Temp), f. 7-17-03, cert. ef. 8-1-03 thru 10-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 23-2004(Temp), f. 3-22-04, cert. ef. 4-1-04 thru 7-31-04; DFW 77-2004(Temp), f. 7-28-04, cert. ef. 8-1-04 thru 10-31-04; Administrative correction 11-22-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 19-2005(Temp), f. 3-16-05, cert. ef. 4-15-05 thru 7-31-05; DFW 41-2005(Temp), f. 5-13-05, cert. ef. 5-15-05 thru 7-31-05; DFW 83-2005(Temp), f. 7-29-05, cert. ef. 8-1-05 thru 10-31-05; DFW 84-2005(Temp), f. & cert. ef. 8-1-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 59-2006(Temp), f. 1-10-06, cert. ef. 8-1-06 thru 10-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 18-2007(Temp), f. 3-22-07, cert. ef. 4-15-07 thru 7-31-07; DFW 55-2007(Temp), f. 7-6-07, cert. ef. 8-1-07 thru 10-31-07; Administrative correction 11-17-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 26-2008(Temp), f. 3-17-08, cert. ef. 4-15-08 thru 7-31-08; DFW 27-2008(Temp), f. 3-24-08, cert. ef. 5-1-08 thru 10-27-08; Administrative correction 11-18-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 16-2009(Temp), f. 2-25-09, cert. ef. 4-15-09 thru 6-30-09; DFW 61-2009(Temp), f. 6-1-09, cert. ef. 8-1-09 thru 10-31-09; DFW 104-2009(Temp), f. 8-28-09, cert. ef. 9-1-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 7-2010(Temp), f. 1-25-10, cert. ef. 4-1-10 thru 7-31-10; DFW 27-2010(Temp), f. 3-8-10, cert. ef. 4-15-10 thru 7-31-10; DFW 66-2010(Temp), f. 5-18-10, cert. ef. 5-22-10 thru 10-31-10; DFW 86-2010(Temp), f. 6-23-10, cert. ef. 7-1-10 thru 10-31-10; DFW 106-2010(Temp), f. 7-26-10, cert. ef. 8-1-10 thru 12-31-10; DFW 164-2010(Temp), f. 12-28-10, cert. ef. 1-1-11 thru 6-29-11; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 16-2011(Temp), f. 2-16-11, cert. ef. 4-15-11 thru 7-31-11; DFW 17-2011(Temp), f. 2-17-11, cert. ef. 4-15-11 thru 7-31-11; DFW 42-2011(Temp), f. & cert. ef. 5-10-11 thru 10-31-11; DFW 93-2011(Temp), f. 7-13-11, cert. ef. 8-1-11 thru 10-31-11; DFW 123-2011(Temp), f. 9-2-11, cert. ef. 9-3-11 thru 12-31-11; DFW 160-2011(Temp), f. 12-20-11, cert. ef. 1-1-12 thru 4-30-12; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 21-2012, f. & cert. ef. 3-12-12; DFW 34-2012(Temp), f. 4-13-12, cert. ef. 4-15-12 thru 7-31-12; DFW 55-2012(Temp), f. 7-16-12, cert. ef. 8-1-12 thru 10-31-12; Administrative correction 8-1-12; DFW 88-2012(Temp), f. 7-16-12, cert. ef. 8-1-12 thru 10-31-12; Administrative correction 11-23-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 16-2013(Temp), f. 2-25-13, cert. ef. 4-15-13 thru 6-30-13; DFW 75-2013(Temp), f. 7-15-13, cert. ef. 8-1-13 thru 10-31-13; Administrative correction 11-22-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 13-2014(Temp), f. 2-18-14, cert. ef. 4-15-14 thru 7-31-14; DFW 83-2014(Temp), f. 7-1-14, cert. ef. 8-1-14 thru 10-31-14; Administrative correction 11-24-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 27-2015(Temp), f. 4-9-15, cert. ef. 4-15-15 thru 6-30-15; Administrative correction 7-24-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15

## 635-019-0090

### Inclusions and Modifications

(1) The **2015 Oregon Sport Fishing Regulations** provide requirements for the Northeast 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 **2015 Oregon Sport Fishing Regulations**.

(2) Beginning Saturday, July 18, 2015 until further notice, all waterbodies defined as 'streams' in the **2015 Oregon Sport Fishing Regulations** will be closed to angling for trout, salmon, steelhead, and sturgeon from 2:00 p.m. daily until one hour before sunrise the following day. Angling hours in the following waterbodies remain unchanged from the **2015 Oregon Sport Fishing Regulations**: Wallowa River upstream of Sunrise Road, Lostine River upstream of Pole Bridge Campground, Prairie Creek, Hurricane Creek, Spring Creek, and all streams within the Eagle Cap Wilderness Area.

(3) Beginning Saturday, July 18, 2015 until further notice, angling for trout, salmon, steelhead, and sturgeon is prohibited at all times in the John Day River mainstem above Indian Creek near Prairie City, Middle Fork John Day River above Mosquito Creek, near the town of Galena, the North Fork John Day River above Desolation Creek, and Desolation Creek.

# ADMINISTRATIVE RULES

Angling for warmwater gamefish and other fish, as defined in the **2015 Oregon Sport Fishing Regulations**, remains open.

(4) All other regulations as shown in the **2015 Oregon Sport Fishing Regulations** remain in effect.

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

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

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 57-1994(Temp), f. 8-30-94, cert. ef. 10-1-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 70-1995, f. 8-29-95, cert. ef. 9-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 27-1996(Temp), f. 5-24-96, cert. ef. 5-25-96; FWC 57-1996(Temp), f. 9-27-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 26-1997(Temp), f. 4-23-97, cert. ef. 5-17-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 13-1998(Temp), f. & cert. ef. 2-26-98 thru 4-15-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 5-1999(Temp), f. 2-5-99, cert. ef. 2-6-99 thru 2-19-99; DFW 8-1999(Temp), f. & cert. ef. 2-23-99 thru 4-15-99; DFW 37-1999(Temp), f. 5-24-99, cert. ef. 5-29-99 thru 6-5-99; DFW 43-1999(Temp), f. & cert. ef. 6-10-99 thru 6-13-99; DFW 45-1999(Temp), f. & cert. ef. 6-14-99 thru 6-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 17-2000(Temp), f. 4-10-00, cert. ef. 4-16-00 thru 6-30-00; DFW 64-2000(Temp), f. 9-21-00, cert. ef. 9-22-00 thru 3-20-01; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 5-2001(Temp), f. 2-22-01, cert. ef. 2-24-01 thru 4-15-01; DFW 39-2001(Temp), f. 5-23-01, cert. ef. 5-26-01 thru 7-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 45-2001(Temp), f. 6-1-01, cert. ef. 6-2-01 thru 7-31-01; DFW 49-2001(Temp), f. 6-19-01, cert. ef. 6-22-01 thru 7-31-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 71-2001(Temp), f. 8-10-01, cert. ef. 9-1-01 thru 12-31-01; DFW 96-2001(Temp), f. 10-4-01, cert. ef. 12-1-01 thru 12-31-01; DFW 122-2001(Temp), f. & cert. ef. 12-31-01 thru 5-31-02; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 52-2002(Temp), f. 5-22-02, cert. ef. 5-26-02 thru 7-1-02; DFW 53-2002(Temp), f. 5-24-02, cert. ef. 5-26-02 thru 7-1-02; DFW 57-2002(Temp), f. & cert. ef. 5-30-02 thru 7-1-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 44-2003(Temp), f. 5-23-03, cert. ef. 5-28-03 thru 7-1-03; DFW 48-2003(Temp), f. & cert. ef. 6-5-03 thru 7-1-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 40-2004(Temp), f. 5-7-04, cert. ef. 5-13-04 thru 7-1-04; DFW 46-2004(Temp), f. 5-21-04, cert. ef. 5-22-04 thru 7-1-04; DFW 55-2004(Temp), f. 6-16-04, cert. ef. 6-19-04 thru 7-5-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 42-2005(Temp), f. & cert. ef. 5-13-05 thru 9-1-05; DFW 61-2005(Temp), f. 6-22-05, cert. ef. 6-25-05 thru 7-4-05; Administrative correction 7-20-05; DFW 99-2005(Temp), f. 8-24-05, cert. ef. 8-26-05 thru 9-30-05; Administrative correction 10-19-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 28-2006(Temp), f. & cert. ef. 5-15-06 thru 6-30-06; DFW 33-2006(Temp), f. 5-24-06, cert. ef. 5-25-06 thru 6-30-06; Administrative correction 7-21-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 12-2007(Temp), f. 2-28-07, cert. ef. 3-1-07 thru 8-27-07; DFW 30-2007(Temp), f. 5-9-07, cert. ef. 5-10-07 thru 9-30-07; DFW 34-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 9-30-07; Administrative correction 10-16-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 56-2008(Temp), f. 5-30-08, cert. ef. 5-31-08 thru 6-30-08; DFW 76-2008(Temp), f. & cert. ef. 7-9-08 thru 9-1-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 128-2009(Temp), f. 10-12-09, cert. ef. 10-18-09 thru 4-15-10; DFW 131-2009(Temp), f. 10-14-09, cert. ef. 10-18-09 thru 4-15-10; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 54-2010(Temp), f. 5-6-10, cert. ef. 5-22-10 thru 9-1-10; DFW 95-2010(Temp), f. 7-1-10, cert. ef. 7-11-10 thru 9-1-10; DFW 102-2010(Temp), f. 7-20-10, cert. ef. 7-25-10 thru 9-1-10; Administrative correction 9-22-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 49-2011(Temp), f. 5-16-11, cert. ef. 5-28-11 thru 9-1-11; DFW 64-2011(Temp), f. 6-10-11, cert. ef. 6-13-11 thru 9-1-11; DFW 90-2011(Temp), f. & cert. ef. 7-11-11 thru 9-1-11; DFW 92-2011(Temp), f. 7-12-11, cert. ef. 7-16-11 thru 10-31-11; DFW 99-2011(Temp), f. 7-21-11, cert. ef. 7-23-11 thru 9-1-11; DFW 104-2011(Temp), f. 8-1-11, cert. ef. 8-7-11 thru 9-1-11; Administrative correction 9-23-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 48-2012(Temp), f. 5-18-12, cert. ef. 5-23-12 thru 9-1-12; DFW 50-2012(Temp), f. 5-22-12, cert. ef. 5-24-12 thru 9-1-12; DFW 61-2012(Temp), f. & cert. ef. 6-11-12 thru 8-31-12; DFW 69-2012(Temp), f. 6-20-12, cert. ef. 6-22-12 thru 9-1-12; DFW 70-2012(Temp), f. 6-26-12, cert. ef. 6-27-12 thru 9-1-12; DFW 72-2012(Temp), f. 6-29-12, cert. ef. 7-1-12 thru 8-31-12; DFW 86-2012(Temp), f. 7-10-12, cert. ef. 7-15-12 thru 9-1-12; Administrative correction 9-20-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 153-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 4-30-13; DFW 31-2013(Temp), f. 5-14-13, cert. ef. 5-16-13 thru 6-30-13; DFW 39-2013(Temp), f. 5-22-13, cert. ef. 5-24-13 thru 11-19-13; DFW 46-2013(Temp), f. 5-30-13, cert. ef. 6-1-13 thru 11-26-13; DFW 62-2013(Temp), f. 6-26-13, cert. ef. 7-5-13 thru 12-31-13; DFW 74-2013(Temp), f. 7-15-13, cert. ef. 7-19-13 thru 9-1-13; Administrative correction 11-1-13; DFW 121-2013(Temp), f. 10-24-13, cert. ef. 11-1-13 thru 12-31-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 42-2014(Temp), f. 5-12-14, cert. ef. 5-17-14 thru 6-1-14; DFW 47-2014(Temp), f. 5-27-14, cert. ef. 5-31-14 thru 7-31-14; DFW 53-2014(Temp), f. 5-28-14, cert. ef. 6-1-14 thru 7-31-14; DFW 58-2014(Temp), f. 6-9-14, cert. ef. 6-21-14 thru 8-31-14; DFW 71-2014(Temp), f. 6-16-14, cert. ef. 6-18-14 thru 9-1-14; DFW 72-2014(Temp), f. & cert. ef. 6-19-14 thru 9-1-14; DFW 75-2014(Temp), f. 6-23-14, cert. ef. 6-27-14 thru 9-1-14; DFW 82-2014(Temp), f. 7-1-14, cert. ef. 7-5-14 thru 9-1-14; DFW 86-2014(Temp), f. 7-2-14, cert. ef. 7-5-14 thru 9-1-14; DFW 97-2014(Temp), f. 7-18-14, cert. ef. 7-21-14 thru 9-30-14; Administrative correction 10-24-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 45-2015(Temp), f. 5-15-15, cert. ef. 5-20-15 thru 6-30-15; DFW 53-2015(Temp), f. 5-27-15, cert. ef. 6-6-15 thru 8-31-15; DFW 64-2015(Temp), f. & cert. ef. 6-9-15 thru 8-31-15; DFW 81-2015(Temp), f. 7-1-15, cert. ef. 7-5-15 thru 8-31-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15

## 635-021-0090

### Inclusions and Modifications

(1) **2015 Oregon Sport Fishing Regulations** provide requirements for the Southeast 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 **2015 Oregon Sport Fishing Regulations**.

(2) The Powder River is open to angling for spring Chinook salmon from Hughes Lane Bridge near Baker City upstream to Mason Dam from May 20 through September 1, 2015:

(a) The daily bag limit is four (4) adipose fin-clipped Chinook; two daily limits in possession.

(3) Balm Creek Reservoir is open to angling to all game species from July 18 through September 30, 2015 with the following restrictions:

(a) Allowed harvest methods are by hand, dip net or angling;

(b) There are no daily catch or possession limits; and

(c) There are no minimum length requirements.

(4) Thief Valley Reservoir is open to angling to all game species from July 18 through October 15, 2015 with the following restrictions:

(a) Allowed harvest methods are by hand, dip net or angling;

(b) There are no daily catch or possession limits; and

(c) There are no minimum length requirements.

(5) Beginning Saturday, July 18, 2015 until further notice, all waterbodies defined as 'streams' in the **2015 Oregon Sport Fishing Regulations** will be closed to angling for trout, salmon, steelhead, and sturgeon from 2:00 p.m. daily until one hour before sunrise the following day. Angling hours in the following waterbodies remain unchanged from the **2015 Oregon Sport Fishing Regulations**:

(a) Klamath River and tributaries.

(b) Malheur River and tributaries, Owyhee River downstream of Owyhee Reservoir, and Blitzen River and tributaries upstream of Page Springs Weir and Bridge Creek.

(6) All other regulations as shown in the **2015 Oregon Sport Fishing Regulations** remain in effect.

[Publications: Publications referenced are available from the agency.]

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

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

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 76-1994(Temp), f. & cert. ef. 10-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 55-2001(Temp), f. & cert. ef. 6-29-01 thru 12-26-01; DFW 56-2001(Temp), f. & cert. ef. 6-29-01 thru 12-26-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 54-2002(Temp), f. 5-24-02, cert. ef. 6-15-02 thru 12-1-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 93-2002(Temp), f. 8-22-02, cert. ef. 8-24-02 thru 12-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 80-2003(Temp), f. & cert. ef. 8-22-03 thru 9-30-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 101-2005(Temp), f. 8-31-05, cert. ef. 9-2-05 thru 9-30-05; Administrative correction 10-19-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 36-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 9-30-07; DFW 54-2007(Temp), f. 7-6-07, cert. ef. 7-14-07 thru 9-30-07; DFW 62-2007(Temp), f. 7-31-07, cert. ef. 8-1-07 thru 9-30-07; Administrative correction 10-16-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 51-2008(Temp), f. 5-16-08, cert. ef. 5-31-08 thru 9-1-08; DFW 74-2008(Temp), f. 7-3-08, cert. ef. 7-4-08 thru 9-1-08; DFW 77-2008(Temp), f. & cert. ef. 7-9-08 thru 9-1-08; Administrative correction 9-29-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 53-2009(Temp), f. 5-18-09, cert. ef. 5-30-09 thru 9-1-09; DFW 62-2009(Temp), f. 6-2-09, cert. ef. 6-13-09 thru 9-1-09; DFW 79-2009(Temp), f. 6-30-09, cert. ef. 7-5-09 thru 9-1-09; Administrative correction 9-29-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 52-2010(Temp), f. 4-30-10, cert. ef. 5-1-10 thru 9-30-10; DFW 60-2010(Temp), f. 5-13-10, cert. ef. 5-22-10 thru 9-30-10; DFW 67-2010(Temp), f. 5-18-10, cert. ef. 5-22-10 thru 9-30-10; DFW 78-2010(Temp), f. 6-10-10, cert. ef. 6-11-10 thru 9-1-10; Administrative correction 9-22-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 50-2011(Temp), f. 5-16-11, cert. ef. 5-28-11 thru 9-1-11; Administrative correction 9-23-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 60-2012(Temp), f. 6-11-12, cert. ef. 6-13-12 thru 9-1-12; DFW 114-2012(Temp), f. 8-30-12, cert. ef. 9-1-12 thru 2-27-13; DFW 117-2012(Temp), f. 9-5-12, cert. ef. 9-7-12 thru 2-27-13; DFW 122-2012(Temp), f. 9-21-12, cert. ef. 9-21-12 thru 12-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 61-2013(Temp), f. 6-24-13, cert. ef. 7-1-13 thru 12-27-13; DFW 93-2013(Temp), f. 8-22-13, cert. ef. 8-24-13 thru 12-31-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 57-2014(Temp), f. 6-9-14, cert. ef. 6-11-14 thru 9-1-14; DFW 90-2014(Temp), f. 7-10-14, cert. ef. 7-11-14 thru 12-31-14; DFW 116-2014(Temp), f. 8-6-14, cert. ef. 8-9-14 thru 12-31-14; DFW 149-2014(Temp), f. 10-13-14, cert. ef. 11-1-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 44-2015(Temp), f. 5-15-15, cert. ef. 5-20-15 thru 9-1-15; DFW 85-2015(Temp), f. 7-13-15, cert. ef. 7-18-15 thru 10-31-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15

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**Rule Caption:** Columbia River Emergency Sport Sturgeon Fishing Regulation Changes Due to Severe Drought Conditions.

**Adm. Order No.:** DFW 89-2015(Temp)

**Filed with Sec. of State:** 7-16-2015

**Certified to be Effective:** 7-18-15 thru 9-30-15

**Notice Publication Date:**

**Rules Amended:** 635-023-0095

**Rules Suspended:** 635-023-0095(T)

**Subject:** This amended rule closes the Columbia River mainstem upstream of Bonneville Dam and all adjacent tributaries to angling for sturgeon, including catch-and-release, due to the severe drought conditions which exist. Over the past 2 weeks, reports have been received of at least 80 sturgeon mortalities observed by agency or enforcement personnel in areas upstream of Bonneville Dam. The majority of these accounts report the sturgeon to be large, over-size fish generally considered as broodstock. Angling for sturgeon is prohibited from Bonneville Dam upstream to the Oregon/Washington border beginning at 12:01 a.m. Saturday, July 18, 2015 until further notice. Modifications are consistent with action taken July 16, 2015

# ADMINISTRATIVE RULES

by the Oregon and Washington Departments of Fish and Wildlife at a meeting of the Columbia River Compact.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

## 635-023-0095

### Sturgeon Season

(1) The **2015 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 **2015 Oregon Sport Fishing Regulations**.

(2) Retention of and angling for white sturgeon, including catch-and-release, in the Columbia River mainstem and tributaries from Bonneville Dam upstream to the Oregon/Washington border is prohibited beginning 12:01 a.m. Saturday, July 18, 2015 until further notice.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: DFW 129-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 2-28-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 22-2005(Temp), f. 4-1-05, cert. ef. 4-30-05 thru 7-31-05; DFW 50-2005(Temp), f. 6-3-05, cert. ef. 6-11-05 thru 11-30-05; DFW 60-2005(Temp), f. 6-21-05, cert. ef. 6-24-05 thru 12-21-05; DFW 65-2005(Temp), f. 6-30-05, cert. ef. 7-10-05 thru 12-31-05; DFW 76-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 145-2005(Temp), f. 12-21-05, cert. ef. 1-1-06 thru 3-31-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 19-2006(Temp), f. 4-6-06, cert. ef. 4-8-06 thru 7-31-06; DFW 54-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 12-27-06; DFW 62-2006(Temp), f. 7-13-06, cert. ef. 7-24-06 thru 12-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 20-2007(Temp), f. 3-26-07, cert. ef. 3-28-07 thru 7-30-07; DFW 38-2007(Temp), f. & cert. ef. 5-31-07 thru 11-26-07; DFW 59-2007(Temp), f. 7-18-07, cert. ef. 7-29-07 thru 12-31-07; DFW 75-2007(Temp), f. 8-17-07, cert. ef. 8-18-07 thru 12-31-07; DFW 102-2007(Temp), f. 9-28-07, cert. ef. 10-1-07 thru 12-31-07; DFW 135-2007(Temp), f. 12-28-07, cert. ef. 1-1-08 thru 6-28-08; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 8-2008, f. & cert. ef. 2-11-08; DFW 23-2008(Temp), f. 3-12-08, cert. ef. 3-15-08 thru 9-10-08; DFW 28-2008(Temp), f. 3-24-08, cert. ef. 3-26-08 thru 9-10-08; DFW 72-2008(Temp), f. 6-30-08, cert. ef. 7-10-08 thru 12-31-08; DFW 78-2008(Temp), f. 7-9-08, cert. ef. 7-12-08 thru 12-31-08; DFW 86-2008(Temp), f. & cert. ef. 7-25-08 thru 12-31-08; DFW 148-2008(Temp), f. 12-19-08, cert. ef. 1-1-09 thru 6-29-09; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 18-2009, f. & cert. ef. 2-26-09; DFW 33-2009(Temp), f. 4-2-09, cert. ef. 4-13-09 thru 10-9-09; DFW 63-2009(Temp), f. 6-3-09, cert. ef. 6-6-09 thru 10-9-09; DFW 83-2009(Temp), f. 7-8-09, cert. ef. 7-9-09 thru 12-31-09; DFW 86-2009(Temp), f. 7-22-09, cert. ef. 7-24-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 13-2010(Temp), f. 2-16-10, cert. ef. 2-21-10 thru 7-31-10; DFW 19-2010(Temp), f. 2-26-10, cert. ef. 3-1-10 thru 8-27-10; DFW 34-2010, f. 3-16-10, cert. ef. 4-1-10; DFW 49-2010(Temp), f. 4-27-10, cert. ef. 4-29-10 thru 7-31-10; DFW 50-2010(Temp), f. 4-29-10, cert. ef. 5-6-10 thru 11-1-10; DFW 88-2010(Temp), f. 6-25-10, cert. ef. 6-26-10 thru 7-31-10; DFW 91-2010(Temp), f. 6-29-10, cert. ef. 8-1-10 thru 12-31-10; DFW 99-2010(Temp), f. 7-13-10, cert. ef. 7-15-10 thru 12-31-10; DFW 165-2010(Temp), f. 12-28-10, cert. ef. 1-1-11 thru 6-29-11; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 11-2011(Temp), f. 2-10-11, cert. ef. 2-11-11 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; DFW 56-2014(Temp), f. 6-9-14, cert. ef. 6-13-14 thru 7-31-14; DFW 87-2014(Temp), f. 7-2-14, cert. ef. 7-11-14 thru 12-31-14; DFW 94-2014(Temp), f. & cert. ef. 7-14-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 166-2014(Temp), f. 12-18-14, cert. ef. 1-1-15 thru 3-1-15; Administrative correction, 3-23-15; DFW 41-2015(Temp), f. & cert. ef. 5-12-15 thru 7-31-15; DFW 54-2015(Temp), f. 5-28-15, cert. ef. 6-3-15 thru 7-31-15; DFW 89-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 9-30-15

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**Rule Caption:** Columbia River Zone 6 Treaty Indian Summer Chinook Commercial Fishery Set.

**Adm. Order No.:** DFW 90-2015(Temp)

**Filed with Sec. of State:** 7-20-2015

**Certified to be Effective:** 7-21-15 thru 7-31-15

**Notice Publication Date:**

**Rules Amended:** 635-041-0076

**Rules Suspended:** 635-041-0076(T)

**Subject:** This amended rule authorizes sales of fish caught in a Treaty tribal commercial gill net fishery in the Columbia River which begins 6:00 a.m. Tuesday, July 21 and runs through 6:00 p.m. Fri-

day, July 24, 2015 (3.5 days). Modifications are consistent with action taken July 20, 2015 by the Departments of Fish & Wildlife for the States of Oregon and Washington in cooperation with the Columbia River Treaty Tribes at a meeting of the Columbia River Compact.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

## 635-041-0076

### Summer Salmon Season

(1) Salmon, steelhead, shad, walleye, catfish, bass, yellow perch, and carp may be taken for commercial purposes from Zone 6, in the Columbia River Treaty Indian Fishery, from 12:01 a.m. Tuesday, June 16 through 11:59 p.m. Thursday, July 31, 2015. Fish caught during an open period may be sold after the period concludes.

(a) White sturgeon between 43–54 inches in fork length caught in The Dalles Pool and John Day pools and white sturgeon between 38–54 inches in fork length caught in the Bonneville Pool may not be sold but may be retained for subsistence use.

(b) Gear is restricted to subsistence fishing gear which includes hook-nets, dipnets, and rod and reel with hook-and-line. Fish may also be taken by gill net beginning 6:00 a.m. Tuesday, July 21 through 6:00 p.m. Friday, July 24, 2015 (3.5 days). Gill nets have a 7-inch minimum mesh size restriction.

(c) Closed areas as set forth in OAR 635-041-0045 remain in effect with the exception of Spring Creek Hatchery sanctuary.

(2) Beginning 12:01 a.m. Tuesday, June 16 through 11:59 p.m. Friday, July 31, 2015, commercial sales of salmon, steelhead, walleye, shad, catfish, carp, bass and yellow perch caught in Yakama Nation tributary fisheries in the Klickitat River; Wind River; and Drano Lake are allowed for Yakama Nation members during those days and hours when these tributaries are open under lawfully enacted Yakama Nation fishing periods.

(a) Sturgeon between 43–54 inches in fork length harvested in tributaries within The Dalles or John Day pools and sturgeon between 38–54 inches in fork length harvested in tributaries within Bonneville Pool may not be sold but may be kept for subsistence purposes.

(b) Gear is restricted to subsistence fishing gear which includes hook-nets, dipnets, and rod and reel with hook-and-line. Gillnets may only be used in Drano Lake.

Stat. Auth.: ORS 496.118, 506.119

Stats. Implemented: ORS 506.109, 506.129, 507.030

Hist.: DFW 5-2006, f. & cert. ef. 2-15-06; DFW 39-2006(Temp), f. & cert. ef. 6-8-06 thru 7-31-06; DFW 46-2006(Temp), f. & cert. ef. 6-20-06 thru 7-31-06; DFW 49-2006(Temp), f. 6-26-06, cert. ef. 6-27-06 thru 7-31-06; DFW 56-2006(Temp), f. 6-30-06, cert. ef. 7-3-06 thru 7-31-06; DFW 58-2006(Temp), f. 7-6-06, cert. ef. 7-10-06 thru 7-31-06; Administrative correction 8-22-06; DFW 46-2007(Temp), f. 6-15-07, cert. ef. 6-16-07 thru 9-13-07; DFW 49-2007(Temp), f. 6-22-07, cert. ef. 6-26-07 thru 9-13-07; DFW 53-2007(Temp), f. & cert. ef. 7-6-07 thru 7-31-07; Administrative correction 9-16-07; DFW 45-2008(Temp), f. 5-2-08, cert. ef. 5-5-08 thru 7-31-08; DFW 47-2008(Temp), f. 5-9-08, cert. ef. 5-11-08 thru 7-31-08; DFW 62-2008(Temp), f. 6-13-08, cert. ef. 6-16-08 thru 8-31-08; DFW 68-2008(Temp), f. 6-20-08, cert. ef. 6-21-08 thru 8-31-08; DFW 71-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 8-31-08; DFW 80-2008(Temp), f. & cert. ef. 7-10-08 thru 8-31-08; DFW 87-2008(Temp), f. & cert. ef. 7-25-08 thru 8-31-08; DFW 94-2008(Temp), f. & cert. ef. 8-14-08 thru 9-30-08; Administrative correction 10-21-08; DFW 50-2009(Temp), f. 5-14-09, cert. ef. 5-16-09 thru 7-31-09; DFW 56-2009(Temp), f. 5-26-09, cert. ef. 5-27-09 thru 7-31-09; DFW 71-2009(Temp), f. 6-15-09, cert. ef. 6-16-09 thru 7-31-09; DFW 76-2009(Temp), f. 6-26-09, cert. ef. 6-30-09 thru 7-31-09; DFW 82-2009(Temp), f. 7-6-09, cert. ef. 7-8-09 thru 7-31-09; DFW 84-2009(Temp), f. 7-13-09, cert. ef. 7-15-09 thru 7-31-09; Administrative correction 8-21-09; DFW 48-2010(Temp), f. 4-26-10, cert. ef. 4-27-10 thru 7-31-10; DFW 51-2010(Temp), f. & cert. ef. 4-29-10 thru 7-31-10; DFW 56-2010(Temp), f. 5-10-10, cert. ef. 5-11-10 thru 7-31-10; DFW 68-2010(Temp), f. 5-18-10, cert. ef. 5-19-10 thru 7-31-10; DFW 71-2010(Temp), f. 5-19-10, cert. ef. 5-21-10 thru 6-16-10; DFW 74-2010(Temp), f. & cert. ef. 6-2-10 thru 7-31-10; DFW 80-2010(Temp), f. 6-14-10, cert. ef. 6-16-10 thru 7-31-10; DFW 87-2010(Temp), f. 6-25-10, cert. ef. 6-29-10 thru 7-31-10; DFW 97-2010(Temp), f. 7-8-10, cert. ef. 7-13-10 thru 7-31-10; DFW 101-2010(Temp), f. 7-19-10, cert. ef. 7-20-10 thru 7-31-10; DFW 105-2010(Temp), f. 7-23-10, cert. ef. 7-26-10 thru 7-31-10; Administrative correction 8-18-10; DFW 43-2011(Temp), f. & cert. ef. 5-10-11 thru 10-31-11; DFW 66-2011(Temp), f. 6-14-11, cert. ef. 6-16-11 thru 10-31-11; DFW 75-2011(Temp), f. 6-24-11, cert. ef. 6-27-11 thru 10-31-11; DFW 84-2011(Temp), f. 7-11-11, cert. ef. 7-5-11 thru 10-31-11; DFW 88-2011(Temp), f. 7-8-11, cert. ef. 7-10-11 thru 10-31-11; DFW 94-2011(Temp), f. 7-14-11, cert. ef. 7-18-11 thru 10-31-11; DFW 98-2011(Temp), f. 7-20-11, cert. ef. 7-25-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 66-2012(Temp), f. 6-14-12, cert. ef. 6-18-12 thru 7-31-12; DFW 81-2012(Temp), f. 6-29-12, cert. ef. 7-3-12 thru 8-31-12; [DFW 87-2012(Temp), f. 7-11-12, cert. ef. 7-12-12 thru 8-31-12; Temporary Suspended by DFW 94-2012(Temp), f. & cert. ef. 7-27-12 thru 10-31-12]; DFW 57-2013(Temp), f. 6-12-13, cert. ef. 6-16-13 thru 7-31-13; DFW 63-2013(Temp), f. 6-27-13, cert. ef. 6-29-13 thru 7-31-13; DFW 69-2013(Temp), f. 7-5-13, cert. ef. 7-6-13 thru 7-31-13; DFW 71-2013(Temp), f. 7-11-13, cert. ef. 7-15-13 thru 7-31-13; DFW 77-2013(Temp), f. 7-18-13, cert. ef. 7-22-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 66-2014(Temp), f. 6-12-14, cert. ef. 6-16-14 thru 7-31-14; DFW 79-2014(Temp), f. 6-26-14, cert. ef. 6-30-14 thru 7-31-14; DFW 91-2014(Temp), f. 7-10-14, cert. ef. 7-14-14 thru 7-31-14; DFW 95-2014(Temp), f. 7-17-14, cert. ef. 7-21-14 thru 7-31-14; DFW 103-2014(Temp), f. 7-23-14, cert. ef. 7-28-14 thru 7-31-14; Administrative correction, 8-28-14; DFW 71-2015(Temp), f. 6-15-15, cert. ef. 6-16-15 thru 7-31-15; DFW 80-2015(Temp), f. 6-30-15, cert. ef. 7-6-15 thru 7-31-15; DFW 83-2015(Temp), f. 7-7-15, cert. ef. 7-8-15 thru 7-31-15; DFW 87-2015(Temp), f. & cert. ef. 7-15-15 thru 7-31-15; DFW 90-2015(Temp), f. 7-20-15, cert. ef. 7-21-15 thru 7-31-15

# ADMINISTRATIVE RULES

**Rule Caption:** Columbia River Commercial Summer Chinook Drift Net Fishery Set for July 21, 2015.

**Adm. Order No.:** DFW 91-2015(Temp)

**Filed with Sec. of State:** 7-20-2015

**Certified to be Effective:** 7-21-15 thru 7-31-15

**Notice Publication Date:**

**Rules Amended:** 635-042-0027

**Rules Suspended:** 635-042-0027(T)

**Subject:** This amended rule authorizes a 12-hour non-Indian commercial summer Chinook drift net fishery in the mainstem Columbia River to commence on Tuesday, July 21 at 7:00 p.m. and run through 7:00 a.m. Wednesday, July 22, 2015 in all of zones 1 through 5. Modifications are consistent with action taken July 20, 2015 by the Oregon and Washington Departments of Fish and Wildlife at a meeting of the Columbia River Compact.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

## 635-042-0027

### Summer Salmon Season

(1) Chinook salmon, sockeye, and shad may be taken by drift gillnet for commercial purposes from the mouth of the Columbia River upstream to Beacon Rock (Zones 1–5 during the period: 7:00 p.m. Tuesday, July 21 to 7:00 a.m. Wednesday, July 22, 2015 (12 hours).

(2) During the summer Chinook drift gillnet fishery:

(a) It is *unlawful* to use a drift gillnet having a mesh size less than 8 inches or more than 9 3/4 inches;

(b) Mesh size for the fishery is determined as described in OAR 635-042-0010(4); and

(c) 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.

(3) Sturgeon and steelhead must be released immediately to the river with care and with the least possible injury to the fish.

(4) Closed waters, as described in OAR 635-042-0005 for Elokomin-B, Cowlitz River, Kalama-B, Lewis-B, Sandy and Washougal river sanctuaries are in effect during the open fishing periods identified above.

Stat. Auth.: ORS 496.118, 506.109 & 506.129

Stats. Implemented: ORS 506.119 & 507.030

Hist.: DFW 5-2006, f. & cert. ef. 2-15-06; DFW 47-2006(Temp), f. 6-20-06, cert. ef. 6-20-06 thru 7-31-06; DFW 51-2006(Temp), f. & cert. ef. 6-29-06 thru 7-31-06; DFW 57-2006(Temp), f. 7-5-06, cert. ef. 7-6-06 thru 7-31-06; DFW 63-2006(Temp), f. 7-14-2006, cert. ef. 7-16-06 thru 7-31-06; DFW 68-2006(Temp), f. 7-28-06, cert. ef. 7-30-06 thru 7-31-06; Administrative correction 8-22-06; DFW 45-2007(Temp), f. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; DFW 52-2007(Temp), f. & cert. ef. 7-6-07 thru 7-31-07; DFW 63-2008(Temp), f. 6-13-08, cert. ef. 6-24-08 thru 7-31-08; DFW 68-2008(Temp), f. 6-20-08, cert. ef. 6-21-08 thru 8-31-08; DFW 75-2008(Temp), f. 7-3-08, cert. ef. 7-7-08 thru 7-31-08; Administrative correction 8-21-08; DFW 72-2009(Temp), f. 6-15-09, cert. ef. 6-18-09 thru 7-31-09; Administrative correction 8-21-09; DFW 81-2010(Temp), f. 6-14-10, cert. ef. 6-17-10 thru 7-31-10; Administrative correction 8-18-10; DFW 67-2011(Temp), f. 6-14-11, cert. ef. 6-16-11 thru 7-31-11; Administrative correction 9-23-11; DFW 67-2012(Temp), f. 6-14-12, cert. ef. 6-17-12 thru 7-31-12; Administrative correction, 8-27-12; DFW 56-2013(Temp), f. 6-12-13, cert. ef. 6-16-13 thru 7-31-13; DFW 72-2013(Temp), f. 7-11-13, cert. ef. 7-15-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 67-2014(Temp), f. 6-12-14, cert. ef. 6-16-14 thru 7-31-14; DFW 84-2014(Temp), f. 7-2-14, cert. ef. 7-7-14 thru 7-31-14; DFW 93-2014(Temp), f. 7-10-14, cert. ef. 7-14-14 thru 7-31-14; DFW 102-2014(Temp), f. 7-23-14, cert. ef. 7-28-14 thru 7-31-14; Administrative correction, 8-28-14; DFW 72-2015(Temp), f. 6-15-15, cert. ef. 6-17-15 thru 6-30-15; DFW 84-2015(Temp), f. 7-7-15, cert. ef. 7-8-15 thru 7-31-15; Suspended by DFW 86-2015(Temp), f. & cert. ef. 7-14-15 thru 7-31-15; DFW 91-2015(Temp), f. 7-20-15, cert. ef. 7-21-15 thru 7-31-15

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**Rule Caption:** Establish Pikeminnow Fishing Derby Regulations In Accordance With Senate Bill 958 (2015).

**Adm. Order No.:** DFW 92-2015(Temp)

**Filed with Sec. of State:** 7-24-2015

**Certified to be Effective:** 7-24-15 thru 12-31-15

**Notice Publication Date:**

**Rules Adopted:** 635-001-0110

**Subject:** This adopted rule sets requirements for holding a Northern pikeminnow derby as authorized by Senate Bill 958 (2015). The rule requires the derby organizer to apply for a free license from the Department that authorizes the derby to be held at a specified time and waterbody. This license also authorizes the commercial sales, for charitable fund-raising purposes, of the Northern pikeminnow

retained during the derby and exempts the organizer from any commercial licensing requirements.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

## 635-001-0110

### Pikeminnow Fishing Derby

In accordance with Senate Bill 958 (2015), an organizer of a fishing derby for Northern pikeminnow (*Ptychocheilus oregonensis*) may request a free derby license from the Oregon Department of Fish and Wildlife (Department) with the following restrictions:

(1) A derby license from the Department is required. An organizer must apply for a license at least 60 days prior to the event. The license must be in possession of the organizer at the derby location, and must be shown to Oregon State Police (OSP) or Department representatives on request. ODFW shall set license conditions after consideration of the impacts on sensitive populations or habitats for fish species and social impacts.

(2) The maximum duration of a fishing derby shall be three days.

(3) No more than two fishing derby licenses may be issued per year for a given body of water.

(4) An organizer of a fishing derby is required to obtain a separate fishing derby license for each fishing derby.

(5) All current angling regulations and license requirements for the location of the derby remain in effect and shall not be altered to accommodate the derby. In addition, special license conditions such as reduced bag limits may be applied in order to protect affected fish stocks.

(6) Catch and release angling is permitted, provided fish are released unharmed.

(7) The derby organizer is responsible for identifying non-profit outlets or commercial fish or bait dealers for any unwanted fish which are retained from the derby. Only Northern pikeminnow may be sold to commercial fish or bait dealers and only for charitable fund-raising purposes. The derby license exempts the licensee from any commercial licensing requirements and the wholesale fish and bait dealers are not required to report the Northern pikeminnow purchased from the derby to the Department on fish receiving tickets or pay ad-valorem fees.

(8) Derby organizers are responsible for meeting all other state and local requirements for such things as special use permits, etc.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 92-2015(Temp), f. & cert. ef. 7-24-15 thru 12-31-15

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**Rule Caption:** Columbia River Zone 6 Treaty Indian Summer Chinook Commercial Fishery Set.

**Adm. Order No.:** DFW 93-2015(Temp)

**Filed with Sec. of State:** 7-27-2015

**Certified to be Effective:** 7-28-15 thru 7-31-15

**Notice Publication Date:**

**Rules Amended:** 635-041-0076

**Rules Suspended:** 635-041-0076(T)

**Subject:** This amended rule authorizes sales of fish caught in a Treaty tribal commercial gill net fishery in the Columbia River which begins 6:00 a.m. Tuesday, July 28 and runs through 6:00 p.m. Friday, July 31, 2015 (3.5 days). Modifications are consistent with action taken July 27, 2015 by the Departments of Fish & Wildlife for the States of Oregon and Washington in cooperation with the Columbia River Treaty Tribes at a meeting of the Columbia River Compact.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

## 635-041-0076

### Summer Salmon Season

(1) Salmon, steelhead, shad, walleye, catfish, bass, yellow perch, and carp may be taken for commercial purposes from Zone 6, in the Columbia River Treaty Indian Fishery, from 12:01 a.m. Tuesday, June 16 through 11:59 p.m. Thursday, July 31, 2015. Fish caught during an open period may be sold after the period concludes.

(a) White sturgeon between 43–54 inches in fork length caught in The Dalles Pool and John Day pools and white sturgeon between 38–54 inches in fork length caught in the Bonneville Pool may not be sold but may be retained for subsistence use.

(b) Gear is restricted to subsistence fishing gear which includes hoop-nets, dipnets, and rod and reel with hook-and-line. Fish may also be taken by gill net beginning 6:00 a.m. Tuesday, July 28 through 6:00 p.m. Friday, July 31, 2015 (3.5 days). Gill nets do not have a mesh size restriction.

# ADMINISTRATIVE RULES

(c) Closed areas as set forth in OAR 635-041-0045 remain in effect with the exception of Spring Creek Hatchery sanctuary.

(2) Beginning 12:01 a.m. Tuesday, June 16 through 11:59 p.m. Friday, July 31, 2015, commercial sales of salmon, steelhead, walleye, shad, catfish, carp, bass and yellow perch caught in Yakama Nation tributary fisheries in the Klickitat River; Wind River; and Drano Lake are allowed for Yakama Nation members during those days and hours when these tributaries are open under lawfully enacted Yakama Nation fishing periods.

(a) Sturgeon between 43–54 inches in fork length harvested in tributaries within The Dalles or John Day pools and sturgeon between 38–54 inches in fork length harvested in tributaries within Bonneville Pool may not be sold but may be kept for subsistence purposes.

(b) Gear is restricted to subsistence fishing gear which includes hoop-nets, dipnets, and rod and reel with hook-and-line. Gillnets may only be used in Drano Lake.

Stat. Auth.: ORS 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: DFW 5-2006, f. & cert. ef. 2-15-06; DFW 39-2006(Temp), f. & cert. ef. 6-8-06 thru 7-31-06; DFW 46-2006(Temp), f. & cert. ef. 6-20-06 thru 7-31-06; DFW 49-2006(Temp), f. 6-26-06, cert. ef. 6-27-06 thru 7-31-06; DFW 56-2006(Temp), f. 6-30-06, cert. ef. 7-3-06 thru 7-31-06; DFW 58-2006(Temp), f. 7-6-06, cert. ef. 7-10-06 thru 7-31-06; Administrative correction 8-22-06; DFW 46-2007(Temp), f. 6-15-07, cert. ef. 6-16-07 thru 9-13-07; DFW 49-2007(Temp), f. 6-22-07, cert. ef. 6-26-07 thru 9-13-07; DFW 53-2007(Temp), f. & cert. ef. 7-6-07 thru 7-31-07; Administrative correction 9-16-07; DFW 45-2008(Temp), f. 5-2-08, cert. ef. 5-5-08 thru 7-31-08; DFW 47-2008(Temp), f. 5-9-08, cert. ef. 5-11-08 thru 7-31-08; DFW 62-2008(Temp), f. 6-13-08, cert. ef. 6-16-08 thru 8-31-08; DFW 68-2008(Temp), f. 6-20-08, cert. ef. 6-21-08 thru 8-31-08; DFW 71-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 8-31-08; DFW 80-2008(Temp), f. & cert. ef. 7-10-08 thru 8-31-08; DFW 87-2008(Temp), f. & cert. ef. 7-25-08 thru 8-31-08; DFW 94-2008(Temp), f. & cert. ef. 8-14-08 thru 9-30-08; Administrative correction 10-21-08; DFW 50-2009(Temp), f. 5-14-09, cert. ef. 5-16-09 thru 7-31-09; DFW 56-2009(Temp), f. 5-26-09, cert. ef. 5-27-09 thru 7-31-09; DFW 71-2009(Temp), f. 6-15-09, cert. ef. 6-16-09 thru 7-31-09; DFW 76-2009(Temp), f. 6-26-09, cert. ef. 6-30-09 thru 7-31-09; DFW 82-2009(Temp), f. 7-6-09, cert. ef. 7-8-09 thru 7-31-09; DFW 84-2009(Temp), f. 7-13-09, cert. ef. 7-15-09 thru 7-31-09; Administrative correction 8-21-09; DFW 48-2010(Temp), f. 4-26-10, cert. ef. 4-27-10 thru 7-31-10; DFW 51-2010(Temp), f. & cert. ef. 4-29-10 thru 7-31-10; DFW 56-2010(Temp), f. 5-10-10, cert. ef. 5-11-10 thru 7-31-10; DFW 68-2010(Temp), f. 5-18-10, cert. ef. 5-19-10 thru 7-31-10; DFW 71-2010(Temp), f. 5-19-10, cert. ef. 5-21-10 thru 6-16-10; DFW 74-2010(Temp), f. & cert. ef. 6-2-10 thru 7-31-10; DFW 80-2010(Temp), f. 6-14-10, cert. ef. 6-16-10 thru 7-31-10; DFW 87-2010(Temp), f. 6-25-10, cert. ef. 6-29-10 thru 7-31-10; DFW 97-2010(Temp), f. 7-8-10, cert. ef. 7-13-10 thru 7-31-10; DFW 101-2010(Temp), f. 7-19-10, cert. ef. 7-20-10 thru 7-31-10; DFW 105-2010(Temp), f. 7-23-10, cert. ef. 7-26-10 thru 7-31-10; Administrative correction 8-18-10; DFW 43-2011(Temp), f. & cert. ef. 5-10-11 thru 10-31-11; DFW 66-2011(Temp), f. 6-14-11, cert. ef. 6-16-11 thru 10-31-11; DFW 75-2011(Temp), f. 6-24-11, cert. ef. 6-27-11 thru 10-31-11; DFW 84-2011(Temp), f. 7-1-11, cert. ef. 7-5-11 thru 10-31-11; DFW 88-2011(Temp), f. 7-8-11, cert. ef. 7-10-11 thru 10-31-11; DFW 94-2011(Temp), f. 7-14-11, cert. ef. 7-18-11 thru 10-31-11; DFW 98-2011(Temp), f. 7-20-11, cert. ef. 7-25-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 66-2012(Temp), f. 6-14-12, cert. ef. 6-18-12 thru 7-31-12; DFW 81-2012(Temp), f. 6-29-12, cert. ef. 7-3-12 thru 8-31-12; [DFW 87-2012(Temp), f. 7-11-12, cert. ef. 7-12-12 thru 8-31-12; Temporary Suspended by DFW 94-2012(Temp), f. & cert. ef. 7-27-12 thru 10-31-12]; DFW 57-2013(Temp), f. 6-12-13, cert. ef. 6-16-13 thru 7-31-13; DFW 63-2013(Temp), f. 6-27-13, cert. ef. 6-29-13 thru 7-31-13; DFW 69-2013(Temp), f. 7-5-13, cert. ef. 7-6-13 thru 7-31-13; DFW 71-2013(Temp), f. 7-11-13, cert. ef. 7-15-13 thru 7-31-13; DFW 77-2013(Temp), f. 7-18-13, cert. ef. 7-22-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 66-2014(Temp), f. 6-12-14, cert. ef. 6-16-14 thru 7-31-14; DFW 79-2014(Temp), f. 6-26-14, cert. ef. 6-30-14 thru 7-31-14; DFW 91-2014(Temp), f. 7-10-14, cert. ef. 7-14-14 thru 7-31-14; DFW 95-2014(Temp), f. 7-17-14, cert. ef. 7-21-14 thru 7-31-14; DFW 103-2014(Temp), f. 7-23-14, cert. ef. 7-28-14 thru 7-31-14; Administrative correction, 8-28-14; DFW 71-2015(Temp), f. 6-15-15, cert. ef. 6-16-15 thru 7-31-15; DFW 80-2015(Temp), f. 6-30-15, cert. ef. 7-6-15 thru 7-31-15; DFW 83-2015(Temp), f. 7-7-15, cert. ef. 7-8-15 thru 7-31-15; DFW 87-2015(Temp), f. & cert. ef. 7-15-15 thru 7-31-15; DFW 90-2015(Temp), f. 7-20-15, cert. ef. 7-21-15 thru 7-31-15; DFW 93-2015(Temp), f. 7-27-15, cert. ef. 7-28-15 thru 7-31-15

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**Rule Caption:** Five Rivers Upstream to Buck Creek Closed to Angling for Fall Chinook August 1, 2015.

**Adm. Order No.:** DFW 94-2015(Temp)

**Filed with Sec. of State:** 7-27-2015

**Certified to be Effective:** 8-1-15 thru 12-31-15

**Notice Publication Date:**

**Rules Amended:** 635-014-0090

**Rules Suspended:** 635-014-0090(T)

**Subject:** This amended rule closes the Five Rivers upstream to Buck Creek to angling for fall Chinook salmon from August 1 thru the fall season. These modification conform fall salmon regulations to guidelines adopted in the Coastal Multi-Species Plan and a request has been submitted for these modifications to be included in permanent sport regulations for 2016–2017.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-014-0090**

**Inclusions and Modifications**

(1) The 2015 Oregon Sport Fishing Regulations provide requirements for the Northwest 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 2015 Oregon Sport Fishing Regulations pamphlet.

(2) Notwithstanding all other requirements provided in the 2015 Oregon Sport Fishing Regulations pamphlet, the following additional rules apply to wild coho salmon angling in waters of the Northwest Zone during the period September 1–December 31, 2015:

(a) For the purposes of regulations described in section (2) of this rule, wild coho are defined as fish with an intact adipose fin.

(b) For all waters in the Northwest and Southwest zones that are open to wild coho harvest, anglers may not take more than 1 wild adult coho and 1 wild jack coho per day regardless of location. There is no seasonal limit on wild coho jacks regardless of location. The seasonal limit on wild coho adults for the Northwest and Southwest zones is 5 fish in aggregate from all waters. Harvest of wild coho salmon is allowed in the following waterbodies with restrictions as specified in sections (2)(c) through (2)(i) of this rule.

(A) No more than 1 adult wild coho may be harvested for the season from either the Nestucca River Basin or the Tillamook River Basin. Wild adult coho taken from these areas do not count towards the 2 fish limit described in section (2)(b)(B) of this rule, but do count towards the overall 5 fish aggregate limit for the Northwest and Southwest zones;

(B) No more than 2 adult wild coho in total for the season may come from any combination of the following areas: Siletz River, Yaquina River, Alsea River, Siuslaw River, Umpqua River, Beaver Creek (Ona Beach), Floras Creek/New River, Coos River, and Coquille River. Wild adult coho taken from these areas do not count towards the 1 fish limit described in section (2)(b)(A) of this rule, but do count towards the overall 5 fish aggregate limit for the Northwest and Southwest zones; and

(C) No more than 5 adult wild coho in total for the season may come from any combination of the following areas: Siltcoos Lake, Tahkenitch Lake, and Tenmile Lake (SW Zone). Wild adult coho taken from these areas do not count against aggregate limits described in sections (2)(b)(A) and (2)(b)(B) of this rule, but do count towards the overall 5 fish limit for the Northwest and Southwest zones as specified in section (2)(b) of this rule.

(c) Tillamook Bay tidewater from the jetty tips upstream to Highway 101 Bridge on Miami, Kilchis, Wilson, and Trask rivers and Burton Bridge on Tillamook River is open on Fridays and Saturdays only for wild coho salmon from September 18 through October 31. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(d) Nestucca Bay tidewater (excluding Little Nestucca tidewater) from the bay mouth upstream to the Cloverdale Bridge (RM 7.1) is open on Sundays and Mondays only for wild coho salmon from September 20 through November 2. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(e) Siletz River and Bay upstream to an ODFW marker sign approximately 1,200 feet upstream of Ojalla Bridge (RM 31) is open for wild coho salmon from September 15 through October 6; Siletz River and Bay upstream to Illahee Boat Ramp is open for wild coho salmon from October 7–November 30. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(f) The Yaquina River and Bay upstream to the confluence of the Yaquina River and Big Elk Creek are open for wild coho salmon from September 15 through November 30. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(g) The Alsea River and Bay upstream to the USFS River Edge Boat Landing are open for wild coho salmon from September 15 through October 15. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(h) The Siuslaw River and Bay upstream to the confluence of the Siuslaw River with Lake Creek is open for wild coho salmon from September 15 through October 15. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(i) Beaver Creek (at Ona Beach between Newport and Waldport) from footbridge west of Highway 101 upstream to the power line crossing near the confluence of South Fork Beaver Creek (Ona Beach) open for wild coho salmon from November 1–30 or until attainment of an adult wild coho quota of 150 fish. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(3) Siletz River and Bay, upstream to painted boulder located 900 feet downstream from Siletz Falls at rivermile 64.4 including tidewater:

(a) Open for adipose fin-clipped steelhead all year;

(b) Open for spring Chinook salmon April 1–July 31, upstream to deadline marker at Moonshine Park boat ramp, one non fin-clipped spring Chinook salmon per day and 2 per year;

# ADMINISTRATIVE RULES

(c) Open for fall Chinook salmon August 1–December 31 upstream to marker sign approximately 1200 feet upstream of Ojalla Bridge;

(d) Open for fall Chinook salmon October 7–December 31 upstream to Illahee boat ramp; and

(e) Use of bait is allowed.

(4) Beginning Saturday, July 18, 2015 until further notice, all waterbodies defined as ‘streams’ in the **2015 Oregon Sport Fishing Regulations** will be closed to angling for trout, salmon, steelhead, and sturgeon from 2:00 p.m. daily until one hour before sunrise the following day with the following exception: Angling hours in tidewater areas, as defined in the **2015 Oregon Sport Fishing Regulations**, remain in effect as shown in the **2015 Oregon Sport Fishing Regulations**.

(5) Five Rivers upstream to Buck Creek (Alsea Basin; Lincoln, Lane, and Benton counties) is closed for Chinook salmon August 1-December 31.

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

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

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 28-1995(Temp), f. 3-31-95, cert. ef. 5-1-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 39-1995, f. 5-10-95, cert. ef. 5-12-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 19-1996, f. & cert. ef. 5-16-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 29-1996, f. & cert. ef. 5-31-96; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 55-1996(Temp), f. 9-25-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 58-1997, f. 9-8-97, cert. ef. 10-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 12-1998(Temp), f. & cert. ef. 2-24-98 thru 4-24-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 69-1998, f. 8-28-98, cert. ef. 9-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 81-2001, f. & cert. ef. 8-29-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02 cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 118-2002(Temp), f. 10-22-02, cert. ef. 12-1-02 thru 3-31-03; DFW 120-2002(Temp), f. 10-24-02, cert. ef. 10-26-02 thru 3-31-03; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 18-2003(Temp), f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 38-2003(Temp), f. 5-7-03, cert. ef. 5-10-03 thru 10-31-03; DFW 51-2003(Temp), f. & cert. ef. 6-13-03 thru 10-31-03; DFW 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03; DFW 108-2003(Temp), f. 10-28-03, cert. ef. 12-1-03 thru 3-31-04; DFW 123-2003(Temp), f. 12-10-03, cert. ef. 12-11-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 126-2003(Temp), f. 12-11-03, cert. ef. 1-1-04 thru 3-31-04; DFW 60-2004(Temp), f. 6-29-04, cert. ef. 7-1-04 thru 7-15-04; DFW 90-2004(Temp), f. 8-30-04, cert. ef. 10-1-04 thru 12-31-04; DFW 103-2004(Temp), f. & cert. ef. 10-4-04 thru 12-31-04; DFW 108-2004(Temp), f. & cert. ef. 10-18-04 thru 12-31-04; DFW 111-2004(Temp), f. 11-16-04, cert. ef. 11-20-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 62-2005(Temp), f. 6-29-05, cert. ef. 7-1-05 thru 7-10-05; Administrative correction 7-20-05; DFW 105-2005(Temp), f. 9-12-05, cert. ef. 10-1-05 thru 12-15-05; DFW 127-2005(Temp), f. & cert. ef. 11-23-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 53-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 7-9-06; Administrative correction 7-20-06; DFW 64-2006(Temp), f. 7-17-06, cert. ef. 8-1-06 thru 12-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 104-2006(Temp), f. 9-19-06, cert. ef. 10-1-06 thru 12-31-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 63-2007(Temp), f. 8-6-07, cert. ef. 8-11-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 25-2008(Temp), f. 3-13-08, cert. ef. 3-15-08 thru 9-10-08; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 43-2009(Temp), f. 5-5-09, cert. ef. 5-22-09 thru 10-31-09; DFW 67-2009(Temp), f. 6-9-09, cert. ef. 6-15-09 thru 10-31-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 99-2009(Temp), f. 8-26-09, cert. ef. 9-1-09 thru 12-31-09; DFW 115-2009(Temp), f. & cert. ef. 9-22-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 44-2010(Temp), f. 4-20-10, cert. ef. 4-21-10 thru 9-30-10; DFW 73-2010(Temp), f. 5-27-10, cert. ef. 6-1-10 thru 9-30-10; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10; DFW 89-2010(Temp), f. 6-28-10, cert. ef. 7-1-10 thru 9-30-10; Administrative correction 10-26-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 57-2011(Temp), f. 5-27-11, cert. ef. 6-1-11 thru 6-30-11; DFW 83-2011, f. 6-30-11, cert. ef. 7-1-11; DFW 139-2011(Temp), f. 10-3-11, cert. ef. 10-6-11 thru 12-31-11; DFW 141-2011(Temp), f. 10-6-11, cert. ef. 10-10-11 thru 12-31-11; DFW 143-2011(Temp), f. 10-10-11, cert. ef. 10-11-11 thru 12-31-11; DFW 148-2011(Temp), f. 10-20-11, cert. ef. 10-21-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 53-2012(Temp), f. 5-29-12, cert. ef. 6-1-12 thru 10-31-12; DFW 62-2012, f. 6-12-12, cert. ef. 7-1-12; DFW 63-2012(Temp), f. & cert. ef. 6-12-12 thru 10-31-12; DFW 71-2012(Temp), f. 6-27-12, cert. ef. 7-1-12 thru 11-30-12; DFW130-2012(Temp), f. 10-10-12, cert. ef. 10-13-12 thru 12-31-12; DFW 135-2012(Temp), f. 10-22-12, cert. ef. 10-24-12 thru 12-31-12; DFW 139-2012(Temp), f. 10-30-12, cert. ef. 10-31-12 thru 12-31-12; DFW 152-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 23-2013(Temp), f. 3-20-13, cert. ef. 4-1-13 thru 9-27-13; DFW 43-2013(Temp), f. 5-29-13, cert. ef. 6-1-13 thru 10-31-13; DFW 50-2013, f. 6-10-13, cert. ef. 7-1-13; DFW 60-2013(Temp), f. 6-24-13, cert. ef. 6-30-13 thru 9-30-13; Administrative correction 11-1-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 74-2014(Temp), f. 6-23-14, cert. ef. 6-30-14 thru 9-30-14; DFW 110-2014, f. & cert. ef. 8-4-14; DFW 111-2014(Temp), f. & cert. ef. 8-4-14 thru 9-30-14; DFW 133-2014(Temp), f. 9-16-14 & cert. ef. 9-17-14 thru 12-31-14; DFW 148-2014(Temp), f. 10-13-14, cert. ef. 10-15-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 23-2015(Temp), f. & cert. ef. 4-1-15 thru 7-31-15; DFW 73-2015, f. 6-22-15, cert. ef. 6-23-15; DFW 75-2015(Temp), f. 6-23-15, cert. ef. 6-24-15 thru 7-31-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15; DFW 94-2015(Temp), f. 7-27-15, cert. ef. 8-1-15 thru 12-31-15

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**Rule Caption:** 2015 Columbia River Fall Recreational Salmon Seasons Set.

**Adm. Order No.:** DFW 95-2015(Temp)

**Filed with Sec. of State:** 7-29-2015

**Certified to be Effective:** 8-1-15 thru 12-31-15

**Notice Publication Date:**

**Rules Amended:** 635-023-0130

**Subject:** This amended rule sets the 2015 fall recreational Chinook salmon season regulations for the mainstem Columbia River, effective August 1, 2015. Modifications were based on 2015 Non-Indian Columbia River Summer/Fall Fishery Allocation Agreement (5/8/15) that was developed during the Pacific Fisheries Management Council (PFMC) and North of Falcon (NOF) meetings. Fall fisheries in 2015 are structured to optimize the harvest of Chinook, coho and steelhead within Endangered Species Act (ESA) limits and to provide a balanced opportunity for the fishers.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

## 635-023-0130

### Fall Sport Fishery

(1) The **2015 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 **2015 Oregon Sport Fishing Regulations**.

(a) Buoy 10. In the area described as: From the Buoy 10 line upstream to a line projected from Rocky Point on the Washington shore through red buoy #44 to red marker #2 at Tongue Point on the Oregon shore:

(A) From August 1 thru December 31: Retention of adipose fin-clipped coho salmon (16-inches or longer) and adipose fin-clipped steelhead is allowed.

(B) From August 1 thru September 7: Retention of Chinook salmon (24-inches or longer, fin-clipped or not) is allowed. The daily bag limit is two salmonids, only one of which may be a Chinook.

(C) From September 8 thru 30: Retention of Chinook is prohibited. The daily bag limit is two salmonids (adipose fin-clipped coho/steelhead only).

(D) From October 1 thru December 31: Retention of Chinook (fin-clipped or not) is allowed. The daily adult bag limit is two adult salmonids. Chinook jacks (fin-clipped or not) and adipose fin-clipped coho jacks may be retained. The daily bag limit for jack salmon in Oregon is five fish.

(b) The Youngs Bay Control Zone, as described in 635-023-0140, is closed to recreational angling from August 1 through September 15.

(c) Lower Columbia River from Tongue Point/Rocky Point upstream to Warrior Rock/Bachelor Island. In the area described as: From Rocky Point on the Washington shore through red buoy #44 to the red marker #2 at Tongue Point on the Oregon shore upstream to a line projected from the Warrior Rock Lighthouse on the Oregon shore through red buoy #4 to a marker on the lower end of Bachelor Island:

(A) From August 1 thru December 31: Retention of adipose fin-clipped adult coho and adipose fin-clipped steelhead is allowed.

(B) From August 1 thru September 7: Retention of adult Chinook (fin-clipped or not) is allowed. The daily adult bag limit is two adult salmonids, only one of which may be a Chinook. The daily bag limit for jack salmon in Oregon is five fish.

(C) From September 8 thru September 14: Retention of adipose fin-clipped Chinook is allowed. The daily adult bag limit is two salmonids, only one of which may be a Chinook. The daily bag limit for jack salmon in Oregon is five fish.

(D) From September 15 thru September 30: Retention of all Chinook is prohibited. The daily bag limit is two salmonids (adipose fin-clipped coho/steelhead only).

(E) From October 1 thru December 31: Retention of adult Chinook (fin-clipped or not) is allowed. The daily bag limit is two adult salmonids. The daily bag limit for jack salmon in Oregon is five fish.

(F) Each legal angler aboard a vessel may continue to deploy angling gear until the daily adult salmonid bag limit for all anglers aboard has been achieved.

(d) Lower Columbia River from Warrior Rock/Bachelor Island upstream to Steamboat Landing Park/Marker #50. In the area described as: From a line projected from the Warrior Rock Lighthouse on the Oregon shore through red buoy #4 to a marker on the lower end of Bachelor Island upstream to a line projected from the most downstream point on the Steamboat Landing Park dock on the Washington shore through navigation light #50 to the Oregon shore:

# ADMINISTRATIVE RULES

(A) From August 1 thru December 31: Retention of Chinook (fin-clipped or not), adipose fin-clipped adult coho, and adipose fin-clipped steelhead is allowed. The daily bag limit is two adult salmonids. The daily bag limit for jack salmon in Oregon is five fish.

(B) Each legal angler aboard a vessel may continue to deploy angling gear until the daily adult salmonid bag limit for all anglers aboard has been achieved.

(e) Lower Columbia River from Steamboat Landing Park/Marker #50 upstream to Bonneville Dam. In the area described as: From a line projected from the most downstream point on the Steamboat Landing Park (100 S. Washougal River Road) dock on the Washington shore through navigation light #50 to the Oregon shore upstream to Bonneville Dam (fishing from the Steamboat Landing Park dock is included in this fishing area):

(A) From August 1 thru December 31: Retention of adult Chinook (fin-clipped or not), adipose fin-clipped coho, and adipose fin-clipped steelhead is allowed. The daily bag limit is three adult salmonids, of which no more than two may be adipose fin-clipped coho or adipose fin-clipped steelhead (in any combination). The daily bag limit for jack salmon in Oregon is five fish.

(B) Each legal angler aboard a vessel may continue to deploy angling gear until the daily adult salmonid bag limit for all anglers aboard has been achieved.

(f) In the area described as: From Bonneville Dam upstream to the OR/WA border (upstream of McNary Dam):

(A) From August 1 thru December 31: Retention of adult Chinook (fin-clipped or not), adult coho, and adipose fin-clipped steelhead is allowed. The daily bag limit is three adult salmonids, of which no more than two may be coho or adipose fin-clipped steelhead (in any combination). The daily bag limit for jack salmon in Oregon is five fish.

(B) All coho retained downstream of the Hood River Bridge must be adipose fin-clipped.

(C) Each legal angler aboard a vessel may continue to deploy angling gear until the daily adult salmonid bag limit for all anglers aboard has been achieved.

(2) All other permanent rules, as provided in the **2015 Oregon Sport Fishing Regulations** for the areas described above, remain in effect.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162

Hist.: DFW 32-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 92-2004(Temp), f. 9-2-04 cert. ef. 9-6-04 thru 12-31-04; DFW 96-2004(Temp), f. 9-20-04, cert. ef. 9-30-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 25-2005, f. & cert. ef. 4-15-05; DFW 84-2005(Temp), f. & cert. ef. 8-1-05 thru 12-31-05; DFW 108-2005(Temp), f. 9-15-05, cert. ef. 9-17-05 thru 12-31-05; DFW 112-2005(Temp), f. 9-28-05, cert. ef. 9-30-05 thru 12-31-05; DFW 123-2005(Temp), f. 10-18-05, cert. ef. 10-20-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 100-2006(Temp), f. & cert. ef. 9-14-06 thru 12-31-06; DFW 109-2006(Temp), f. 9-29-06, cert. ef. 9-30-06 thru 12-31-06; DFW 113-2006(Temp), f. 10-12-06, cert. ef. 10-13-06 thru 12-31-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 92-2007(Temp), f. 9-18-07, cert. ef. 9-19-07 thru 12-31-07; DFW 96-2007(Temp), f. 9-21-07, cert. ef. 9-22-07 thru 12-31-07; DFW 101-2007(Temp), f. 9-28-07, cert. ef. 9-29-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 36-2008, f. 4-21-08, cert. ef. 5-1-08; DFW 99-2008(Temp), f. 8-22-08, cert. ef. 8-25-08 thru 12-31-08; DFW 104-2008(Temp), f. 8-29-08, cert. ef. 8-31-08 thru 12-31-08; DFW 115-2008(Temp), f. & cert. ef. 9-18-08 thru 12-31-08; DFW 118-2008(Temp), f. 9-24-08, cert. ef. 9-25-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 52-2009, f. & cert. ef. 5-18-09; DFW 133-2009(Temp), f. 10-20-09, cert. ef. 10-22-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 77-2010, f. 6-8-10, cert. ef. 6-16-10; DFW 131-2010(Temp), f. 9-21-10, cert. ef. 9-22-10 thru 10-31-10; DFW 145-2010(Temp), f. 10-13-10, cert. ef. 10-15-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 100-2011(Temp), f. 7-27-11, cert. ef. 8-1-11 thru 12-31-11; DFW 127-2011(Temp), f. 9-14-11, cert. ef. 9-16-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 100-2012(Temp), f. 7-31-12, cert. ef. 8-1-12 thru 12-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 81-2013(Temp), f. 7-26-13, cert. ef. 8-1-13 thru 12-31-13; DFW 92-2013(Temp), f. 8-22-13, cert. ef. 8-23-13 thru 12-31-13; DFW 100-2013(Temp), f. 9-12-13, cert. ef. 9-13-13 thru 12-31-13; DFW 107-2013(Temp), f. 9-25-13, cert. ef. 9-26-13 thru 12-31-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 96-2014(Temp), f. 7-18-14, cert. ef. 8-1-14 thru 12-31-14; DFW 100-2014(Temp), f. 7-22-14, cert. ef. 8-1-14 thru 12-31-14; DFW 128-2014(Temp), f. 9-3-14, cert. ef. 9-6-14 thru 9-30-14; DFW 143-2014(Temp), f. 10-2-14, cert. ef. 10-3-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 95-2015(Temp), f. 7-29-15, cert. ef. 8-1-15 thru 12-31-15

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**Rule Caption:** Recreational Spring Chinook Fishery In the Snake River Below Hells Canyon Dam Closes.

**Adm. Order No.:** DFW 96-2015(Temp)

**Filed with Sec. of State:** 7-29-2015

**Certified to be Effective:** 8-2-15 thru 9-30-15

**Notice Publication Date:**

**Rules Amended:** 635-023-0134

**Rules Suspended:** 635-023-0134(T)

**Subject:** This amended rule closes the recreational spring Chinook salmon fishery on the Snake River in the area from the Dug Bar Boat Ramp upstream to the deadline below Hells Canyon Dam effective

at 11:59 p.m. on August 2, 2015 to coincide with the state of Idaho's closure of this fishery.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-023-0134**

**Snake River Fishery**

(1) The **2015 Oregon Sport Fishing Regulations** provide requirements for 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 **2015 Oregon Sport Fishing Regulations**.

(2) Notwithstanding all other specifications and restrictions as outlined in the **2015 Oregon Sport Fishing Regulations**, the following conditions apply:

(a) The Snake River from Dug Bar boat ramp upstream to the deadline below Hell's Canyon Dam is open seven (7) days per week, effective Saturday, May 2 through Sunday, August 2, 2015.

(b) Daily bag limit is four (4) adipose fin-clipped spring Chinook salmon per day, of which no more than two (2) can be an adult in excess of 24 inches in length. Anglers must cease fishing for salmon for the day when either four (4) salmon or two (2) adult salmon have been retained, whichever comes first.

(c) Barbless hooks are required.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 47-2005(Temp), f. 5-19-05, cert. ef. 5-21-05 thru 6-20-05; Administrative correction 7-20-05; DFW 31-2006(Temp), f. 5-18-06, cert. ef. 5-20-06 thru 6-19-06; Administrative correction 7-21-06; DFW 31-2007(Temp), f. 5-9-07, cert. ef. 5-11-07 thru 6-18-07; DFW 43-2007(Temp), f. 6-14-07, cert. ef. 6-19-07 thru 7-2-07; Administrative correction 2-8-08; DFW 43-2008(Temp), f. 4-25-08, cert. ef. 4-26-08 thru 7-20-08; DFW 64-2008(Temp), f. 6-18-08, cert. ef. 6-21-08 thru 7-31-08; Administrative correction 8-21-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 58-2009(Temp), f. 5-27-09, cert. ef. 5-30-09 thru 7-12-09; DFW 80-2009(Temp), f. 6-30-09, cert. ef. 7-1-09 thru 7-17-09; Administrative correction 7-21-09; DFW 128-2009(Temp), f. 10-12-09, cert. ef. 10-18-09 thru 4-15-10; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 42-2010(Temp), f. 4-13-10, cert. ef. 4-24-10 thru 7-31-10; DFW 107-2010(Temp), f. 7-26-10, cert. ef. 7-31-10 thru 8-4-10; Administrative correction, 8-18-10; DFW 119-2010(Temp), f. 8-18-10, cert. ef. 9-1-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 29-2011(Temp), f. 4-12-11, cert. ef. 4-23-11 thru 10-19-11; DFW 118-2011(Temp), f. 8-23-11, cert. ef. 9-1-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 35-2012(Temp), f. 4-16-12, cert. ef. 4-22-12 thru 9-30-12; DFW 93-2012(Temp), f. 7-24-12, cert. ef. 8-5-12 thru 9-30-12; DFW 109-2012(Temp), f. 8-21-12, cert. ef. 9-1-12 thru 12-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 29-2013(Temp), f. 4-25-13, cert. ef. 5-4-13 thru 9-30-13; DFW 76-2013(Temp), f. 7-16-13, cert. ef. 7-21-13 thru 9-30-13; DFW 94-2013(Temp), f. 8-23-13, cert. ef. 9-1-13 thru 11-30-13; Administrative correction, 12-19-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 33-2014(Temp), f. 4-21-14, cert. ef. 4-26-14 thru 9-30-14; DFW 98-2014(Temp), f. 7-18-14, cert. ef. 7-21-14 thru 9-30-14; DFW 122-2014(Temp), f. 8-4-14, cert. ef. 9-1-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 32-2015(Temp), f. 4-27-15, cert. ef. 5-2-15 thru 9-30-15; DFW 96-2015(Temp), f. 7-29-15, cert. ef. 8-2-15 thru 9-30-15

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**Rule Caption:** Sales from Columbia River Treaty Indian Fall Commercial Fisheries Authorized.

**Adm. Order No.:** DFW 97-2015(Temp)

**Filed with Sec. of State:** 7-30-2015

**Certified to be Effective:** 8-1-15 thru 10-31-15

**Notice Publication Date:**

**Rules Amended:** 635-041-0045, 635-041-0075

**Rules Suspended:** 635-041-0045(T)

**Subject:** These amended rules authorize the sales of fish caught in fall Treaty tribal platform commercial fisheries set for the Columbia River from Saturday, August 1 through Saturday, October 31, 2015. Modifications are consistent with action taken July 29, 2015 by the Departments of Fish & Wildlife for the States of Oregon and Washington in cooperation with the Columbia River Treaty Tribes at a meeting of the Columbia River Compact.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-041-0045**

**Closed Commercial Fishing Areas**

Unless otherwise specified in this rule and OAR 635-041-0063, the following waters are closed to commercial fishing:

(1) All Oregon tributaries of the Columbia River.

(2) The Columbia River westerly and downstream of the Bridge of the Gods except:

(a) From Saturday, August 1 through Saturday, October 31, 2015 sales are allowed by enrolled members of the Yakima, Warm Springs, Nez Perce, and Umatilla tribes downstream of Bonneville Dam when lawfully permitted by Treaty regulations under provisions of the agreements with the states

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of Oregon and Washington. Allowable sales include Chinook, steelhead, sockeye, coho, walleye, shad, yellow perch, bass and carp. Fish landed during lawfully permitted seasons may be sold at any time. Sturgeon caught in the tribal fisheries below Bonneville Dam may not be retained or sold. Fish may not be sold on USACE property below Bonneville Dam, but may be caught and transported off USACE property for sale.

(b) Gear is restricted to subsistence fishing gear allowed under Treaty regulations which includes hoopnets, dipnets, and rod and reel with hook-and-line.

(c) Platform and hook-and-line fisheries from the Bridge of the Gods downstream to the subsistence fishing deadline as described in OAR 635-041-0020(1) are open to commercial sales whenever sales are authorized for platform and hook-and-line fisheries in the remainder of Bonneville Pool.

(3) The Columbia River easterly and upstream of a line extending at a right angle across the thread of the river from a deadline marker one mile downstream of McNary Dam.

(4) The Columbia River between a line extending at a right angle across the thread of the river from a deadline marker at the west end of 3-Mile Rapids located approximately 1.8 miles below The Dalles Dam, upstream to a line from a deadline marker on the Oregon shore located approximately 3/4 mile above The Dalles Dam east fishway exit, thence at a right angle to the thread of the river to a point in midriver, thence downstream to Light "1" on the Washington shore; except that dip nets, bag nets, and hoop nets are permitted during commercial salmon and shad fishing seasons at the Lone Pine Indian fishing site located immediately above The Dalles Interstate Bridge.

(5) The Columbia River between a line extending at a right angle across the thread of the river from a deadline marker at Preachers Eddy light below the John Day Dam and a line approximately 4.3 miles upstream extending from a marker on the Oregon shore approximately one-half mile above the upper easterly bank of the mouth of the John Day River, Oregon, extending at a right angle across the thread of the river to a point in midriver, thence turning downstream to a marker located on the Washington shore approximately opposite the mouth of the John Day River.

(6) The Columbia River within areas at and adjacent to the mouths of the Deschutes River and the Umatilla River. The closed areas are along the Oregon side of the Columbia River and extend out to the midstream from a point one-half mile above the intersection of the upper bank of the tributary with the Columbia River to a point one mile downstream from the intersection of the lower bank of the tributary with the Columbia River. All such points are posted with deadline markers.

(7) The Columbia River within an area and adjacent to the mouth of the Big White Salmon River. The closed area is along the Washington side of the Columbia River and extends out to midstream at right angles to the thread of the Columbia River between a marker located 1/2 mile downstream from the west bank upstream to Light "35".

(8) The Columbia River within an area at and adjacent to the mouth of Drano Lake (Little White Salmon River). The closed area is along the Washington side of the Columbia River and extends out to midstream at right angles to the thread of the Columbia River between Light "27" upstream to a marker located approximately 1/2 mile upriver of the outlet of Drano Lake.

(9) The Columbia River within an area and adjacent to the mouth of the Wind River. The closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2 mile upstream from the east bank.

(10) The Columbia River within areas at and adjacent to the mouth of Hood River. The closed area is along the Oregon side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles downriver from the west bank at end of the breakwall at the west end of the Port of Hood River and 1/2 mile upriver from the east bank.

(11) The Columbia River within a radius of 150 feet of the Spring Creek Hatchery fishway, except that during the period of August 25-September 20 inclusive the closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between a marker located 1 1/2 miles downriver of the Spring Creek Hatchery fishway up to the downstream marker of the Big White Salmon sanctuary located approximately 1/2 mile upriver of the Spring Creek Hatchery fishway.

(12) Herman Creek upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

(13) The Columbia River within an area and adjacent to the mouth of the Klickitat River. The closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1 1/8 miles downstream from the west bank.

Stat. Auth.: ORS 183.325, 506.109 & 506.119  
Stats. Implemented: ORS 506.129 & 507.030  
Hist.: FWC 89, f. & ef. 1-28-77; FWC 133, f. & ef. 8-4-77; FWC 149(Temp), f. & ef. 9-21-77 thru 1-18-78; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79, Renumbered from 635-035-0045; FWC 6-1980, f. & ef. 1-28-80; FWC 44-1980(Temp), f. & ef. 8-22-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 49-1983(Temp), f. & ef. 9-26-83; FWC 4-1984, f. & ef. 1-31-84; FWC 55-1985(Temp), f. & ef. 9-6-85; FWC 4-1986 (Temp), f. & ef. 1-28-86; FWC 25-1986(Temp), f. & ef. 6-25-86; FWC 42-1986, f. & ef. 8-15-86; FWC 2-1987, f. & ef. 1-23-87; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 54-1989 (Temp), f. & cert. ef. 8-7-89; FWC 90-1989, f. & cert. ef. 9-6-89; FWC 80-1990(Temp), f. & cert. ef. 8-8-90; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 40-2011(Temp), f. & cert. ef. 5-5-11 thru 10-31-11; DFW 43-2011(Temp), f. & cert. ef. 5-10-11 thru 10-31-11; DFW 60-2011(Temp), f. & cert. ef. 6-6-11 thru 10-31-11; DFW 63-2011(Temp), f. & cert. ef. 6-8-11, cert. ef. 6-9-11 thru 10-31-11; DFW 66-2011(Temp), f. & cert. ef. 6-14-11, cert. ef. 6-16-11 thru 10-31-11; DFW 88-2011(Temp), f. & cert. ef. 7-10-11 thru 10-31-11; DFW 119-2011(Temp), f. & cert. ef. 8-29-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 5-2012(Temp), f. & cert. ef. 2-1-12 thru 3-31-12; DFW 18-2012(Temp), f. & cert. ef. 2-29-12 thru 6-15-12; DFW 46-2012(Temp), f. & cert. ef. 5-14-12, cert. ef. 5-15-12 thru 6-30-12; DFW 74-2012(Temp), f. & cert. ef. 7-1-12 thru 10-31-12; DFW 87-2012(Temp), f. & cert. ef. 7-11-12, cert. ef. 7-12-12 thru 8-31-12; DFW 94-2012(Temp), f. & cert. ef. 7-27-12 thru 10-31-12; DFW 119-2012(Temp), f. & cert. ef. 9-10-12, cert. ef. 9-11-12 thru 10-31-12; DFW 143-2012(Temp), f. & cert. ef. 11-7-12, cert. ef. 11-8-12 thru 1-29-13; DFW 8-2013(Temp), f. & cert. ef. 1-31-13, cert. ef. 2-1-13 thru 6-15-13; DFW 18-2013(Temp), f. & cert. ef. 3-5-13, cert. ef. 3-6-13 thru 6-15-13; DFW 57-2013(Temp), f. & cert. ef. 6-12-13, cert. ef. 6-16-13 thru 7-31-13; DFW 88-2013(Temp), f. & cert. ef. 8-9-13, cert. ef. 8-12-13 thru 12-31-13; DFW 116-2013(Temp), f. & cert. ef. 10-8-13, cert. ef. 10-9-13 thru 12-31-13; DFW 22-2014(Temp), f. & cert. ef. 3-11-14, cert. ef. 3-12-14 thru 7-31-14; DFW 37-2014(Temp), f. & cert. ef. 5-6-14 thru 7-31-14; DFW 105-2014(Temp), f. & cert. ef. 7-30-14, cert. ef. 8-1-14 thru 10-31-14; DFW 153-2014(Temp), f. & cert. ef. 10-23-14, cert. ef. 10-31-14 thru 12-31-14; Administrative correction, 1-27-15; DFW 71-2015(Temp), f. & cert. ef. 6-16-15 thru 7-31-15; DFW 97-2015(Temp), f. & cert. ef. 8-1-15 thru 10-31-15

## 635-041-0075

### Fall Salmon Season

(1) Salmon, steelhead, shad, walleye, catfish, bass, yellow perch, and carp may be taken for commercial purposes in Zone 6 of the Columbia River above Bonneville Dam from August 1 through October 31, 2015. Legal Fish landed during an open commercial period may be sold after the period concludes.

(a) White sturgeon between 43–54 inches in fork length caught in The Dalles Pool and John Day Pool and white sturgeon between 38–54 inches in fork length caught in the Bonneville Pool may not be sold but may be retained for subsistence use.

(b) Gear is restricted to subsistence fishing gear which includes hoopnets, dipnets, and rod and reel with hook-and-line.

(2) Closed areas are set forth in OAR 635-041-0045, including the closure at the mouth of Spring Creek which during August 25 through September 20, is the larger area described in 635-041-0045(11).

(3) Beginning August 1 through October 31, 2015 commercial sales of salmon, steelhead, walleye, shad, catfish, carp, bass and yellow perch caught in Yakama Nation tributary fisheries in the Klickitat River; Wind River; and Drano Lake are allowed for Yakama Nation members during those days and hours when these tributaries are open under lawfully enacted Yakama Nation fishing periods. Legal fish landed during the open periods may be sold after the period concludes.

(a) Sturgeon may not be sold. Sturgeon between 43–54 inches in fork length may be kept for ceremonial or subsistence purposes.

(b) Gear is restricted to subsistence fishing gear which includes hoopnets, dipnets, and rod and reel with hook-and-line. Gillnets may only be used in Drano Lake.

Stat. Auth.: ORS 496.118 & 506.119  
Stats. Implemented: ORS 506.109, 506.129 & 507.030  
Hist.: FWC 25-1979, f. & ef. 8-2-79; FWC 36-1979(Temp), f. & ef. 8-22-79; FWC 47-1979(Temp), f. & ef. 9-21-79; FWC 44-1980(Temp), f. & ef. 8-22-80; FWC 46-1980(Temp), f. & ef. 9-13-80; FWC 33-1981(Temp), f. & ef. 9-15-81; FWC 58-1982(Temp), f. & ef. 8-27-82; FWC 62-1982(Temp), f. & ef. 9-7-82; FWC 63-1982(Temp), f. & ef. 9-14-82; FWC 75-1982 (Temp), f. & ef. 10-29-82; FWC 36-1983, f. & ef. 8-18-83; FWC 49-1983(Temp), f. & ef. 9-26-83; FWC 51-1983(Temp), f. & ef. 9-30-83; FWC 55-1983(Temp), f. & ef. 10-4-83; FWC 46-1984, f. & ef. 8-30-84; FWC 55-1984(Temp), f. & ef. 9-10-84; FWC 58-1984(Temp), f. & ef. 9-17-84; FWC 61-1984 (Temp), f. & ef. 9-21-84; FWC 70-1984(Temp), f. & ef. 10-9-84; FWC 47-1985, f. & ef. 8-23-85; FWC 60-1985(Temp), f. & ef. 9-13-85; FWC 63-1985(Temp), f. & ef. 9-24-85; FWC 42-1986, f. & ef. 8-15-86; FWC 53-1986(Temp), f. & ef. 9-4-86; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 57-1986(Temp), f. & ef. 9-11-86; FWC 60-1986(Temp), f. & ef. 9-26-86; FWC 62-1986(Temp), f. & ef. 10-2-86; FWC 63-1987, f. & ef. 8-7-87; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987 (Temp), f. & ef. 9-1-87; FWC 78-1987(Temp), f. & ef. 9-15-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 89-1987(Temp), f. & ef. 10-12-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 72-1988(Temp), f. & cert. ef. 8-19-88; FWC 77-1988(Temp), f. & cert. ef. 9-2-88; FWC 91-1988(Temp), f. & cert. ef. 9-16-88; FWC 95-1988 (Temp), f. & cert. ef. 9-27-88, cert. ef. 9-28-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 87-1989(Temp), f. & cert. ef. 9-1-89; FWC 95-1989(Temp), f. & cert. ef. 9-19-89; FWC 96-1989

# ADMINISTRATIVE RULES

(Temp), f. & cert. ef. 9-21-89; FWC 99-1989(Temp), f. & cert. ef. 9-27-89; FWC 100-1989(Temp), f. & cert. ef. 9-28-89; FWC 80-1990(Temp), f. 8-7-90, cert. ef. 8-8-90; FWC 90-1990, f. & cert. ef. 8-31-90; FWC 96-1990(Temp), f. 9-7-90, cert. ef. 9-10-90; FWC 98-1990(Temp), f. 9-14-90, cert. ef. 9-17-90; FWC 85-1991, f. 8-7-91, cert. ef. 8-12-91; FWC 96-1991, f. & cert. ef. 9-9-91; FWC 101-1991(Temp), f. & cert. ef. 9-10-91; FWC 103-1991(Temp), f. 9-17-91, cert. ef. 9-18-91; FWC 110-1991(Temp), f. & cert. ef. 9-27-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 86-1992(Temp), f. 9-1-92, cert. ef. 9-2-92; FWC 87-1992(Temp), f. 9-4-92, cert. ef. 9-7-92; FWC 91-1992(Temp), f. 9-16-92, cert. ef. 9-17-92; FWC 96-1992(Temp), f. 9-22-92, cert. ef. 9-23-92; FWC 105-1992(Temp), f. 10-2-92, cert. ef. 10-5-92; FWC 107-1992 (Temp), f. & cert. ef. 10-9-92; FWC 47-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 52-1993, f. & cert. ef. 8-30-93; FWC 57-1993(Temp), f. & cert. ef. 9-13-93; FWC 59-1993(Temp), f. 9-17-93, cert. ef. 9-20-93; FWC 61-1993(Temp), f. & cert. ef. 9-24-93; FWC 55-1994(Temp), f. 8-26-94, cert. ef. 8-29-94; FWC 61-1994(Temp), f. 9-7-94, cert. ef. 9-8-94; FWC 74-1994(Temp), f. & cert. ef. 10-12-94; FWC 68-1995(Temp), f. 8-25-95, cert. ef. 8-29-95; FWC 72-1995(Temp), f. & cert. ef. 9-1-95; FWC 75-1995(Temp), f. 9-12-95, cert. ef. 9-13-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1996(Temp), f. 8-29-96, cert. ef. 9-2-96; FWC 51-1996(Temp), f. 9-6-96, cert. ef. 9-9-96; FWC 53-1996(Temp), f. & cert. ef. 9-26-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 52-1997(Temp), f. 8-29-97, cert. ef. 9-2-97; FWC 57(Temp), f. & cert. ef. 9-9-97; FWC 60-1997(Temp), f. 9-16-97, cert. ef. 9-17-97; DFW 68-1998(Temp), f. & cert. ef. 8-25-98 thru 9-25-98; DFW 76-1998(Temp), f. & cert. ef. 9-8-98 thru 9-25-98; DFW 77-1998(Temp), f. 9-14-98, cert. ef. 9-15-98 thru 9-25-98; DFW 79-1998(Temp), f. 9-21-98, cert. ef. 9-22-98 thru 9-25-98; DFW 80-1998(Temp), f. 9-23-98, cert. ef. 9-24-98 thru 9-25-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 62-1999(Temp), f. 9-2-99, cert. ef. 9-3-99 thru 9-11-99; DFW 65-1999(Temp), f. 9-14-99, cert. ef. 9-15-99 thru 9-17-99; DFW 69-1999(Temp), f. & cert. ef. 9-17-99 thru 9-18-99; DFW 72-1999(Temp), f. 9-21-99, cert. ef. 9-22-99 thru 10-22-99; DFW 74-1999(Temp), f. 9-28-99, cert. ef. 9-29-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 60-2000(Temp), f. 9-11-00, cert. ef. 9-12-00 thru 12-31-00; DFW 61-2000(Temp), f. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; Administrative correction 6-19-01; DFW 75-2001(Temp), f. & cert. ef. 8-20-01 thru 9-8-01; DFW 87-2001(Temp), f. 9-10-01, cert. ef. 9-11-01 thru 9-15-01; DFW 91-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 94-2001(Temp), f. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; DFW 100-2001(Temp), f. 10-16-01, cert. ef. 10-17-01 thru 12-31-01; DFW 89-2002(Temp), f. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 98-2002(Temp), f. & cert. ef. 8-30-02 thru 12-31-02; DFW 102-2002(Temp), f. & cert. ef. 9-13-02 thru 12-31-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 113-2002(Temp), f. 10-14-02, cert. ef. 10-15-02 thru 12-31-02; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 81-2003(Temp), f. 8-25-03, cert. ef. 8-26-03 thru 12-31-03; DFW 91-2003(Temp), f. 9-12-03 cert. ef. 9-16-03 thru 12-31-03; DFW 97-2003(Temp), f. 9-22-03, cert. ef. 9-23-03 thru 12-31-03; DFW 101-2003(Temp), f. 9-26-03, cert. ef. 10-1-03 thru 12-31-03; DFW 103-2003(Temp), f. 10-3-03, cert. ef. 10-8-03 thru 12-31-03; DFW 104-2003(Temp), f. 10-10-03, cert. ef. 10-11-03 thru 12-31-03; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 104-2004(Temp), f. 10-12-04 cert. ef. 10-13-04 thru 12-31-04; DFW 110-2004(Temp), f. & cert. ef. 10-29-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; DFW 104-2005(Temp), f. & cert. ef. 9-12-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 113-2005(Temp), f. & cert. ef. 9-28-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; Administrative correction 1-19-06; DFW 71-2006(Temp), f. 7-31-06, cert. ef. 8-1-06 thru 12-31-06; DFW 86-2006(Temp), f. 8-18-06, cert. ef. 8-21-06 thru 12-31-06; DFW 94-2006(Temp), f. 9-8-06, cert. ef. 9-11-06 thru 12-31-06; DFW 101-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 107-2006(Temp), f. 9-28-06, cert. ef. 10-3-06 thru 12-31-06; DFW 115-2006(Temp), f. 10-13-06, cert. ef. 10-15-06 thru 12-31-06; Administrative correction 1-16-07; DFW 60-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 12-31-07; DFW 77-2007(Temp), f. 8-17-07, cert. ef. 8-22-07 thru 12-31-07; DFW 88-2007(Temp), f. 9-10-07, cert. ef. 9-11-07 thru 12-31-07; DFW 95-2007(Temp), f. 9-21-07, cert. ef. 9-25-07 thru 12-31-07; DFW 100-2007(Temp), f. 9-28-07, cert. ef. 10-3-07 thru 12-31-07; DFW 110-2007(Temp), f. 10-16-07, cert. ef. 10-20-07 thru 12-31-07; DFW 106-2008(Temp), f. 9-4-08, cert. ef. 9-6-08 thru 10-31-08; DFW 109-2008(Temp), f. 9-12-08, cert. ef. 9-15-08 thru 10-31-08; DFW 112-2008(Temp), f. 9-17-08, cert. ef. 9-18-08 thru 10-31-08; DFW 117-2008(Temp), f. & cert. ef. 9-22-08 thru 10-31-08; DFW 122-2008(Temp), f. & cert. ef. 9-29-08 thru 10-31-08; DFW 125-2008(Temp), f. 10-6-08, cert. ef. 10-7-08 thru 10-31-08; DFW 134-2008(Temp), f. & cert. ef. 10-17-08 thru 10-31-08; DFW 141-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 11-30-08; DFW 88-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 95-2009(Temp), f. 8-19-09, cert. ef. 8-24-09 thru 12-31-09; DFW 111-2009(Temp), f. 9-11-09, cert. ef. 9-13-09 thru 9-30-09; DFW 114-2009(Temp), f. 9-18-09, cert. ef. 9-21-09 thru 10-31-09; DFW 119-2009(Temp), f. & cert. ef. 9-29-09 thru 10-31-09; DFW 129-2009(Temp), f. 10-13-09, cert. ef. 10-14-09 thru 10-31-09; Administrative correction 11-19-09; DFW 111-2010(Temp), f. 7-30-10, cert. ef. 8-1-10 thru 10-31-10; DFW 120-2010(Temp), f. 8-18-10, cert. ef. 8-24-10 thru 10-31-10; DFW 128-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; DFW 136-2010(Temp), f. 9-24-10, cert. ef. 9-27-10 thru 10-31-10; DFW 142-2010(Temp), f. 10-8-10, cert. ef. 10-9-10 thru 10-31-10; DFW 149-2010(Temp), f. 10-18-10, cert. ef. 10-19-10 thru 10-31-10; Administrative correction 11-23-10; DFW 103-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 10-31-11; DFW 119-2011(Temp), f. 8-26-11, cert. ef. 8-29-11 thru 10-31-11; DFW 124-2011(Temp), f. 9-8-11, cert. ef. 9-12-11 thru 10-31-11; DFW 130-2011(Temp), f. 9-15-11, cert. ef. 9-19-11 thru 10-31-11; DFW 133-2011(Temp), f. 9-21-11, cert. ef. 9-22-11 thru 10-31-11; DFW 138-2011(Temp), f. 9-30-11, cert. ef. 10-3-11 thru 10-31-11; DFW 142-2011(Temp), f. 10-6-11, cert. ef. 10-8-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 94-2012(Temp), f. & cert. ef. 7-27-12 thru 10-31-12; DFW 107-2012(Temp), f. 8-15-12, cert. ef. 8-21-12 thru 10-31-12; DFW 119-2012(Temp), f. 9-10-12, cert. ef. 9-11-12 thru 10-31-12; DFW 120-2012(Temp), f. & cert. ef. 9-18-12 thru 10-31-12; DFW 124-2012(Temp), f. 9-25-12, cert. ef. 9-26-12 thru 10-31-12; DFW 127-2012(Temp), f. & cert. ef. 10-2-12 thru 10-31-12; DFW 143-2012(Temp), f. 11-7-12, cert. ef. 11-8-12 thru 1-29-13; Administrative correction, 2-25-13; DFW 88-2013(Temp), f. 8-9-13, cert. ef. 8-12-13 thru 12-31-13; DFW 89-2013(Temp), f. 8-14-13, cert. ef. 8-19-13 thru 12-31-13; DFW 98-2013(Temp), f. 9-6-13, cert. ef. 9-10-13 thru 10-31-13; DFW 102-2013(Temp), f. 9-13-13, cert. ef. 9-16-13 thru 10-31-13; DFW 106-2013(Temp), f. 9-19-13, cert. ef. 9-24-13 thru 10-31-13; DFW 111-2013(Temp), f. 9-27-13, cert. ef. 9-30-13 thru 10-31-13; DFW 116-2013(Temp), f. 10-8-13, cert. ef. 10-9-13 thru 12-31-13; DFW 105-2014(Temp), f. 7-30-14, cert. ef. 8-1-14 thru 10-31-14; DFW 118-2014(Temp), f. 8-7-14, cert. ef. 8-18-14 thru 10-31-14; DFW 134-2014(Temp), f. 9-19-14, cert. ef. 9-23-14 thru 10-31-14; DFW 140-2014(Temp), f. 9-24-14, cert. ef. 9-25-14 thru 10-31-14; DFW 142-2014(Temp), f. 10-2-14, cert. ef. 10-3-14 thru 10-31-14; DFW 146-2014(Temp), f. 10-8-14, cert. ef. 10-13-14 thru 10-31-14; DFW 153-2014(Temp), f. 10-23-14, cert. ef. 10-31-14 thru 12-31-14; Administrative correction, 1-27-15; DFW 97-2015(Temp), f. 7-30-15, cert. ef. 8-1-15 thru 10-31-15

**Rule Caption:** Youngs Bay Commercial Fall Fisheries Set.

**Adm. Order No.:** DFW 98-2015(Temp)

**Filed with Sec. of State:** 7-30-2015

**Certified to be Effective:** 8-4-15 thru 10-31-15

**Notice Publication Date:**

**Rules Amended:** 635-042-0145

**Subject:** This amended rule sets non-Indian commercial fall salmon and shad drift gill net fisheries for the Youngs Bay Select Area of the Columbia River beginning August 4 through October 31, 2015. Modifications are consistent with action taken July 29, 2015 by the Departments of Fish & Wildlife for the States of Oregon and Washington.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

## 635-042-0145

### Youngs Bay Salmon Season

(1) Chinook, coho, pink, and sockeye salmon and shad may be taken for commercial purposes in those waters of Youngs Bay described as all waters from the new Highway 101 bridge upstream to the upper boundary markers at Battle Creek Slough; including the lower Walluski River upstream to the Highway 202 bridge and the lower Lewis and Clark River upstream to the overhead power lines immediately upstream of Barrett Slough. Open fishing periods are as follows: 7:00 p.m. Tuesdays through 7:00 a.m. Thursdays, weekly from August 4 through August 20, 2015 (three 36-hour periods); and 7:00 p.m. Monday, September 7 through noon Friday, October 30, 2014 (63 days).

(2) Gill nets may not exceed 1,500 feet (250 fathoms) in length and weight may not exceed two pounds per any fathom except the use of additional weights and/or anchors attached directly to the headline is allowed in Youngs Bay between markers located approximately 200 yards upstream of the mouth of the Walluski River and the upper deadline at Battle Creek Slough, in the lower Walluski River upstream to the Highway 202 Bridge, and in the Lewis and Clark River from the Alternate Highway 101 Bridge upstream to the overhead power lines immediately upstream of Barrett Slough. A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25-fathom intervals must be in color contrast to the corks used in the remainder of the net.

(a) It is *unlawful* to use a gill net having a mesh size that is more than 9.75 inches through August 20 and more than 6 inches thereafter. Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

(b) Nets not specifically authorized for use in these areas may be onboard a vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater.

(3) Non-resident commercial fishing and boat licenses are not required for Washington fishers participating in Youngs Bay commercial fisheries. A valid fishing and boat license issued by the state of Washington is considered adequate for participation in this fishery. The open area for non-resident commercial fishers includes all areas open for commercial fishing.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 32-1979, f. & ef. 8-22-79; FWC 28-1980, f. & ef. 6-23-80; FWC 42-1980(Temp), f. & ef. 8-22-80; FWC 30-1981, f. & ef. 8-14-81; FWC 42-1981(Temp), f. & ef. 11-5-81; FWC 54-1982, f. & ef. 8-17-82; FWC 37-1983, f. & ef. 8-18-83; FWC 61-1983(Temp), f. & ef. 10-19-83; FWC 42-1984, f. & ef. 8-20-84; FWC 39-1985, f. & ef. 8-15-85; FWC 37-1986, f. & ef. 8-11-86; FWC 72-1986(Temp), f. & ef. 10-31-86; FWC 64-1987, f. & ef. 8-7-87; FWC 73-1988, f. & cert. ef. 8-19-88; FWC 55-1989(Temp), f. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. 8-7-91, cert. ef. 8-18-91; FWC 123-1991(Temp), f. & cert. ef. 10-21-91; FWC 30-1992(Temp), f. & cert. ef. 4-27-92; FWC 35-1992(Temp), f. 5-22-92, cert. ef. 5-25-92; FWC 74-1992 (Temp), f. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. 6-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 47-1997, f. & cert. ef. 8-15-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; DFW 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-

# ADMINISTRATIVE RULES

01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; DFW 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 37-2003(Temp), f. & cert. ef. 5-7-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04, cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 15-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 46-2005(Temp), f. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; DFW 73-2005(Temp), f. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; DFW 77-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; DFW 17-2006(Temp), f. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06; DFW 73-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 16-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 45-2007(Temp), f. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; DFW 50-2007(Temp), f. 6-29-07, cert. ef. 7-4-07 thru 7-31-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 30-2008(Temp), f. 3-27-08, cert. ef. 3-30-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 24-2009(Temp), f. 3-10-09, cert. ef. 3-11-09 thru 7-31-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 17-2010(Temp), f. & cert. ef. 2-22-10 thru 7-31-10; DFW 20-2010(Temp), f. & cert. ef. 2-26-10 thru 7-31-10; DFW 30-2010(Temp), f. 3-11-10, cert. ef. 3-14-10 thru 7-31-10; DFW 35-2010(Temp), f. 3-23-10, cert. ef. 3-24-10 thru 7-31-10; DFW 40-2010(Temp), f. & cert. ef. 4-1-10 thru 7-31-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; DFW 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 35-2011(Temp), f. & cert. ef. 4-28-11 thru 7-29-11; DFW 46-2011(Temp), f. & cert. ef. 5-12-11 thru 7-29-11; DFW 52-2011(Temp), f. & cert. ef. 5-18-11 thru 7-29-11; DFW 76-2011(Temp), f. 6-24-11, cert. ef. 6-27-11 thru 7-29-11; DFW 106-2011(Temp), f. 8-2-11, cert. ef. 8-3-11 thru 10-31-11; DFW 121-2011(Temp), f. 8-29-11, cert. ef. 9-5-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 12-2012(Temp), f. 2-8-12, cert. ef. 2-12-12 thru 7-31-12; DFW 24-2012(Temp), f. 3-15-12, cert. ef. 3-18-12 thru 7-31-12; DFW 26-2012(Temp), f. 3-20-12, cert. ef. 3-21-12 thru 7-31-12; DFW 27-2012(Temp), f. 3-27-12, cert. ef. 3-29-12 thru 7-31-12; DFW 28-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 7-31-12; DFW 30-2012(Temp), f. 4-4-12, cert. ef. 4-5-12 thru 7-31-12; DFW 36-2012(Temp), f. 4-16-12, cert. ef. 4-19-12 thru 7-31-12; DFW 82-2012(Temp), f. 6-29-12, cert. ef. 7-2-12 thru 7-31-12; DFW 96-2012(Temp), f. 7-30-12, cert. ef. 8-1-12 thru 10-31-12; Administrative correction 11-23-12; DFW 11-2013(Temp), f. 2-8-13, cert. ef. 2-11-13 thru 7-31-13; DFW 22-2013(Temp), f. 3-12-13, cert. ef. 3-13-13 thru 7-31-13; DFW 34-2013(Temp), f. 5-14-13, cert. ef. 5-15-13 thru 7-31-13; DFW 36-2013(Temp), f. & cert. ef. 5-22-13 thru 7-31-13; DFW 44-2013(Temp), f. & cert. ef. 5-29-13 thru 7-31-13; DFW 82-2013(Temp), f. 7-29-13, cert. ef. 7-31-13 thru 10-31-13; DFW 87-2013(Temp), f. & cert. ef. 8-9-13 thru 10-31-13; DFW 109-2013(Temp), f. 9-27-13, cert. ef. 9-30-13 thru 10-31-13; Administrative correction 11-22-13; DFW 8-2014(Temp), f. & cert. ef. 2-10-14 thru 7-31-14; DFW 18-2014(Temp), f. 3-7-14, cert. ef. 3-10-14 thru 7-30-14; DFW 25-2014(Temp), f. 3-13-14, cert. ef. 3-17-14 thru 7-31-14; DFW 32-2014(Temp), f. 4-21-14, cert. ef. 4-22-14 thru 7-31-14; DFW 35-2014(Temp), f. & cert. ef. 4-24-14 thru 7-31-14; DFW 39-2014(Temp), f. 5-7-14, cert. ef. 5-8-14 thru 7-31-14; DFW 45-2014(Temp), f. 5-14-14, cert. ef. 5-20-14 thru 7-31-14; DFW 51-2014(Temp), f. & cert. ef. 5-28-14 thru 7-31-14; DFW 55-2014(Temp), f. 6-3-14, cert. ef. 6-4-14 thru 7-31-14; DFW 104-2014(Temp), f. 8-4-14, cert. ef. 8-5-14 thru 10-31-14; Administrative correction 11-24-14; DFW 10-2015(Temp), f. 2-3-15, cert. ef. 2-9-15 thru 7-30-15; DFW 17-2015(Temp), f. 3-5-15, cert. ef. 3-9-15 thru 7-30-15; DFW 21-2015(Temp), f. & cert. ef. 3-24-15 thru 7-30-15; DFW 29-2015(Temp), f. & cert. ef. 4-21-15 thru 7-30-15; DFW 37-2015(Temp), f. 5-1-15, cert. ef. 5-4-15 thru 7-30-15; DFW 42-2015(Temp), f. & cert. ef. 5-12-15 thru 7-31-15; DFW 50-2015(Temp), f. & cert. ef. 5-27-15 thru 7-31-15; DFW 58-2015(Temp), f. & cert. ef. 6-2-15 thru 7-31-15; DFW 63-2015(Temp), f. 6-9-15, cert. ef. 6-10-15 thru 7-31-15; DFW 98-2015(Temp), f. 7-30-15, cert. ef. 8-4-15 thru 10-31-15

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**Rule Caption:** Sport Fishing Regulations Revised Due to Severe Drought Conditions

**Adm. Order No.:** DFW 99-2015(Temp)

**Filed with Sec. of State:** 8-3-2015

**Certified to be Effective:** 8-3-15 thru 12-31-15

**Notice Publication Date:**

**Rules Amended:** 635-018-0090, 635-019-0090

**Rules Suspended:** 635-018-0090(T), 635-019-0090(T)

**Subject:** These amended rules lift the emergency restrictions previously set as daily closures for trout, salmon, steelhead, and sturgeon fisheries in: the Deschutes River below Mack Canyon; the Imnaha River upstream of Freezeout Creek; and the Wenaha River upstream of Crooked Creek.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

## 635-018-0090

### Inclusions and Modifications

(1) The **2015 Oregon Sport Fishing Regulations** provide requirements for the Central Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2015 Oregon Sport Fishing Regulations**.

(2) Beginning Saturday, July 18, 2015 until further notice, all waterbodies defined as 'streams' in the **2015 Oregon Sport Fishing Regulations** will be closed to angling for trout, salmon, steelhead, and sturgeon from 2:00 p.m. daily until one hour before sunrise the following day. Angling hours in the following waterbodies remain unchanged from the **2015 Oregon Sport Fishing Regulations**:

(a) Hood River and tributaries, and White River and tributaries.

(b) Deschutes River, Metolius River, Fall River, Crooked River upstream to Bowman Dam, and Tumalo Creek.

(3) All other regulations as shown in the **2015 Oregon Sport Fishing Regulations** remain in effect.

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

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

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 20-1994(Temp), f. & cert. ef. 4-11-94; FWC 24-1994(Temp), f. 4-29-94, cert. ef. 4-30-94; FWC 34-1994(Temp), f. 6-14-94, cert. ef. 6-16-94; FWC 54-1994, f. 8-25-94, cert. ef. 9-1-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 67-1994(Temp), f. & cert. ef. 9-26-94; FWC 70-1994, f. 10-4-95, cert. ef. 11-1-94; FWC 18-1995, f. 3-2-95, cert. ef. 4-1-95; FWC 60-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 11-1996(Temp), f. 3-8-96, cert. ef. 4-1-96; FWC 32-1996(Temp), f. 6-7-96, cert. ef. 6-16-96; FWC 38-1996(Temp), f. 6-14-96, cert. ef. 7-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 20-1997, f. & cert. ef. 3-24-97; FWC 21-1997, f. & cert. ef. 4-1-97; FWC 27-1997(Temp), f. 5-2-97, cert. ef. 5-9-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 25-1998(Temp), f. & cert. ef. 3-25-98 thru 8-31-98; DFW 56-1998(Temp), f. 7-24-98, cert. ef. 8-1-98 thru 10-31-98; DFW 70-1998, f. & cert. ef. 8-28-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 12-2000(Temp), f. 3-20-00, cert. ef. 4-15-00 thru 7-31-00; DFW 27-2000(Temp), f. 5-15-00, cert. ef. 8-1-00 thru 10-31-00; DFW 28-2000, f. 5-23-00, cert. ef. 5-24-00 thru 7-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 13-2001(Temp), f. 3-12-01, cert. ef. 4-7-01 thru 7-31-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 44-2001(Temp), f. 5-25-01, cert. ef. 6-1-01 thru 7-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02, cert. ef. 1-12-02 thru 7-11-02; DFW 23-2002(Temp), f. 3-21-02, cert. ef. 4-6-02 thru 7-31-02; DFW 25-2002(Temp), f. 3-22-02, cert. ef. 4-6-02 thru 7-31-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 62-2002, f. 6-14-02, cert. ef. 7-11-02; DFW 74-2002(Temp), f. 7-18-02, cert. ef. 8-1-02 thru 10-31-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 97-2002(Temp), f. & cert. ef. 8-29-02 thru 10-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 26-2003(Temp), f. 3-28-03, cert. ef. 4-15-03 thru 7-31-03; DFW 66-2003(Temp), f. 7-17-03, cert. ef. 8-1-03 thru 10-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 23-2004(Temp), f. 3-22-04, cert. ef. 4-1-04 thru 7-31-04; DFW 77-2004(Temp), f. 7-28-04, cert. ef. 8-1-04 thru 10-31-04; Administrative correction 11-22-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 19-2005(Temp), f. 3-16-05, cert. ef. 4-15-05 thru 7-31-05; DFW 41-2005(Temp), f. 5-13-05, cert. ef. 5-15-05 thru 7-31-05; DFW 83-2005(Temp), f. 7-29-05, cert. ef. 8-1-05 thru 10-31-05; DFW 84-2005(Temp), f. & cert. ef. 8-1-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 59-2006(Temp), f. 7-10-06, cert. ef. 8-1-06 thru 10-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 18-2007(Temp), f. 3-22-07, cert. ef. 4-15-07 thru 7-31-07; DFW 55-2007(Temp), f. 7-6-07, cert. ef. 8-1-07 thru 10-31-07; Administrative correction 11-17-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 26-2008(Temp), f. 3-17-08, cert. ef. 4-15-08 thru 7-31-08; DFW 27-2008(Temp), f. 3-24-08, cert. ef. 5-1-08 thru 10-27-08; Administrative correction 11-18-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 16-2009(Temp), f. 2-25-09, cert. ef. 4-15-09 thru 6-30-09; DFW 61-2009(Temp), f. 6-1-09, cert. ef. 8-1-09 thru 10-31-09; DFW 104-2009(Temp), f. 8-28-09, cert. ef. 9-1-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 7-2010(Temp), f. 1-25-10, cert. ef. 4-1-10 thru 7-31-10; DFW 27-2010(Temp), f. 3-8-10, cert. ef. 4-15-10 thru 7-31-10; DFW 66-2010(Temp), f. 5-18-10, cert. ef. 5-22-10 thru 10-31-10; DFW 86-2010(Temp), f. 6-23-10, cert. ef. 7-1-10 thru 10-31-10; DFW 106-2010(Temp), f. 7-26-10, cert. ef. 8-1-10 thru 12-31-10; DFW 164-2010(Temp), f. 12-28-10, cert. ef. 1-1-11 thru 6-29-11; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 16-2011(Temp), f. 2-16-11, cert. ef. 4-15-11 thru 7-31-11; DFW 17-2011(Temp), f. 2-17-11, cert. ef. 4-15-11 thru 7-31-11; DFW 42-2011(Temp), f. & cert. ef. 5-10-11 thru 10-31-11; DFW 93-2011(Temp), f. 7-13-11, cert. ef. 8-1-11 thru 10-31-11; DFW 123-2011(Temp), f. 9-2-11, cert. ef. 9-3-11 thru 12-31-11; DFW 160-2011(Temp), f. 12-20-11, cert. ef. 1-1-12 thru 4-30-12; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 21-2012, f. & cert. ef. 3-12-12; DFW 34-2012(Temp), f. 4-13-12, cert. ef. 4-15-12 thru 7-31-12; DFW 55-2012(Temp), f. & cert. ef. 6-4-12 thru 6-30-12; Administrative correction 8-1-12; DFW 88-2012(Temp), f. 7-16-12, cert. ef. 8-1-12 thru 10-31-12; Administrative correction 11-23-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 16-2013(Temp), f. 2-25-13, cert. ef. 4-15-13 thru 6-30-13; DFW 75-2013(Temp), f. 7-15-13, cert. ef. 8-1-13 thru 10-31-13; Administrative correction 11-22-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 13-2014(Temp), f. 2-18-14, cert. ef. 4-15-14 thru 7-31-14; DFW 83-2014(Temp), f. 7-1-14, cert. ef. 8-1-14 thru 10-31-14; Administrative correction 11-24-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 27-

# ADMINISTRATIVE RULES

2015(Temp), f. 4-9-15, cert. ef. 4-15-15 thru 6-30-15; Administrative correction, 7-24-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15; DFW 99-2015(Temp), f. & cert. ef. 8-3-15 thru 12-31-15

## 635-019-0090

### Inclusions and Modifications

(1) The **2015 Oregon Sport Fishing Regulations** provide requirements for the Northeast 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 **2015 Oregon Sport Fishing Regulations**.

(2) Beginning Saturday, July 18, 2015 until further notice, all waterbodies defined as 'streams' in the **2015 Oregon Sport Fishing Regulations** will be closed to angling for trout, salmon, steelhead, and sturgeon from 2:00 p.m. daily until one hour before sunrise the following day. Angling hours in the following waterbodies remain unchanged from the **2015 Oregon Sport Fishing Regulations**: Innaha River upstream of Freezeout Creek, Wenaha River upstream of Crooked Creek, Wallowa River upstream of Sunrise Road, Lostine River upstream of Pole Bridge Campground, Prairie Creek, Hurricane Creek, Spring Creek, and all streams within the Eagle Cap Wilderness Area.

(3) Beginning Saturday, July 18, 2015 until further notice, angling for trout, salmon, steelhead, and sturgeon is prohibited at all times in the John Day River mainstem above Indian Creek near Prairie City, Middle Fork John Day River above Mosquito Creek, near the town of Galena, the North Fork John Day River above Desolation Creek, and Desolation Creek. Angling for warmwater gamefish and other fish, as defined in the **2015 Oregon Sport Fishing Regulations**, remains open.

(4) All other regulations as shown in the 2015 Oregon Sport Fishing Regulations remain in effect.

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

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

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 57-1994(Temp), f. 8-30-94, cert. ef. 10-1-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 70-1995, f. 8-29-95, cert. ef. 9-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 27-1996(Temp), f. 5-24-96, cert. ef. 5-25-96; FWC 57-1996(Temp), f. 9-27-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 26-1997(Temp), f. 4-23-97, cert. ef. 5-17-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 13-1998(Temp), f. & cert. ef. 2-26-98 thru 4-15-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 5-1999(Temp), f. 2-5-99, cert. ef. 2-6-99 thru 2-19-99; DFW 8-1999(Temp), f. & cert. ef. 2-23-99 thru 4-15-99; DFW 37-1999(Temp), f. 5-24-99, cert. ef. 5-29-99 thru 6-5-99; DFW 43-1999(Temp), f. & cert. ef. 6-10-99 thru 6-13-99; DFW 45-1999(Temp), f. & cert. ef. 6-14-99 thru 6-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 17-2000(Temp), f. 4-10-00, cert. ef. 4-16-00 thru 6-30-00; DFW 64-2000(Temp), f. 9-21-00, cert. ef. 9-22-00 thru 3-20-01; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 5-2001(Temp), f. 2-22-01, cert. ef. 2-24-01 thru 4-15-01; DFW 39-2001(Temp), f. 5-23-01, cert. ef. 5-26-01 thru 7-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 45-2001(Temp), f. 6-1-01, cert. ef. 6-2-01 thru 7-31-01; DFW 49-2001(Temp), f. 6-19-01, cert. ef. 6-22-01 thru 7-31-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 71-2001(Temp), f. 8-10-01, cert. ef. 9-1-01 thru 12-31-01; DFW 96-2001(Temp), f. 10-4-01, cert. ef. 12-1-01 thru 12-31-01; DFW 122-2001(Temp), f. & cert. ef. 12-31-01 thru 5-31-02; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 52-2002(Temp), f. 5-22-02, cert. ef. 5-26-02 thru 7-1-02; DFW 53-2002(Temp), f. 5-24-02, cert. ef. 5-26-02 thru 7-1-02; DFW 57-2002(Temp), f. & cert. ef. 5-30-02 thru 7-1-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 44-2003(Temp), f. 5-23-03, cert. ef. 5-28-03 thru 7-1-03; DFW 48-2003(Temp), f. & cert. ef. 6-5-03 thru 7-1-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 40-2004(Temp), f. 5-7-04, cert. ef. 5-13-04 thru 7-1-04; DFW 46-2004(Temp), f. 5-21-04, cert. ef. 5-22-04 thru 7-1-04; DFW 55-2004(Temp), f. 6-16-04, cert. ef. 6-19-04 thru 7-5-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 42-2005(Temp), f. & cert. ef. 5-13-05 thru 9-1-05; DFW 61-2005(Temp), f. 6-22-05, cert. ef. 6-25-05 thru 7-4-05; Administrative correction 7-20-05; DFW 99-2005(Temp), f. 8-24-05, cert. ef. 8-26-05 thru 9-30-05; Administrative correction 10-19-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 28-2006(Temp), f. & cert. ef. 5-15-06 thru 6-30-06; DFW 33-2006(Temp), f. 5-24-06, cert. ef. 5-25-06 thru 6-30-06; Administrative correction 7-21-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 12-2007(Temp), f. 2-28-07, cert. ef. 3-1-07 thru 8-27-07; DFW 30-2007(Temp), f. 5-9-07, cert. ef. 5-10-07 thru 9-30-07; DFW 34-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 9-30-07; Administrative correction 10-16-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 56-2008(Temp), f. 5-30-08, cert. ef. 5-31-08 thru 6-30-08; DFW 76-2008(Temp), f. & cert. ef. 7-9-08 thru 9-1-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 128-2009(Temp), f. 10-12-09, cert. ef. 10-18-09 thru 4-15-10; DFW 131-2009(Temp), f. 10-14-09, cert. ef. 10-18-09 thru 4-15-10; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 54-2010(Temp), f. 5-6-10, cert. ef. 5-22-10 thru 9-1-10; DFW 95-2010(Temp), f. 7-1-10, cert. ef. 7-11-10 thru 9-1-10; DFW 102-2010(Temp), f. 7-20-10, cert. ef. 7-25-10 thru 9-1-10; Administrative correction 9-22-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 49-2011(Temp), f. 5-16-11, cert. ef. 5-28-11 thru 9-1-11; DFW 64-2011(Temp), f. 6-10-11, cert. ef. 6-13-11 thru 9-1-11; DFW 90-2011(Temp), f. & cert. ef. 7-11-11 thru 9-1-11; DFW 92-2011(Temp), f. 7-12-11, cert. ef. 7-16-11 thru 10-31-11; DFW 99-2011(Temp), f. 7-21-11, cert. ef. 7-23-11 thru 9-1-11; DFW 104-2011(Temp), f. 8-1-11, cert. ef. 8-7-11 thru 9-1-11; Administrative correction 9-23-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 48-2012(Temp), f. 5-18-12, cert. ef. 5-23-12 thru 9-1-12; DFW 50-2012(Temp), f. 5-22-12, cert. ef. 5-24-12 thru 9-1-12; DFW 61-2012(Temp), f. & cert. ef. 6-11-12 thru 8-31-12; DFW 69-2012(Temp), f. 6-20-12, cert. ef. 6-22-12 thru 9-1-12; DFW 70-2012(Temp), f. 6-26-12, cert. ef. 6-27-12 thru 9-1-12; DFW 72-2012(Temp), f. 6-29-12, cert. ef. 7-1-12 thru 8-31-12; DFW 86-2012(Temp), f. 7-10-12, cert. ef. 7-15-12 thru 9-1-12; Administrative correction 9-20-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 153-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 4-30-13; DFW 31-2013(Temp), f. 5-14-13, cert. ef. 5-16-13 thru 6-30-13; DFW 39-2013(Temp), f. 5-22-13, cert. ef. 5-24-13 thru 11-19-13; DFW 46-2013(Temp), f. 5-30-13, cert. ef. 6-1-13 thru 11-26-13; DFW 62-2013(Temp), f. 6-26-13, cert. ef. 7-5-13 thru 12-31-13; DFW 74-2013(Temp), f. 7-15-13, cert. ef. 7-19-13

thru 9-1-13; Administrative correction 11-1-13; DFW 121-2013(Temp), f. 10-24-13, cert. ef. 11-1-13 thru 12-31-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 42-2014(Temp), f. 5-12-14, cert. ef. 5-17-14 thru 6-1-14; DFW 47-2014(Temp), f. 5-27-14, cert. ef. 5-31-14 thru 7-31-14; DFW 53-2014(Temp), f. 5-28-14, cert. ef. 6-1-14 thru 7-31-14; DFW 58-2014(Temp), f. 6-9-14, cert. ef. 6-21-14 thru 8-31-14; DFW 71-2014(Temp), f. 6-16-14, cert. ef. 6-18-14 thru 9-1-14; DFW 72-2014(Temp), f. & cert. ef. 6-19-14 thru 9-1-14; DFW 75-2014(Temp), f. 6-23-14, cert. ef. 6-27-14 thru 9-1-14; DFW 82-2014(Temp), f. 7-1-14, cert. ef. 7-5-14 thru 9-1-14; DFW 86-2014(Temp), f. 7-2-14, cert. ef. 7-5-14 thru 9-1-14; DFW 97-2014(Temp), f. 7-18-14, cert. ef. 7-21-14 thru 9-30-14; Administrative correction, 10-24-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 45-2015(Temp), f. 5-15-15, cert. ef. 5-20-15 thru 6-30-15; DFW 53-2015(Temp), f. 5-27-15, cert. ef. 6-6-15 thru 8-31-15; DFW 64-2015(Temp), f. & cert. ef. 6-9-15 thru 8-31-15; DFW 81-2015(Temp), f. 7-1-15, cert. ef. 7-5-15 thru 8-31-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15; DFW 99-2015(Temp), f. & cert. ef. 8-3-15 thru 12-31-15

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**Rule Caption:** Electronic Fish Tickets Reporting Commercial Sales of Salmon, Sturgeon, Smelt and Shad Required.

**Adm. Order No.:** DFW 100-2015(Temp)

**Filed with Sec. of State:** 8-4-2015

**Certified to be Effective:** 8-4-15 thru 12-31-15

**Notice Publication Date:**

**Rules Amended:** 635-006-0210

**Subject:** This amended rule requires, by way of electronic fish receiving tickets (e-ticket), the reporting of commercial sales of salmon, sturgeon, smelt and shad landed downstream of Bonneville Dam and purchased by wholesale fish dealers, wholesale fish bait dealers, and food fish canners. Modifications also require e-tickets be submitted within 24 hours of the closure of a fishing period or within 24 hours of the landing when fishing periods are longer than 24 hours.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

## 635-006-0210

### Fish Receiving Ticket — All Fish

(1) Except as provided in OAR 635-006-0211, for each purchase of food fish or shellfish by a licensed wholesale fish dealer, wholesale fish bait dealer, food fish canner, or shellfish canner from a commercial fisher or commercial bait fisher, the dealer or canner shall prepare at the time of landing a Fish Receiving Ticket, or a separate document in lieu of a Fish Receiving Ticket provided the original dock ticket is attached to the completed dealer copy of the Fish Receiving Ticket and kept on file for inspection by the Director, the Director's authorized agent, or by the Oregon State Police. Fish Receiving Tickets shall be issued in numerical sequence.

(2) Fish Receiving Tickets shall include the following:

- Fish dealer's name and license number, including the buying station and location if the food fish or shellfish were received at any location other than the licensed premises of the fish dealer;
- Date of landing;
- His or her name from whom purchase is made. If not landed from a vessel, then his or her commercial license number shall be added. If received from a Columbia River treaty Indian, his or her tribal affiliation and enrollment number as shown on the official identification card issued by the U.S. Department of Interior, Bureau of Indian Affairs, or tribal government, shall be used in lieu of an address or commercial fishing license;
- Boat name, boat license number, and federal document or State Marine Board number from which catch made;
- For groundfish harvested in the limited entry fixed gear fishery, the federal limited entry fixed gear permit number associated with the landing or portion of landing, which shall be provided by the vessel operator to the preparer of the fish ticket;
- Port of first landing. The port of first landing will be recorded as where a vessel initially crosses from the Pacific Ocean to inland waters, or is physically removed from the Pacific Ocean, for the purposes of ending a fishing trip;
- Fishing gear used by the fisher;
- For salmon and Dungeness crab, zone or area of primary catch;
- Species or species group, as determined by the Department, of food fish or shellfish received;
- Pounds of each species or species group, as determined by the Department, received:
  - Pounds must be determined and reported based on condition of the fish when landed, either dressed or round. Dressed pounds may only be used for species with a conversion factor listed at OAR 635-006-0215(3)(g). Measures must be taken using a certified scale.
  - Pounds shall include "weighbacks" by species. "Weighbacks" are those fish or shellfish with no commercial value. The following species or

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species groups are exempt from fish ticket requirements when considered “weighbacks”:

- (i) Sponges;
  - (ii) Sea Pens;
  - (iii) Sea Whips;
  - (iv) Black Corals;
  - (v) Sea Fans;
  - (vi) Anemone;
  - (vii) Jellyfish;
  - (viii) Whelks;
  - (ix) Squids other than Humboldt and market;
  - (x) Octopus other than Pacific giant octopus;
  - (xi) Mysids;
  - (xii) Shrimps other than pink shrimp, coonstripe prawns, and spot prawns;
  - (xiii) Crabs other than Dungeness, tanner, box, Oregon hair, and red rock crabs;
  - (xiv) Sea Stars including Brittle Stars;
  - (xv) Urchins;
  - (xvi) Sand dollars;
  - (xvii) Sea cucumbers;
  - (xviii) Eels other than hagfish;
  - (xix) Blacksmelts;
  - (xx) Spookfish;
  - (xxi) Stomiformes including Viperfish and Blackdragons;
  - (xxii) Slickheads;
  - (xxiii) Flatnoses;
  - (xxiv) Lancetfishes;
  - (xxv) Barricudinas;
  - (xxvi) Myctophids;
  - (xxvii) Tomcod;
  - (xxviii) Eelpouts including Bigfin, Two line, Black, and Snakehead;
  - (xxix) Dreamers;
  - (xxx) Anglerfish;
  - (xxxi) King of the Salmon;
  - (xxxii) Melamphids;
  - (xxxiii) Whalefish;
  - (xxxiv) Oxeye oreo;
  - (xxxv) Sculpins other than cabezon, buffalo sculpin, red Irish lord, and brown Irish lord;
  - (xxxvi) Poachers;
  - (xxxvii) Snailfish;
  - (xxxviii) Pricklebacks;
  - (xxxix) Gunnels;
  - (xl) Scabbardfish;
  - (xli) Lancetfish;
  - (xlii) Ragfish;
  - (xliii) Slender sole;
  - (xliv) Deepsea sole;
  - (xlv) Rays including Pacific and electric Rays and Devilfish;
  - (xlvi) Wolffishes including wolf eels.
  - (k) For Columbia River sturgeon the exact number of fish received and the actual round weight of that number of fish;
  - (l) Price paid per pound for each species received;
  - (m) Signature of the individual preparing the Fish Receiving Ticket;
  - (n) Signature of the vessel operator making the landing;
  - (o) Species name, pounds and value of fish retained by fisher for take home use.
- (3) Except as provided in OAR 635-006-0212 and 635-006-0213, the original of each Fish Receiving Ticket covering food fish and shellfish received shall be forwarded within five working days of the date of landing to the Oregon Department of Fish and Wildlife, 4034 Fairview Industrial Drive SE, Salem, OR 97302 or through the Pacific States Marine Fisheries Commission West Coast E Ticket system or as required by Title 50 of the Code of Federal Regulations, part 660 Subpart C. All fish dealer amendments must be conducted in the same system in which the ticket was initially submitted.
- (4) For Columbia River non-treaty mainstem and Select Area commercial fisheries downstream of Bonneville Dam, each licensed wholesale fish dealer, wholesale fish bait dealer, and food fish canner must submit fish receiving tickets electronically through the Pacific States Marine Fisheries Commission (PSMFC) West Coast E Ticket System for all salmon, sturgeon, smelt and shad landed. Electronic fish tickets (e tickets) must be submitted within 24 hours of closure of the fishing period, or within 24 hours of landing for fishing periods lasting longer than 24 hours. All fish dealer

amendments to electronic fish tickets must be conducted in the same system in which the tickets were initially submitted.

(5) Wholesale fish bait dealers landing small quantities of food fish or shellfish may request authorization to combine multiple landings on one Fish Receiving Ticket and to deviate from the time in which Fish Receiving Tickets are due to the Department. Such request shall be in writing, and written authorization from the Department shall be received by the wholesale fish bait dealer before any such deviations may occur.

Stat. Auth.: ORS 496.138, 496.146, 496.162, 506.036, 506.109, 506.119, 506.129, 508.530 & 508.535

Stats. Implemented: ORS 506.109, 506.129, 508.025, 508.040 & 508.550

Hist.: FC 246, f. 5-5-72, ef. 5-15-72; FC 274(74-6), f. 3-20-74, ef. 4-11-74; FWC 28, f. 11-28-75, ef. 1-1-76, Renumbered from 625-040-0135, Renumbered from 635-036-0580; FWC 1-1986, f. & ef. 1-10-86; FWC 99-1987, f. & ef. 11-17-87; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 22-1992(Temp), f. 4-10-92, cert. ef. 4-13-91; FWC 53-1992, f. 7-17-92, cert. ef. 7-20-92; FWC 16-1995(Temp), f. & cert. ef. 2-16-95; FWC 23-1995, f. 3-29-95, cert. ef. 4-1-95; DFW 63-2003, f. & cert. ef. 7-17-03; DFW 117-2003(Temp), f. 11-25-03, cert. ef. 12-1-03 thru 2-29-04; DFW 10-2004, f. & cert. ef. 2-13-04; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 164-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 77-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 151-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 136-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 100-2015(Temp), f. & cert. ef. 8-4-15 thru 12-31-15

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**Rule Caption:** Mainstem Columbia River Commercial Early Fall Drift Gill Net Seasons Set.

**Adm. Order No.:** DFW 101-2015(Temp)

**Filed with Sec. of State:** 8-5-2015

**Certified to be Effective:** 8-9-15 thru 8-31-15

**Notice Publication Date:**

**Rules Amended:** 635-042-0031

**Subject:** This amended rule sets nine 9-hour fishing periods for the 2015 early fall commercial salmon drift gill net season in Zones 4 and 5 of the Columbia River mainstem. The first authorized fishing period begins at 9:00 p.m. Sunday, August 9, 2015 with further fishing periods scheduled through 6:00 a.m. Friday, August 28, 2015. Authorized sales include Chinook, coho, pink and sockeye salmon and shad.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

## 635-042-0031

### Early Fall Salmon Season

(1) Salmon and sturgeon may be taken for commercial purposes in the waters of the Columbia River: Zones 4–5, as identified in OAR 635-042-0001. The deadline at the lower end of Zone 4 is defined as a straight line projected from the Warrior Rock Lighthouse on the Oregon shore easterly through the green navigation Buoy #1 and continuing to the Washington shore.

(a) Authorized fishing periods are as follows:

(A) 9:00 p.m. Sunday, August 9 to 6:00 a.m. Monday, August 10 (9 hours);

(B) 9:00 p.m. Tuesday, August 11 to 6:00 a.m. Wednesday, August 12 (9 hours);

(C) 9:00 p.m. Thursday, August 13 to 6:00 a.m. Friday, August 14 (9 hours);

(D) 9:00 p.m. Sunday, August 16 to 6:00 a.m. Monday, August 17 (9 hours);

(E) 9:00 p.m. Tuesday, August 18 to 6:00 a.m. Wednesday, August 19 (9 hours);

(F) 9:00 p.m. Thursday, August 20 to 6:00 a.m. Friday, August 21 (9 hours);

(G) 9:00 p.m. Sunday, August 23 to 6:00 a.m. Monday, August 24 (9 hours);

(H) 9:00 p.m. Tuesday, August 25 to 6:00 a.m. Wednesday, August 26 (9 hours); and

(I) 9:00 p.m. Thursday, August 27 to 6:00 a.m. Friday, August 28 (9 hours).

(b) Sanctuaries include: Washougal and Sandy rivers.

(2) Gear is restricted to drift gill nets only with 9 inch minimum and 9.75-inch maximum mesh sizes. The multiple net rule is NOT in effect and nets not authorized for this fishery are prohibited to be onboard the vessel.

(3) Allowable sales include: Chinook, coho, pink, and sockeye salmon and shad.

(4) Oregon buyers are required to submit fish receiving tickets electronically through the Pacific States Marine Fisheries Commission (PSMFC) West Coast E-Ticket System within 24 hours of closure of the fishing period, or within 24 hours of landing for fishing periods lasting longer than 24 hours, pursuant to OAR 635-006-0210.

Stat. Auth.: ORS 496.118, 506.109 & 506.129

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Stats. Implemented: ORS 506.119 & 507.030  
Hist.: FWC 63-1987, f. & cert. ef. 8-7-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 68-1988(Temp), f. & cert. ef. 8-15-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 56-1989(Temp), f. & cert. ef. 8-11-89; FWC 58-1989(Temp), f. & cert. ef. 8-14-89; FWC 80-1989(Temp), f. & cert. ef. 8-29-89; FWC 80-1990(Temp), f. & cert. ef. 8-8-90; FWC 85-1991, f. & cert. ef. 8-7-91, cert. ef. 8-12-91; FWC 91-1991(Temp), f. & cert. ef. 8-29-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 53-1996(Temp), f. & cert. ef. 9-16-96; FWC 49-1997, f. & cert. ef. 8-20-97, cert. ef. 8-24-97; DFW 74-1998(Temp), f. & cert. ef. 8-25-98 thru 8-26-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 75-1999(Temp), f. & cert. ef. 9-29-99, cert. ef. 9-30-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. & cert. ef. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 52-2000(Temp), f. & cert. ef. 8-23-00, cert. ef. 8-23-00 thru 8-24-00; Administrative correction 6-20-01; DFW 68-2001(Temp), f. & cert. ef. 8-7-01, cert. ef. 8-8-01 thru 8-9-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 79-2001(Temp), f. & cert. ef. 8-22-01 thru 12-31-01; DFW 80-2001(Temp), f. & cert. ef. 8-24-01 thru 12-31-01; DFW 86-2001(Temp), f. & cert. ef. 9-4-01 thru 12-31-01; DFW 81-2002(Temp), f. & cert. ef. 8-2-02, cert. ef. 8-4-02 thru 8-9-02; DFW 87-2002(Temp), f. & cert. ef. 8-9-02 thru 8-12-02; DFW 89-2002(Temp), f. & cert. ef. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 82-2003(Temp), f. & cert. ef. 8-25-03 thru 12-31-03; DFW 87-2003(Temp), f. & cert. ef. 8-27-03 thru 12-31-03; DFW 81-2004(Temp), f. & cert. ef. 8-12-04 thru 12-31-04; DFW 82-2004(Temp), f. & cert. ef. 8-16-04 thru 12-31-04; DFW 86-2004(Temp), f. & cert. ef. 8-19-04 thru 12-31-04; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 85-2005(Temp), f. & cert. ef. 8-3-05, cert. ef. 8-3-05 thru 12-31-05; DFW 88-2005(Temp), f. & cert. ef. 8-11-05, cert. ef. 8-14-05 thru 12-31-05; DFW 90-2005(Temp), f. & cert. ef. 8-17-05 thru 12-31-05; DFW 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; DFW 98-2005(Temp), f. & cert. ef. 8-25-05 thru 12-31-05; Administrative correction 1-19-06; DFW 72-2006(Temp), f. & cert. ef. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 82-2006(Temp), f. & cert. ef. 8-11-06, cert. ef. 8-13-06 thru 12-31-06; DFW 88-2006(Temp), f. & cert. ef. 8-18-06, cert. ef. 8-21-06 thru 12-31-06; DFW 89-2006(Temp), f. & cert. ef. 8-24-06, cert. ef. 8-25-06 thru 12-31-06; Administrative correction 1-16-07; DFW 61-2007(Temp), f. & cert. ef. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 72-2007(Temp), f. & cert. ef. 8-23-07 thru 8-31-07; Administrative correction 9-16-07; DFW 85-2008(Temp), f. & cert. ef. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 93-2008(Temp), f. & cert. ef. 8-12-08 thru 12-31-08; DFW 95-2008(Temp), f. & cert. ef. 8-14-08 thru 9-30-08; DFW 100-2008(Temp), f. & cert. ef. 8-22-08, cert. ef. 8-25-08 thru 9-30-08; DFW 102-2008(Temp), f. & cert. ef. 8-26-08 thru 9-1-08; Administrative correction 9-29-08; Administrative correction 10-21-08; DFW 89-2009(Temp), f. & cert. ef. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 90-2009(Temp), f. & cert. ef. 8-7-09, cert. ef. 8-8-09 thru 12-31-09; DFW 96-2009(Temp), f. & cert. ef. 8-21-09 thru 8-31-09; DFW 97-2009(Temp), f. & cert. ef. 8-25-09 thru 8-31-09; DFW 100-2009(Temp), f. & cert. ef. 8-27-09 thru 8-31-09; Administrative correction 9-29-09; DFW 112-2010(Temp), f. & cert. ef. 7-30-10, cert. ef. 8-3-10 thru 8-31-10; DFW 121-2010(Temp), f. & cert. ef. 8-18-10, cert. ef. 8-19-10 thru 8-31-10; Administrative correction 9-22-10; DFW 132-2010(Temp), f. & cert. ef. 9-21-10, cert. ef. 9-22-10 thru 10-31-10; DFW 137-2010(Temp), f. & cert. ef. 9-24-10 thru 10-31-10; Administrative correction 11-23-10; DFW 105-2011(Temp), f. & cert. ef. 8-2-11, cert. ef. 8-4-11 thru 8-31-11; DFW 120-2011(Temp), f. & cert. ef. 8-26-11, cert. ef. 8-28-11 thru 9-14-11; DFW 128-2011(Temp), f. & cert. ef. 9-14-11, cert. ef. 9-18-11 thru 9-30-11; DFW 134-2011(Temp), f. & cert. ef. 9-21-11, cert. ef. 9-22-11 thru 9-30-11; DFW 136-2011(Temp), f. & cert. ef. 9-28-11 thru 10-5-11; DFW 140-2011(Temp), f. & cert. ef. 10-4-11, cert. ef. 10-5-11 thru 10-12-11; DFW 144-2011(Temp), f. & cert. ef. 10-11-11, cert. ef. 10-13-11 thru 10-31-11; DFW 147-2011(Temp), f. & cert. ef. 10-17-11, cert. ef. 10-18-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 98-2012(Temp), f. & cert. ef. 7-31-12, cert. ef. 8-5-12 thru 10-31-12; DFW 112-2012(Temp), f. & cert. ef. 8-24-12, cert. ef. 8-26-12 thru 10-31-12; DFW 121-2012(Temp), f. & cert. ef. 9-18-12 thru 10-31-12; Administrative correction 11-23-12; DFW 83-2013(Temp), f. & cert. ef. 8-11-13 thru 8-31-13; DFW 95-2013(Temp), f. & cert. ef. 8-23-13, cert. ef. 8-25-13 thru 8-31-13; DFW 97-2013(Temp), f. & cert. ef. 8-27-13, cert. ef. 8-28-13 thru 8-31-13; DFW 101-2013(Temp), f. & cert. ef. 9-13-13, cert. ef. 9-15-13 thru 9-30-13; DFW 105-2013(Temp), f. & cert. ef. 9-19-13 thru 9-30-13; DFW 108-2013(Temp), f. & cert. ef. 9-25-13, cert. ef. 9-26-13 thru 9-30-13; DFW 113-2013(Temp), f. & cert. ef. 9-27-13, cert. ef. 10-1-13 thru 10-16-13; Administrative correction, 11-22-13; DFW 107-2014(Temp), f. & cert. ef. 7-30-14, cert. ef. 8-3-14 thru 8-31-14; DFW 121-2014(Temp), f. & cert. ef. 8-13-14 thru 9-30-14; DFW 124-2014(Temp), f. & cert. ef. 8-26-14 thru 9-30-14; DFW 130-2014(Temp), f. & cert. ef. 9-11-14, cert. ef. 9-12-14 thru 9-30-14; DFW 137-2014(Temp), f. & cert. ef. 9-19-14 thru 9-30-14; DFW 138-2014(Temp), f. & cert. ef. 9-24-14, cert. ef. 9-25-14 thru 10-31-14; Administrative correction 11-24-14; DFW 101-2015(Temp), f. & cert. ef. 8-9-15 thru 8-31-15

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**Rule Caption:** 2015 Fall Commercial Seasons Set for Columbia River Select Area Fisheries.

**Adm. Order No.:** DFW 102-2015(Temp)

**Filed with Sec. of State:** 8-10-2015

**Certified to be Effective:** 8-17-15 thru 10-31-15

**Notice Publication Date:**

**Rules Amended:** 635-042-0160, 635-042-0170, 635-042-0180

**Subject:** Amended rules set the 2015 fall commercial gill net salmon seasons for three Columbia River Select Areas including: Blind and Knappa sloughs, Tongue Point/South Channel and Deep River.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

## 635-042-0160

### Blind Slough and Knappa Slough Select Area Salmon Season

(1) Chinook, coho, pink, and sockeye salmon and shad may be taken for commercial purposes during open fishing periods described below in those waters of Blind Slough and Knappa Slough. The following restrictions apply:

(a) The seasons in Blind and Knappa sloughs are open nightly as follows:

(A) 7:00 p.m.–7:00 a.m. the following morning (12 hours) on Monday, Tuesday, Wednesday, and Thursday nights from August 24–September 11, 2015

(B) 6:00 p.m.–10:00 a.m. the following morning (16 hours) on Monday, Tuesday, Wednesday, and Thursday nights from September 14–18, 2015; and

(C) 6:00 p.m.–10:00 a.m. the following morning (16 hours) on Sunday, Monday, Tuesday, Wednesday, and Thursday nights from September 20–October 30, 2015.

(b) The fishing areas for the seasons are:

(A) Blind Slough are those waters adjoining the Columbia River which extend from markers at the mouth of Blind Slough upstream to markers at the mouth of Gnat Creek which is located approximately 1/2 mile upstream of the county road bridge.

(B) Knappa Slough are all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the west end of Minaker Island to markers on Karlson Island and the Oregon shore.

(c) Gear restrictions are as follows:

(A) During the fishery, outlined above in subsections (1)(a) and (1)(b), gill nets may not exceed 100 fathoms in length with no weight limit on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. It is unlawful to use a gill net having a mesh size that is more than 9.75-inches.

(B) Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

(C) 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.

(2) Oregon buyers are required to submit fish receiving tickets electronically through the Pacific States Marine Fisheries Commission (PSMFC) West Coast E-Ticket System within 24 hours of closure of the fishing period, or within 24 hours of landing for fishing periods lasting longer than 24 hours, pursuant to OAR 635-006-0210.

(3) Oregon licenses are required in the open waters upstream from the railroad bridge.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998(Temp), f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 48-1999(Temp), f. & cert. ef. 6-24-99 thru 7-2-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 65-2000(Temp), f. & cert. ef. 9-25-00 thru 12-31-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 86-2001, f. & cert. ef. 9-4-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 14-2002(Temp), f. & cert. ef. 2-13-02, cert. ef. 2-18-02 thru 8-17-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. & cert. ef. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. & cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. & cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. & cert. ef. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. & cert. ef. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. & cert. ef. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. & cert. ef. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 16-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 85-2005(Temp), f. & cert. ef. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. & cert. ef. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. & cert. ef. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 16-2006(Temp), f. & cert. ef. 3-23-06 & cert. ef. 3-26-06 thru 7-27-06; DFW 18-2006(Temp), f. & cert. ef. 3-29-06, cert. ef. 4-2-06 thru 7-27-06; DFW 20-2006(Temp), f. & cert. ef. 4-7-06, cert. ef. 4-9-06 thru 7-27-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 75-2006(Temp), f. & cert. ef. 9-5-06 thru 12-31-06; DFW 92-2006(Temp), f. & cert. ef. 9-1-06, cert. ef. 9-5-06 thru 12-31-06; DFW 98-2006(Temp), f. & cert. ef. 9-12-06 thru 12-31-06; DFW 103-2006(Temp), f. & cert. ef. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. & cert. ef. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 25-2007(Temp), f. & cert. ef. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 61-2007(Temp), f. & cert. ef. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. & cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; DFW 6-2008(Temp), f. & cert. ef. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. & cert. ef. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. & cert. ef. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 103(Temp), f. & cert. ef. 8-26-08, cert. ef. 9-2-08 thru 10-31-08; DFW 108-2008(Temp), f. & cert. ef. 9-8-08, cert. ef. 9-9-08 thru 12-31-08;

# ADMINISTRATIVE RULES

Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 15-2010(Temp), f. 2-19-10, cert. ef. 2-21-10 thru 6-11-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; DFW 113-2010(Temp), f. & cert. ef. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 44-2011(Temp), f. & cert. ef. 5-11-11 thru 6-10-11; Administrative correction 6-28-11; DFW 113-2011(Temp), f. 8-10-11, cert. ef. 8-15-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 12-2012(Temp), f. 2-8-12, cert. ef. 2-12-12 thru 7-31-12; DFW 104-2012(Temp), f. 8-6-12, cert. ef. 8-13-12 thru 10-31-12; Administrative correction 11-23-12; DFW 11-2013(Temp), f. 2-8-13, cert. ef. 2-11-13 thru 7-31-13; DFW 24-2013(Temp), f. & cert. ef. 3-21-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 91-2013(Temp), f. 8-22-13, cert. ef. 8-26-13 thru 10-31-13; DFW 110-2013(Temp), f. 9-27-13, cert. ef. 9-30-13 thru 10-31-13; Administrative correction, 11-22-13; DFW 8-2014(Temp), f. & cert. ef. 2-10-14 thru 7-31-14; DFW 35-2014(Temp), f. & cert. ef. 4-24-14 thru 7-31-14; DFW 39-2014(Temp), f. 5-7-14, cert. ef. 5-8-14 thru 7-31-14; DFW 115-2014(Temp), f. 8-5-14, cert. ef. 8-18-14 thru 10-31-14; DFW 135-2014(Temp), f. & cert. ef. 9-19-14 thru 10-31-14; Administrative correction 11-24-14; DFW 10-2015(Temp), f. 2-3-15, cert. ef. 2-9-15 thru 7-30-15; DFW 29-2015(Temp), f. & cert. ef. 4-21-15 thru 7-30-15; DFW 37-2015(Temp), f. 5-1-15, cert. ef. 5-4-15 thru 7-30-15; DFW 70-2015(Temp), f. 6-15-15, cert. ef. 6-16-15 thru 7-31-15; DFW 76-2015(Temp), f. 6-23-15, cert. ef. 6-25-15 thru 7-31-15; DFW 102-2015(Temp), f. 8-10-15, cert. ef. 8-17-15 thru 10-31-15

## 635-042-0170

### Tongue Point Basin and South Channel

(1) Tongue Point fishing area includes all waters bounded by a line from a marker midway between the red USCG navigation light #2 at the tip of Tongue Point and the downstream (northern most) pier (#8) at the Tongue Point Job Corps facility, to the flashing green USCG navigation light #3 on the rock jetty at the west end of Mott Island, a line from a marker at the southeast end of Mott Island northeasterly to a marker on the northwest tip of Lois Island, and a line from a marker on the southwest end of Lois Island westerly to a marker on the Oregon shore.

(2) South Channel area includes all waters bounded by a line from a marker on John Day Point through the green USCG buoy "7" to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to the flashing red USCG marker "10" thence northwesterly to a marker on Burnside Island defining the upstream terminus of South Channel.

(3) Chinook, coho, pink, and sockeye salmon and shad may be taken for commercial purposes in those waters of Tongue Point and South Channel as described in section (1) and section (2) of this rule. Open fishing periods are:

(a) 7:00 p.m.–7:00 a.m. the following morning on Monday, Tuesday, Wednesday, and Thursday nights from August 24–September 11, 2015

(b) 4:00 p.m.–10:00 a.m. the following morning on Monday, Tuesday, Wednesday, and Thursday nights from September 14–18, 2015; and

(c) 4:00 p.m.–10:00 a.m. the following morning on Sunday, Monday, Tuesday, Wednesday, and Thursday nights from September 20–October 30, 2015.

(4) Gear restrictions are as follows:

(a) In waters described in section (1) as Tongue Point basin, gill nets may not exceed 250 fathoms in length and weight limit on the lead line is not to exceed two pounds on any one fathom. It is unlawful to use a gill net having a mesh size that is more than 6-inches. Fishers participating in the Tongue Point fishery described in this rule may have onboard their vessel, unstored gillnets legal for the South Channel fishery.

(b) In waters described in section (2) as South Channel, nets are restricted to 250 fathoms in length with no weight restrictions on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. It is unlawful to use a gill net having a mesh size that is more than 6-inches.

(c) Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

(d) 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.

(5) Oregon buyers are required to submit fish receiving tickets electronically through the Pacific States Marine Fisheries Commission (PSMFC) West Coast E-Ticket System within 24 hours of closure of the fishing period, or within 24 hours of landing for fishing periods lasting longer than 24 hours, pursuant to OAR 635-006-0210.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 61-1997(Temp), f. 9-23-97, cert. ef. 9-24-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 41-1998(Temp), f. 5-28-98, cert. ef. 5-29-98; DFW 42-1998(Temp), f. 5-29-98, cert. ef. 5-31-98 thru 6-6-98; DFW 45-1998(Temp), f. 6-5-98, cert. ef. 6-6-98 thru 6-10-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998, f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; Administrative correction 7-30-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 76-2006(Temp), f. 8-8-06, cert. ef. 9-5-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative Correction 1-24-08; DFW 44-2008(Temp), f. 4-25-08, cert. ef. 4-28-08 thru 10-24-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 29-2010(Temp), f. 3-9-10, cert. ef. 4-19-10 thru 6-12-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; DFW 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 44-2011(Temp), f. & cert. ef. 5-11-11 thru 6-10-11; Administrative correction 6-28-11; DFW 113-2011(Temp), f. 8-10-11, cert. ef. 8-15-11 thru 10-31-11; DFW 122-2011(Temp), f. 8-29-11, cert. ef. 9-19-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 41-2012(Temp), f. 4-24-12, cert. ef. 4-26-12 thru 6-30-12; Administrative correction, 8-1-12; DFW 104-2012(Temp), f. 8-6-12, cert. ef. 8-13-12 thru 10-31-12; Administrative correction 11-23-12; DFW 11-2013(Temp), f. 2-8-13, cert. ef. 2-11-13 thru 7-31-13; DFW 34-2013(Temp), f. 5-14-13, cert. ef. 5-15-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 91-2013(Temp), f. 8-22-13, cert. ef. 8-26-13 thru 10-31-13; DFW 110-2013(Temp), f. 9-27-13, cert. ef. 9-30-13 thru 10-31-13; Administrative correction, 11-22-13; DFW 8-2014(Temp), f. & cert. ef. 2-10-14 thru 7-31-14; DFW 35-2014(Temp), f. & cert. ef. 4-24-14 thru 7-31-14; DFW 39-2014(Temp), f. 5-7-14, cert. ef. 5-8-14 thru 7-31-14; DFW 115-2014(Temp), f. 8-5-14, cert. ef. 8-18-14 thru 10-31-14; DFW 135-2014(Temp), f. & cert. ef. 9-19-14 thru 10-31-14; Administrative correction 11-24-14; DFW 10-2015(Temp), f. 2-3-15, cert. ef. 2-9-15 thru 7-30-15; DFW 29-2015(Temp), f. & cert. ef. 4-21-15 thru 7-30-15; DFW 37-2015(Temp), f. 5-1-15, cert. ef. 5-4-15 thru 7-30-15; DFW 102-2015(Temp), f. 8-10-15, cert. ef. 8-17-15 thru 10-31-15

## 635-042-0180

### Deep River Select Area Salmon Season

(1) Chinook, coho, pink, and sockeye salmon and shad may be taken for commercial purposes from all waters downstream of the town of Deep River to the mouth defined by a line from the US Coast Guard navigation marker #16 southwest to a marker on the Washington shore.

(2) The fishing seasons are open 7:00 p.m. to 7:00 a.m. the following morning (12 hours) from August 17–September 12, 2015 and 6:00 p.m. to 9:00 a.m. the following morning (15 hours) from September 14–October 20, 2015 on the following nights:

Monday and Thursday nights from August 17–28, 2015 (4 nights);

Monday, Tuesday, Wednesday, and Thursday nights from August 31 thru September 4, 2015 (4 nights);

Monday, Tuesday, Wednesday, Thursday, and Friday nights from September 7–26, 2015 (15 nights);

Monday, Tuesday, Wednesday, and Thursday nights from September 28–October 16, 2015 (12 nights);

And Monday night October 19, 2015 (1 night).

(3) Gear restrictions are as follows:

(a) Gill nets may not exceed 100 fathoms in length and there is no weight limit on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. Nets may not be tied off to stationary structures and may not fully cross navigation channel.

(b) It is unlawful to operate in any river, stream or channel any gill net longer than three-fourths the width of the river, stream, or channel. "River, stream, or channel width" is defined as bank-to-bank, where the water meets the banks, regardless of the time of tide or the water level. 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.

(c) Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net

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is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

(d) During the seasons, outlined above in section (2), it is unlawful to use a gill net having a mesh size that is more than 9.75-inches through September 12, and more than 6-inches thereafter.

(e) Oregon buyers are required to submit fish receiving tickets electronically through the Pacific States Marine Fisheries Commission (PSMFC) West Coast E-Ticket System within 24 hours of closure of the fishing period, or within 24 hours of landing for fishing periods lasting longer than 24 hours, pursuant to OAR 635-006-0210.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 19-2003(Temp), f. 3-12-03, cert. ef. 4-17-03 thru 6-13-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 77-2006(Temp), f. 8-8-06, cert. ef. 9-4-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 28-2007(Temp), f. & cert. ef. 4-26-07 thru 7-26-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative Correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 23-2009(Temp), f. 3-5-09, cert. ef. 3-6-09 thru 4-30-09; DFW 35-2009(Temp), f. 4-7-09, cert. ef. 4-8-09 thru 4-30-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; DFW 112-2009(Temp), f. 9-11-09, cert. ef. 9-13-09 thru 10-30-09; DFW 121-2009(Temp), f. & cert. ef. 9-30-09 thru 10-31-09; Administrative correction 11-19-09; DFW 16-2010(Temp), f. 2-19-10, cert. ef. 2-22-10 thru 6-10-10; DFW 40-2010(Temp), f. & cert. ef. 4-1-10 thru 7-31-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; DFW 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 53-2011(Temp), f. & cert. ef. 5-18-11 thru 6-10-11; Administrative correction 6-28-11; DFW 113-2011(Temp), f. 8-10-11, cert. ef. 8-15-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 12-2012(Temp), f. 2-8-12, cert. ef. 2-12-12 thru 7-31-12; DFW 104-2012(Temp), f. 8-6-12, cert. ef. 8-13-12 thru 10-31-12; Administrative correction 11-23-12; DFW 11-2013(Temp), f. 2-8-13, cert. ef. 2-11-13 thru 7-31-13; DFW 24-2013(Temp), f. & cert. ef. 3-21-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 91-2013(Temp), f. 8-22-13, cert. ef. 8-26-13 thru 10-31-13; DFW 110-2013(Temp), f. 9-27-13, cert. ef. 9-30-13 thru 10-31-13; Administrative correction, 11-22-13; DFW 8-2014(Temp), f. & cert. ef. 2-10-14 thru 7-31-14; DFW 115-2014(Temp), f. 8-5-14, cert. ef. 8-18-14 thru 10-31-14; DFW 135-2014(Temp), f. & cert. ef. 9-19-14 thru 10-31-14; Administrative correction 11-24-14; DFW 10-2015(Temp), f. 2-3-15, cert. ef. 2-9-15 thru 7-30-15; DFW 29-2015(Temp), f. & cert. ef. 4-21-15 thru 7-30-15; DFW 37-2015(Temp), f. 5-1-15, cert. ef. 5-4-15 thru 7-30-15; DFW 102-2015(Temp), f. 8-10-15, cert. ef. 8-17-15 thru 10-31-15

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**Rule Caption:** 2015 Snake River Fall Chinook Sport Fishery Below Hells Canyon Dam Opens September 1.

**Adm. Order No.:** DFW 103-2015(Temp)

**Filed with Sec. of State:** 8-12-2015

**Certified to be Effective:** 9-1-15 thru 11-30-15

**Notice Publication Date:**

**Rules Amended:** 635-023-0134

**Rules Suspended:** 635-023-0134(T)

**Subject:** This amended rule implements a fall Chinook salmon fishery on the Snake River from the Oregon-Washington border upstream to the deadline below Hells Canyon Dam beginning September 1 and running through November 17, 2015. These rule

modifications will conform Oregon's regulations to State of Idaho regulations for this concurrent fishery.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

## 635-023-0134

### Snake River Fishery

(1) The **2015 Oregon Sport Fishing Regulations** provide requirements for 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 **2015 Oregon Sport Fishing Regulations**.

(2) Notwithstanding all other specifications and regulations as outlined in the **2015 Oregon Sport Fishing Regulations**, the following conditions apply:

(a) The Snake River from the Oregon-Washington border upstream to the deadline below Hells Canyon Dam is open seven (7) days per week, effective Monday, September 1 through the close of fishing on Friday, October 31, 2015, or until further notice.

(b) The Snake River from Cliff Mountain Rapids (RM 246.7, 1.1 miles below Hell's Canyon Dam) upstream to the deadline below Hells Canyon Dam is open seven (7) days per week, effective Saturday, November 1 through the close of fishing on Monday, November 17, 2015, or until further notice.

(c) For fisheries described in sections (2)(a) and (2)(b) above: The daily bag limit is six (6) adipose fin clipped fall Chinook salmon; there are no daily, possession, or season limits for jack fall Chinook salmon; and barbless hooks are required.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 47-2005(Temp), f. 5-19-05, cert. ef. 5-21-05 thru 6-20-05; Administrative correction 7-20-05; DFW 31-2006(Temp), f. 5-18-06, cert. ef. 5-20-06 thru 6-19-06; Administrative correction 7-21-06; DFW 31-2007(Temp), f. 5-9-07, cert. ef. 5-11-07 thru 6-18-07; DFW 43-2007(Temp), f. 6-14-07, cert. ef. 6-19-07 thru 7-2-07; Administrative correction 2-8-08; DFW 43-2008(Temp), f. 4-25-08, cert. ef. 4-26-08 thru 7-20-08; DFW 64-2008(Temp), f. 6-18-08, cert. ef. 6-21-08 thru 7-31-08; Administrative correction 8-21-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 58-2009(Temp), f. 5-27-09, cert. ef. 5-30-09 thru 7-12-09; DFW 80-2009(Temp), f. 6-30-09, cert. ef. 7-1-09 thru 7-17-09; Administrative correction 7-21-09; DFW 128-2009(Temp), f. 10-12-09, cert. ef. 10-18-09 thru 4-15-10; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 42-2010(Temp), f. 4-13-10, cert. ef. 4-24-10 thru 7-31-10; DFW 107-2010(Temp), f. 7-26-10, cert. ef. 7-31-10 thru 8-4-10; Administrative correction, 8-18-10; DFW 119-2010(Temp), f. 8-18-10, cert. ef. 9-1-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 29-2011(Temp), f. 4-12-11, cert. ef. 4-23-11 thru 10-19-11; DFW 118-2011(Temp), f. 8-23-11, cert. ef. 9-1-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 35-2012(Temp), f. 4-16-12, cert. ef. 4-22-12 thru 9-30-12; DFW 93-2012(Temp), f. 7-24-12, cert. ef. 8-5-12 thru 9-30-12; DFW 109-2012(Temp), f. 8-21-12, cert. ef. 9-1-12 thru 12-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 29-2013(Temp), f. 4-25-13, cert. ef. 5-4-13 thru 9-30-13; DFW 76-2013(Temp), f. 7-16-13, cert. ef. 7-21-13 thru 9-30-13; DFW 94-2013(Temp), f. 8-23-13, cert. ef. 9-1-13 thru 11-30-13; Administrative correction, 12-19-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 33-2014(Temp), f. 4-21-14, cert. ef. 4-26-14 thru 9-30-14; DFW 98-2014(Temp), f. 7-18-14, cert. ef. 7-21-14 thru 9-30-14; DFW 122-2014(Temp), f. 8-4-14, cert. ef. 9-1-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 32-2015(Temp), f. 4-27-15, cert. ef. 5-2-15 thru 9-30-15; DFW 96-2015(Temp), f. 7-29-15, cert. ef. 8-2-15 thru 9-30-15; DFW 103-2015(Temp), f. 8-12-15, cert. ef. 9-1-15 thru 11-30-15

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**Rule Caption:** Amend Rules Relating to Oregon Department of Fish and Wildlife Lands

**Adm. Order No.:** DFW 104-2015

**Filed with Sec. of State:** 8-12-2015

**Certified to be Effective:** 8-12-15

**Notice Publication Date:** 7-1-2015

**Rules Adopted:** 635-008-0068

**Rules Amended:** 635-008-0040, 635-008-0050, 635-008-0115

**Subject:** Modify language relating to forage removal from Department Lands and include rules governing the administration of the new Coquille Valley Wildlife Area.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

## 635-008-0040

### Forage Removal from Department Lands

(1) Forage removal from Department owned or managed lands by haying, grazing, or other means will be by agreement only. Agreements will be issued by the Department for a period not to exceed five years. Agreements are not transferable.

(2) Forage removal agreements will be considered on a priority basis. First priority will be given to local grazing associations, adjoining landowners, adjacent landowners and former agreement holders, not necessarily in that order. Second priority will be given to any other interested party.

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(3) Selection of first priority agreement holders will be made in accordance with the management objectives for the land.

(4) Selection of second priority applicants will be based on the highest bidder.

(5) Fees charged to first priority agreement holders will be similar to those fees charged on comparable forage in the vicinity. Fees charged to second priority agreement holders will be established through the competitive bid.

(6) Management practices affecting forage removal will be established to protect the property and benefit wildlife resources.

(7) A forage removal agreement may be cancelled by the Director for failure to:

(a) Follow all requirements set forth in the agreement;

(b) Pay fees required;

(c) Follow forage removal practices established to protect the property and benefit wildlife resources.

Stat. Auth.: ORS 496

Stats. Implemented: ORS 496

Hist.: FWC 42-1978, f. & ef. 8-29-78; FWC 62-1978, f. & ef. 12-20-78, Renumbered from 635-015-0040; FWC 24-1982, f. & ef. 4-5-82; DFW 104-2015, f. & cert. ef. 8-12-15

## 635-008-0050

### Fish and Wildlife Commission to Post and Enforce Rules

In compliance with authority contained in ORS 496.146(9), and penalties prescribed in 496.992, the following rules are adopted to protect wildlife, fish, lands, and appurtenances or management activities and objectives on lands where title to, or control of, rests in the State of Oregon, acting by and through its Department of Fish and Wildlife. In addition to the requirements and restrictions contained in chapter 635, divisions 011, 021, 045, 046, 050, 051, 052, 053, 054, and 060; the following rules shall apply to all Department wildlife areas referenced in chapter 635, division 008 except as modified by the rules for individual wildlife areas.

(1) In order to further the purposes of ORS 496.012 or to protect public safety, portions of wildlife areas may be posted and closed to all entry. Entering an area posted "closed to entry" is prohibited except by permit.

(2) Leaving garbage and litter on the area is prohibited.

(3) Posted Refuges and Safety Zones are closed to hunting and shooting.

(4) Motor vehicles are prohibited except on parking areas and open roads or as provided for in the following rules. No cross country travel or off road motor vehicle use is allowed, except by ODFW issued permit or for administrative use.

(5) A permit is required to remove firewood, cut trees, dig or remove artifacts or archeological specimens, minerals, sand, gravel, rock, or any other article, product or material found on the area except for fish and wildlife taken as permitted by law and edible fruiting bodies of plants for personal consumption.

(6) An agreement is required to graze livestock except riding and pack animals in actual use for recreational purposes. Trespass livestock may be removed and/or impounded at the owner's expense in compliance with ORS Chapter 607.

(7) No person shall display behavior which unreasonably deters, distracts or hinders others in the peaceable enjoyment of the area.

(8) The Department may evict any person from the area for any violation of any Department rule or regulation, or when continued presence of that person could cause a threat to the rights and safety of others or property.

(9) No person, commercial vendor or company shall dispense or sell material, goods or items on the area, except by permit.

(10) The Department may issue access permits allowing exceptions to these rules for uses or activities compatible with the purpose of each wildlife area, and consistent with the goals and objectives of their respective Wildlife Area Management Plan where applicable.

Stat. Auth.: ORS 498

Stats. Implemented: ORS 498

Hist.: GC 64, f. 4-3-57; GC 232, f. 8-13-70, ef. 9-11-70; GC 252, f. 5-11-72, ef. 6-1-72, Renumbered from 630-010-0500, Renumbered from 635-015-0005; FWC 63-1980, f. & ef. 11-4-80; FWC 2-1981(Temp), f. & ef. 1-20-81; FWC 30-1982, f. & ef. 5-18-82, Renumbered from 635-008-0005; FWC 53-1994, f. & cert. ef. 8-25-94; DFW 93-2009, f. & cert. ef. 8-12-09; DFW 125-2009, f. & cert. ef. 10-7-09; DFW 117-2014, f. & cert. ef. 8-7-14; DFW 151-2014, f. & cert. ef. 10-17-14; DFW 104-2015, f. & cert. ef. 8-12-15; DFW 104-2015, f. & cert. ef. 8-12-15

## 635-008-0068

### Coquille Valley Wildlife Area (Coos County)

The Coquille Valley Wildlife Area is open for wildlife-oriented public use unless otherwise excluded or restricted by the following rules:

(1) Free daily Hunting/Access permits are required, must be possessed at all times by users and must be completed and returned at the end

of the day. Consult annual Game Bird regulations for time and date restrictions and hunting requirements.

(2) Discharging firearms is prohibited except as authorized during game bird and game mammal seasons, or by access permit issued by ODFW.

(3) All dogs must be on a leash except when used in the pursuit or retrieval of game during authorized game bird seasons, or by access permit issued by ODFW.

(4) No person shall possess or use any shot other than federally-approved nontoxic shot at any time, except for big game hunters using buckshot or slugs.

(5) Discharge of firearms into, from or across Safety Zones is prohibited.

(6) Posted Refuges are closed to public access except to retrieve lawfully taken wildlife during authorized hunting seasons, or by access permit issued by ODFW.

(7) Camping and/or open fires are prohibited.

(8) The wildlife area is closed to the public 10 pm to 4 am.

(9) Any vehicle found parked or unattended on the Wildlife Area between the hours of 10 pm and 4 am, or obstructing public or administrative access may be towed at the expense of the registered owner or owners.

(10) Parking is allowed in designated areas only.

(11) No boats with gas powered motors may be launched from the area except by access permit issued by ODFW.

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

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

Hist.: DFW 104-2015, f. & cert. ef. 8-12-15

## 635-008-0115

### Klamath Wildlife Area (Klamath County)

The Klamath Wildlife Area is open to wildlife-oriented public use compatible with the goals and objectives contained in the 2008 Klamath Wildlife Area Management Plan unless otherwise excluded or restricted by the following rules:

(1) Discharging firearms is prohibited except as authorized during game bird seasons, or by access permit issued by ODFW.

(2) Running or training of dogs is prohibited February 1 through July 31 except on designated Dog Training Areas or by access permit issued by ODFW.

(3) Camping is prohibited.

(4) Personal property must be removed from the area at the end of each hunt day.

(5) No person shall possess or use any shot other than federally-approved nontoxic shot at any time.

(6) Miller Island Unit is closed to all deer hunting.

(7) A daily hunting permit is required. Hunters shall be in possession of permit while in the field; checkout is required.

(8) The wildlife area is closed to the public 10 pm to 4 am.

(9) Trapping is prohibited except by access permit by ODFW.

(10) ODFW Wildlife Area Parking Permit required.

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

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

Hist.: GC 64, f. 4-3-57; GC 232, f. 8-13-70, ef. 9-11-70; GC 252, f. 5-11-72, ef. 6-1-72, Renumbered from 630-010-0500, Renumbered from 635-015-0005; FWC 63-1980, f. & ef. 11-4-80; FWC 2-1981(Temp), f. & ef. 1-20-81; FWC 30-1982, f. & ef. 5-18-82, Renumbered from 635-008-0005(10); FWC 53-1994, f. & cert. ef. 8-25-95; DFW 38-2008, f. & cert. ef. 4-24-08; DFW 108-2011, f. & cert. ef. 8-5-11; DFW 117-2014, f. & cert. ef. 8-7-14; DFW 151-2014, f. & cert. ef. 10-17-14; DFW 104-2015, f. & cert. ef. 8-12-15

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**Rule Caption:** Amendments Regarding Harvest of Game Birds, Season Dates, Open Areas and Bag Limits

**Adm. Order No.:** DFW 105-2015

**Filed with Sec. of State:** 8-12-2015

**Certified to be Effective:** 8-12-15

**Notice Publication Date:** 7-1-2015

**Rules Amended:** 635-045-0000, 635-051-0000, 635-052-0000, 635-053-0000, 635-054-0000, 635-060-0000

**Subject:** Amend rules regarding the harvest of game birds including 2015–2016 season dates, open areas, regulations and bag limits.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

## 635-045-0000

### Purpose

(1) The purpose of these rules is to list definitions pursuant to hunting seasons for big game and game birds.

(2) The documents entitled "2015–2016 Oregon Game Bird Regulations," and "2015 Oregon Big Game Regulations", are incorpo-

# ADMINISTRATIVE RULES

rated by reference into these rules. These documents are available at hunting license vendors and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162  
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162  
Hist.: FWC 36-1988, f. & cert. ef. 6-13-88; FWC 47-1989, f. & cert. ef. 7-25-89; FWC 14-1990, f. & cert. ef. 2-2-90; FWC 91-1990, f. & cert. ef. 9-4-90; FWC 42-1996, f. & cert. ef. 8-12-96; FWC 53-1997, f. & cert. ef. 9-3-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 75-1998, f. & cert. ef. 9-4-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 92-1999, f. & cert. ef. 1-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 82-2000, f. & cert. ef. 1-1-01; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 121-2001, f. & cert. ef. 1-1-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 118-2003, f. & cert. ef. 12-4-03, cert. ef. 1-1-04; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 128-2005, f. & cert. ef. 1-1-06; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 127-2006, f. & cert. ef. 1-1-07; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 118-2007, f. & cert. ef. 10-31-07, c. cert. ef. 1-1-08; DFW 90-2008, f. & cert. ef. 8-13-08; DFW 150-2008, f. & cert. ef. 12-18-08, cert. ef. 1-1-09; DFW 93-2009, f. & cert. ef. 8-12-09; DFW 140-2009, f. & cert. ef. 11-3-09, cert. ef. 1-1-10; DFW 117-2010, f. & cert. ef. 8-13-10; DFW 140-2010(Temp), f. & cert. ef. 10-6-10 thru 12-31-10; Administrative correction 1-25-11; DFW 108-2011, f. & cert. ef. 8-5-11; DFW 103-2012, f. & cert. ef. 8-6-12; DFW 147-2012, f. & cert. ef. 12-18-12, cert. ef. 1-1-13; DFW 85-2013, f. & cert. ef. 8-5-13; DFW 63-2014, f. & cert. ef. 6-10-14; DFW 112-2014, f. & cert. ef. 8-4-14; DFW 69-2015, f. & cert. ef. 6-11-15; DFW 105-2015, f. & cert. ef. 8-12-15

## 635-051-0000

### Purpose

(1) The purpose of these rules is to establish dates, areas and other restrictions for hunting game birds pursuant to ORS Chapter 496.

(2) The document entitled “**2015–2016 Oregon Game Bird Regulations,**” is incorporated by reference into these rules.

[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162  
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162  
Hist.: FWC 8-1988, f. & cert. ef. 9-2-88; FWC 45-1997, f. & cert. ef. 8-13-97; FWC 53-1997, f. & cert. ef. 9-3-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 75-1998, f. & cert. ef. 9-4-98; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 84-2003(Temp), f. & cert. ef. 8-26-03 thru 2-20-04; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 90-2008, f. & cert. ef. 8-13-08; DFW 93-2009, f. & cert. ef. 8-12-09; DFW 117 2010, f. & cert. ef. 8-13-10; DFW 108-2011, f. & cert. ef. 8-5-11; DFW 103-2012, f. & cert. ef. 8-6-12; DFW 85-2013, f. & cert. ef. 8-5-13; DFW 112-2014, f. & cert. ef. 8-4-14; DFW 105-2015, f. & cert. ef. 8-12-15

## 635-052-0000

### Purpose

(1) The purpose of these rules is to establish season dates, areas and bag limits for migratory upland game birds pursuant to ORS Chapter 496.

(2) The document entitled “**2015–2016 Oregon Game Bird Regulations,**” is incorporated by reference into these rules

[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162  
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162  
Hist.: FWC 61-1988, f. & cert. ef. 7-28-88; FWC 45-1997, f. & cert. ef. 8-13-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 82-1999(Temp), f. & cert. ef. 10-25-99 thru 2-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 90-2008, f. & cert. ef. 8-13-08; DFW 93-2009, f. & cert. ef. 8-12-09; DFW 117 2010, f. & cert. ef. 8-13-10; DFW 108-2011, f. & cert. ef. 8-5-11; DFW 103-2012, f. & cert. ef. 8-6-12; DFW 85-2013, f. & cert. ef. 8-5-13; DFW 112-2014, f. & cert. ef. 8-4-14; DFW 105-2015, f. & cert. ef. 8-12-15

## 635-053-0000

### Purpose

(1) The purpose of these rules is to establish season dates, bag limits, areas and other restrictions for hunting upland game birds pursuant to ORS Chapter 496.

(2) The document entitled “**2015–016 Oregon Game Bird Regulations,**” is incorporated by reference into these rules.

[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162  
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162  
Hist.: FWC 81-1988, f. & cert. ef. 9-2-88; FWC 33-1996, f. & cert. ef. 6-7-96; FWC 45-1997, f. & cert. ef. 8-13-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 75-1998, f. & cert. ef. 9-4-98; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 82-1999(Temp), f. & cert. ef. 10-25-99 thru 2-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 2-2004(Temp), f. & cert. ef. 1-16-04 thru 1-31-04; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 90-2008, f. & cert. ef. 8-13-08; DFW 93-2009, f. & cert. ef. 8-12-09; DFW 117 2010, f. & cert. ef. 8-13-10; DFW 108-2011, f. & cert. ef. 8-5-11; DFW 103-2012, f. & cert. ef. 8-6-12; DFW 85-2013, f. & cert. ef. 8-5-13; DFW 112-2014, f. & cert. ef. 8-4-14; DFW 105-2015, f. & cert. ef. 8-12-15

## 635-054-0000

### Purpose

(1) The purpose of these rules is to establish season dates, bag limits, areas and other restrictions for hunting ducks, geese, coots, Wilson’s snipe and crow pursuant to ORS Chapter 496.

(2) The document entitled “**2015–2016 Oregon Game Bird Regulations,**” is incorporated by reference into these rules.

[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162  
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162  
Hist.: FWC 82-1988, f. & cert. ef. 9-2-88; FWC 45-1997, f. & cert. ef. 8-13-97; FWC 53-1997, f. & cert. ef. 9-3-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 75-1998, f. & cert. ef. 9-4-98; DFW 95-1998(Temp), f. & cert. ef. 12-1-98 thru 12-18-98; DFW 98-1998(Temp), f. & cert. ef. 12-18-98 thru 2-28-99; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 82-1999(Temp), f. & cert. ef. 10-25-99 thru 2-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 99-2001(Temp), f. & cert. ef. 10-12-01 thru 4-10-02; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 87-2004(Temp), f. & cert. ef. 8-18-04 thru 9-16-04; Administrative correction 10-25-04; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 90-2008, f. & cert. ef. 8-13-08; DFW 93-2009, f. & cert. ef. 8-12-09; DFW 117 2010, f. & cert. ef. 8-13-10; DFW 108-2011, f. & cert. ef. 8-5-11; DFW 103-2012, f. & cert. ef. 8-6-12; DFW 85-2013, f. & cert. ef. 8-5-13; DFW 112-2014, f. & cert. ef. 8-4-14; DFW 105-2015, f. & cert. ef. 8-12-15

## 635-060-0000

### Purpose and General Information

(1) The purpose of these rules is to describe the requirements and procedures for controlled hunts pursuant to ORS Chapter 496.162.

(2) The documents entitled “**2015–2016 Oregon Game Bird Regulations,**” and “**2015 Oregon Big Game Regulations,**” are incorporated by reference into these rules. These documents are available at hunting license agents and regional, district, and headquarters offices of the Oregon Department of Fish and Wildlife.

[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162  
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162  
Hist.: FWC 118, f. & cert. ef. 6-3-77; FWC 25-1978, f. & cert. ef. 5-26-78; FWC 32-1978, f. & cert. ef. 6-30-78; FWC 29-1979, f. & cert. ef. 8-2-79; FWC 33-1980, f. & cert. ef. 6-30-80; FWC 7-1981, f. & cert. ef. 6-1-81; FWC 10-1981, f. & cert. ef. 3-31-81; FWC 22-1981, f. & cert. ef. 6-29-81; FWC 21-1982, f. & cert. ef. 3-31-82; FWC 38-1982, f. & cert. ef. 6-25-82; FWC 34-1984, f. & cert. ef. 7-24-84; FWC 16-1985, f. & cert. ef. 4-11-85; FWC 43-1985, f. & cert. ef. 8-22-85; FWC 35-1986, f. & cert. ef. 8-7-86; FWC 11-1987, f. & cert. ef. 3-6-87; FWC 40-1987, f. & cert. ef. 7-6-87; FWC 12-1988, f. & cert. ef. 3-10-88; FWC 37-1988, f. & cert. ef. 6-13-88; FWC 14-1989, f. & cert. ef. 3-28-89; FWC 48-1989, f. & cert. ef. 7-25-89; FWC 23-1990, f. & cert. ef. 3-21-90; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 92-1999, f. & cert. ef. 1-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 82-2000, f. & cert. ef. 12-21-00, cert. ef. 1-1-01; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 121-2001, f. & cert. ef. 12-24-01, cert. ef. 1-1-02; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 28-2002(Temp), f. & cert. ef. 4-1-02, cert. ef. 4-2-02 thru 9-28-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 118-2003, f. & cert. ef. 12-4-03, cert. ef. 1-1-04; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 122-2004, f. & cert. ef. 12-21-04, cert. ef. 1-1-05; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 128-2005, f. & cert. ef. 1-1-06; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 127-2006, f. & cert. ef. 12-7-06, cert. ef. 1-1-07; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 118-2007, f. & cert. ef. 10-31-07, c. cert. ef. 1-1-08; DFW 60-2008, f. & cert. ef. 6-12-08; DFW 90-2008, f. & cert. ef. 8-13-08; DFW 150-2008, f. & cert. ef. 12-18-08, cert. ef. 1-1-09; DFW 93-2009, f. & cert. ef. 8-12-09; DFW 140-2009, f. & cert. ef. 11-3-09, cert. ef. 1-1-10; DFW 117-2010, f. & cert. ef. 8-13-10; DFW 140-2010(Temp), f. & cert. ef. 10-6-10 thru 12-31-10; Administrative correction 1-25-11; DFW 108-2011, f. & cert. ef. 8-5-11; DFW 103-2012, f. & cert. ef. 8-6-12; DFW 85-2013, f. & cert. ef. 8-5-13; DFW 112-2014, f. & cert. ef. 8-4-14; DFW 151-2014, f. & cert. ef. 10-17-14; DFW 105-2015, f. & cert. ef. 8-12-15

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**Rule Caption:** Emergency Rogue River Sport Fishing Restrictions Due to Severe Drought Conditions Lifted

**Adm. Order No.:** DFW 106-2015(Temp)

**Filed with Sec. of State:** 8-13-2015

**Certified to be Effective:** 8-13-15 thru 12-31-15

**Notice Publication Date:**

**Rules Amended:** 635-016-0090

**Rules Suspended:** 635-016-0090(T)

**Subject:** This amended rule removes previously adopted regulations that set daily closures for trout, salmon, and steelhead fisheries in segments of the Rogue River where high stream temperatures have lessened. After unusually warm conditions during much of July, water temperatures have returned to near normal for this time of year. Fisheries managers believe that restrictions previously imposed on segments of the Rogue River are no longer necessary.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

## 635-016-0090

### Inclusions and Modifications

(1) The **2015 Oregon Sport Fishing Regulations** provide requirements for the Southwest Zone. However, additional regulations may be

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adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2015 Oregon Sport Fishing Regulations** pamphlet

(2) Notwithstanding all other requirements provided in the **2015 Oregon Sport Fishing Regulations** pamphlet, the following additional rules apply to wild coho salmon angling in waters of the Southwest Zone during the period September 1–December 31, 2015:

(a) For the purposes of regulations described in section (2) of this rule, wild coho are defined as fish with an intact adipose fin.

(b) For all waters in the Northwest and Southwest zones that are open to wild coho harvest, anglers may not take more than 1 wild adult coho and 1 wild jack coho per day regardless of location. There is no seasonal limit on wild coho jacks regardless of location. The seasonal limit on wild coho adults for the Northwest and Southwest zones is 5 fish in aggregate from all waters. Harvest of wild coho salmon is allowed in the following waterbodies with restrictions as specified in sections (2)(c)–(2)(i) of this rule.

(A) No more than 1 adult wild coho may be harvested from either the Nestucca River Basin or the Tillamook River Basin. Wild adult coho taken from these areas do not count towards the 2 fish limit described in section (2)(b)(B) of this rule, but do count towards the overall 5 fish aggregate limit for the Northwest and Southwest zones;

(B) No more than 2 adult wild coho in total may come from any combination of the following areas: Siletz River, Yaquina River, Alsea River, Siuslaw River, Umpqua River, Beaver Creek (Ona Beach), Floras Creek/New River, Coos River, and Coquille River. Wild adult coho taken from these areas do not count towards the 1 fish limit described in section (2)(b)(A) of this rule, but do count towards the overall 5 fish aggregate limit for the Northwest and Southwest zones; and

(C) No more than 5 adult wild coho in total may come from any combination of the following areas: Siltcoos Lake, Tahkenitch Lake, and Tenmile Lake (SW Zone). Wild adult coho taken from these areas do not count against aggregate limits described in sections (2)(b)(A) and (2)(b)(B) of this rule, but do count towards the overall 5 fish limit for the Northwest and Southwest zones as specified in section (2)(b) of this rule.

(c) Open for wild coho salmon in the Mainstem Umpqua River and Bay from the mouth to Scottsburg Bridge at RM 27.5 from September 15 through October 15. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(d) Coos Basin open for wild coho salmon from the tips of the jetties upstream to the head of tide at Dellwood at RM 10.0 on the South Coos River and to the East Fork/West Fork Millicoma confluence from September 15 through November 30. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(e) Open for wild coho salmon in Coquille River and Bay upstream to the Highway 42S bridge (Sturdivant Park) at RM 24.0 from September 15 through November 30. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(f) Within the Tenmile Lakes Basin the following additional rules apply: North and South Tenmile Lakes (Coos County) upstream from Hilltop Bridge are open for wild coho salmon from October 1 through December 31. Daily and seasonal catch limits as described in section (2)(b) of this rule apply. Only 1 rod per angler may be used while angling for coho. Streams that empty into North and South Tenmile Lakes are not open to coho salmon angling, nor is the canal that connects North and South Tenmile Lakes.

(g) Floras Creek/New River from the Bureau of Land Management boat ramp at Storm Ranch upstream to the confluence with the Floras Lake outlet open for wild coho salmon from November 1-30 or until attainment of an adult coho quota of 200 fish. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(3) Umpqua River mainstem, including tidewater, from the tips of the jetties upstream to confluence with North and South Forks (includes Winchester Bay):

(a) Open for spring Chinook salmon February 1 through June 30, 2015. Bag limit is 2 adult non adipose fin-clipped Chinook per day, 5 per year.

(b) Open for fall Chinook salmon July 1 through December 31, 2015. Bag limit is 2 adult non adipose fin-clipped Chinook per day, 20 per year in combination with all other salmon or steelhead marked on your tag.

(c) Closed to all angling within a radius of 200 feet from the mouths of all tributaries (including 200 feet into the tributary) of the Umpqua River between the Scottsburg Bridge (Hwy 38) and the Riverforks Park Boat Ramp until October 1, 2015.

(4) Beginning Saturday, July 18, 2015 until further notice, all waterbodies defined as 'streams' in the **2015 Oregon Sport Fishing**

**Regulations** will be closed to angling for trout, salmon, steelhead, and sturgeon from 2:00 p.m. daily until one hour before sunrise the following day. Angling hours in the following waterbodies remain unchanged from the **2015 Oregon Sport Fishing Regulations**:

(a) Tidewater areas, as defined in the **2015 Oregon Sport Fishing Regulations**; and

(b) Rogue River and all Rogue River tributaries.

(5) All other regulations as shown in the **2015 Oregon Sport Fishing Regulations** remain in effect.

[Publications: Publications referenced are available from the agency.]

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

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

Hist.: FWC 80-1993(Temp), f. 12-21-93, cert. ef. 1-1-94; FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 79-1994(Temp), f. 10-21-94, cert. ef. 7-22-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 57-1995(Temp), f. 7-3-95, cert. ef. 7-4-95; FWC 59-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 82-1995(Temp), f. 9-29-95, cert. ef. 10-1-95; FWC 90-1995(Temp), f. 11-29-95, cert. ef. 1-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 52-1996, f. & cert. ef. 9-11-96; FWC 61-1996, f. & cert. ef. 10-9-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 32-1997(Temp), f. & cert. ef. 5-23-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 24-1998(Temp), f. & cert. ef. 3-25-98 thru 9-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 52-1998(Temp), f. 7-10-98, cert. ef. 7-11-98 thru 7-24-98; DFW 55-1998(Temp), f. & cert. ef. 7-24-98 thru 12-31-98; DFW 70-1998, f. & cert. ef. 8-28-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 48-2000(Temp), f. 8-14-00, cert. ef. 8-15-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 8-2001, f. & cert. ef. 3-5-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 42-2001(Temp), f. 5-25-01, cert. ef. 5-29-01 thru 7-31-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 97-2001(Temp), f. 10-4-01, cert. ef. 11-1-01 thru 12-31-01; DFW 105-2001(Temp), f. 10-26-01, cert. ef. 11-1-01 thru 12-31-01; DFW 122-2001(Temp), f. & cert. ef. 12-31-01 thru 5-31-02; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02, cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 55-2002(Temp), f. 5-28-02, cert. ef. 7-1-02 thru 11-31-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 124-2002(Temp), f. & cert. ef. 10-30-02 thru 12-31-02 (Suspended by DFW 125-2002(Temp), f. 11-8-02, cert. ef. 11-9-2002); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 90-2003(Temp), f. 9-12-03, cert. ef. 9-13-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 127-2004, f. 12-22-04, cert. ef. 1-1-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 24-2006(Temp), f. 4-25-06, cert. ef. 5-13-06 thru 10-31-06; DFW 37-2006(Temp), f. 6-2-06, cert. ef. 6-5-06 thru 12-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 47-2007(Temp), f. 6-18-07, cert. ef. 6-21-07 thru 10-31-07; DFW 56-2007(Temp), 7-6-07, cert. ef. 8-1-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 137-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 54-2008(Temp), f. 5-28-08, cert. ef. 6-1-08 thru 7-31-08; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; DFW 138-2008(Temp), f. 10-28-08, cert. ef. 11-1-08 thru 11-30-08; DFW 140-2008(Temp), f. 11-4-08, cert. ef. 11-5-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 57-2009(Temp), f. 5-27-09, cert. ef. 6-1-09 thru 7-31-09; DFW 77-2009(Temp), f. 6-29-09, cert. ef. 7-1-09 thru 7-31-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 113-2009(Temp), f. & cert. ef. 9-18-09 thru 12-31-09; DFW 141-2009(Temp), f. 11-4-09, cert. ef. 11-7-09 thru 12-21-09; DFW 143-2009(Temp), f. 11-17-09, cert. ef. 11-19-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 65-2010(Temp), f. 5-18-10, cert. ef. 5-22-10 thru 5-31-10; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10; DFW 143-2010(Temp), f. 10-8-10, cert. ef. 10-10-10 thru 12-31-10; DFW 152-2010(Temp), f. 10-27-10, cert. ef. 10-30-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 31-2011(Temp), f. 4-18-11, cert. ef. 5-1-11 thru 10-27-11; DFW 83-2011, f. 6-30-11, cert. ef. 7-1-11; DFW 137-2011(Temp), 9-30-11, cert. ef. 10-1-11 thru 12-31-11; DFW 145-2011(Temp), f. 10-11-11, cert. ef. 10-12-11 thru 12-31-11; DFW 149-2011(Temp), f. 10-20-11, cert. ef. 10-22-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 62-2012, f. 6-12-12, cert. ef. 7-1-12; DFW 138-2012(Temp), f. 10-29-12, cert. ef. 10-31-12 thru 12-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 155-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-29-13; DFW 23-2013(Temp), f. 3-20-13, cert. ef. 4-1-13 thru 9-27-13; DFW 50-2013, f. 6-10-13, cert. ef. 7-1-13; DFW 124-2013(Temp), f. 10-29-13, cert. ef. 11-1-13 thru 12-31-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 110-2014, f. & cert. ef. 8-4-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 73-2015, f. 6-22-15, cert. ef. 6-23-15; DFW 74-2015(Temp), f. & cert. ef. 6-23-15 thru 12-19-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15; DFW 106-2015(Temp), f. & cert. ef. 8-13-15 thru 12-31-15

## 635-016-0090

### Inclusions and Modifications

(1) The **2015 Oregon Sport Fishing Regulations** provide requirements for the Southwest 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 **2015 Oregon Sport Fishing Regulations** pamphlet

(2) Notwithstanding all other requirements provided in the **2015 Oregon Sport Fishing Regulations** pamphlet, the following additional rules apply to wild coho salmon angling in waters of the Southwest Zone during the period September 1–December 31, 2015:

(a) For the purposes of regulations described in section (2) of this rule, wild coho are defined as fish with an intact adipose fin.

(b) For all waters in the Northwest and Southwest zones that are open to wild coho harvest, anglers may not take more than 1 wild adult coho and 1 wild jack coho per day regardless of location. There is no seasonal limit on wild coho jacks regardless of location. The seasonal limit on wild coho

# ADMINISTRATIVE RULES

adults for the Northwest and Southwest zones is 5 fish in aggregate from all waters. Harvest of wild coho salmon is allowed in the following waterbodies with restrictions as specified in sections (2)(c)–(2)(i) of this rule.

(A) No more than 1 adult wild coho may be harvested from either the Nestucca River Basin or the Tillamook River Basin. Wild adult coho taken from these areas do not count towards the 2 fish limit described in section (2)(b)(B) of this rule, but do count towards the overall 5 fish aggregate limit for the Northwest and Southwest zones;

(B) No more than 2 adult wild coho in total may come from any combination of the following areas: Siletz River, Yaquina River, Alsea River, Siuslaw River, Umpqua River, Beaver Creek (Ona Beach), Floras Creek/New River, Coos River, and Coquille River. Wild adult coho taken from these areas do not count towards the 1 fish limit described in section (2)(b)(A) of this rule, but do count towards the overall 5 fish aggregate limit for the Northwest and Southwest zones; and

(C) No more than 5 adult wild coho in total may come from any combination of the following areas: Siltcoos Lake, Tahkenitch Lake, and Tenmile Lake (SW Zone). Wild adult coho taken from these areas do not count against aggregate limits described in sections (2)(b)(A) and (2)(b)(B) of this rule, but do count towards the overall 5 fish limit for the Northwest and Southwest zones as specified in section (2)(b) of this rule.

(c) Open for wild coho salmon in the Mainstem Umpqua River and Bay from the mouth to Scottsburg Bridge at RM 27.5 from September 15 through October 15. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(d) Coos Basin open for wild coho salmon from the tips of the jetties upstream to the head of tide at Dellwood at RM 10.0 on the South Coos River and to the East Fork/West Fork Millicoma confluence from September 15 through November 30. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(e) Open for wild coho salmon in Coquille River and Bay upstream to the Highway 42S bridge (Sturdivant Park) at RM 24.0 from September 15 through November 30. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(f) Within the Tenmile Lakes Basin the following additional rules apply: North and South Tenmile Lakes (Coos County) upstream from Hilltop Bridge are open for wild coho salmon from October 1 through December 31. Daily and seasonal catch limits as described in section (2)(b) of this rule apply. Only 1 rod per angler may be used while angling for coho. Streams that empty into North and South Tenmile Lakes are not open to coho salmon angling, nor is the canal that connects North and South Tenmile Lakes.

(g) Floras Creek/New River from the Bureau of Land Management boat ramp at Storm Ranch upstream to the confluence with the Floras Lake outlet open for wild coho salmon from November 1-30 or until attainment of an adult coho quota of 200 fish. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(3) Umpqua River mainstem, including tidewater, from the tips of the jetties upstream to confluence with North and South Forks (includes Winchester Bay):

(a) Open for spring Chinook salmon February 1 through June 30, 2015. Bag limit is 2 adult non adipose fin-clipped Chinook per day, 5 per year.

(b) Open for fall Chinook salmon July 1 through December 31, 2015. Bag limit is 2 adult non adipose fin-clipped Chinook per day, 20 per year in combination with all other salmon or steelhead marked on your tag.

(c) Closed to all angling within a radius of 200 feet from the mouths of all tributaries (including 200 feet into the tributary) of the Umpqua River between the Scottsburg Bridge (Hwy 38) and the Riverforks Park Boat Ramp until October 1, 2015.

(4) Beginning Saturday, July 18, 2015 until further notice, all waterbodies defined as 'streams' in the **2015 Oregon Sport Fishing Regulations** will be closed to angling for trout, salmon, steelhead, and sturgeon from 2:00 p.m. daily until one hour before sunrise the following day. Angling hours in the following waterbodies remain unchanged from the **2015 Oregon Sport Fishing Regulations**:

(a) Tidewater areas, as defined in the **2015 Oregon Sport Fishing Regulations**; and

(b) Rogue River and all Rogue River tributaries.

(5) All other regulations as shown in the **2015 Oregon Sport Fishing Regulations** remain in effect.

[Publications: Publications referenced are available from the agency.]

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

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

Hist.: FWC 80-1993(Temp), f. 12-21-93, cert. ef. 1-1-94; FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 79-1994(Temp), f. 10-21-94, cert. ef. 7-22-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 34-1995, f. & cert. ef. 5-1-95;

FWC 57-1995(Temp), f. 7-3-95, cert. ef. 7-4-95; FWC 59-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 82-1995(Temp), f. 9-29-95, cert. ef. 10-1-95; FWC 90-1995(Temp), f. 11-29-95, cert. ef. 1-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 52-1996, f. & cert. ef. 9-11-96; FWC 61-1996, f. & cert. ef. 10-9-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 32-1997(Temp), f. & cert. ef. 5-23-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 24-1998(Temp), f. & cert. ef. 3-25-98 thru 9-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 52-1998(Temp), f. 7-10-98, cert. ef. 7-11-98 thru 7-24-98; DFW 55-1998(Temp), f. & cert. ef. 7-24-98 thru 12-31-98; DFW 70-1998, f. & cert. ef. 8-28-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 48-2000(Temp), f. 8-14-00, cert. ef. 8-15-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 8-2001, f. & cert. ef. 3-5-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 42-2001(Temp), f. 5-25-01, cert. ef. 5-29-01 thru 7-31-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 97-2001(Temp), f. 10-4-01, cert. ef. 11-1-01 thru 12-31-01; DFW 105-2001(Temp), f. 10-26-01, cert. ef. 11-1-01 thru 12-31-01; DFW 122-2001(Temp), f. & cert. ef. 12-31-01 thru 5-31-02; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02 cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 55-2002(Temp), f. 5-28-02, cert. ef. 7-1-02 thru 11-31-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 124-2002(Temp), f. & cert. ef. 10-30-02 thru 12-31-02 (Suspended by DFW 125-2002(Temp), f. 11-8-02, cert. ef. 11-9-2002); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 127-2004, f. 12-22-04, cert. ef. 1-1-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 24-2006(Temp), f. 4-25-06, cert. ef. 5-13-06 thru 10-31-06; DFW 37-2006(Temp), f. 6-2-06, cert. ef. 6-5-06 thru 12-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 47-2007(Temp), f. 6-18-07, cert. ef. 6-21-07 thru 10-31-07; DFW 56-2007(Temp), 7-6-07, cert. ef. 8-1-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 137-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 54-2008(Temp), f. 5-28-08, cert. ef. 6-1-08 thru 7-31-08; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; DFW 138-2008(Temp), f. 10-28-08, cert. ef. 11-1-08 thru 11-30-08; DFW 140-2008(Temp), f. 11-4-08, cert. ef. 11-5-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 57-2009(Temp), f. 5-27-09, cert. ef. 6-1-09 thru 7-31-09; DFW 77-2009(Temp), f. 6-29-09, cert. ef. 7-1-09 thru 7-31-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 113-2009(Temp), f. & cert. ef. 9-18-09 thru 12-31-09; DFW 141-2009(Temp), f. 11-4-09, cert. ef. 11-7-09 thru 12-21-09; DFW 143-2009(Temp), f. 11-17-09, cert. ef. 11-19-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 65-2010(Temp), f. 5-18-10, cert. ef. 5-22-10 thru 5-31-10; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10; DFW 143-2010(Temp), f. 10-8-10, cert. ef. 10-10-10 thru 12-31-10; DFW 152-2010(Temp), f. 10-27-10, cert. ef. 10-30-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 31-2011(Temp), f. 4-18-11, cert. ef. 5-1-11 thru 10-27-11; DFW 83-2011, f. 6-30-11, cert. ef. 7-1-11; DFW 137-2011(Temp), 9-30-11, cert. ef. 10-1-11 thru 12-31-11; DFW 145-2011(Temp), f. 10-11-11, cert. ef. 10-12-11 thru 12-31-11; DFW 149-2011(Temp), f. 10-20-11, cert. ef. 10-22-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 62-2012, f. 6-12-12, cert. ef. 7-1-12; DFW 138-2012(Temp), f. 10-29-12, cert. ef. 10-31-12 thru 12-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 155-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-29-13; DFW 23-2013(Temp), f. 3-20-13, cert. ef. 4-1-13 thru 9-27-13; DFW 50-2013, f. 6-10-13, cert. ef. 7-1-13; DFW 124-2013(Temp), f. 10-29-13, cert. ef. 11-1-13 thru 12-31-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 110-2014, f. & cert. ef. 8-4-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 73-2015, f. 6-22-15, cert. ef. 6-23-15; DFW 155-2015(Temp), f. & cert. ef. 6-23-15 thru 12-19-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15; DFW 106-2015(Temp), f. & cert. ef. 8-13-15 thru 12-31-15

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**Rule Caption:** Commercial Fall Seine Salmon Seasons Set for the Mainstem Columbia River.

**Adm. Order No.:** DFW 107-2015(Temp)

**Filed with Sec. of State:** 8-13-2015

**Certified to be Effective:** 8-24-15 thru 9-30-15

**Notice Publication Date:**

**Rules Amended:** 635-042-0010, 635-042-0031

**Rules Suspended:** 635-042-0031(T)

**Subject:** These amended rules allow the use of seine gear for commercial purposes and set season dates and regulations for the 2015 non-Indian commercial fall seine salmon fishery. The first of fifteen authorized seine fishing periods begins at 6:00 a.m. Monday, August 24 with further fishing periods scheduled through 7:30 p.m. Wednesday, September 30, 2015. Allowed sales include: Adipose or left ventral fin-clipped Chinook; adipose-clipped coho, pink and sockeye salmon; and shad. Subject to Individual Fishing Quotas (as defined in the 2015 seine permits) and fishing regulations, all legal salmon caught must be landed.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-042-0010**

**Fishing Gear**

(1) As used in these Columbia River fishing rules, gill net includes drift gill net, floater gill net, diver gill net, and is a monofilament or multifilament mesh net with a cork and lead line which is in a position to drift with the tide or current at all times while it is being fished. There must be sufficient buoyancy in the corks and/or floats on the cork line so the net is free to drift with the current. The lead or weight on the lead line of a gill net shall not exceed two pounds in total weight on any one fathom, measure-

# ADMINISTRATIVE RULES

ment to be taken along the cork line of the net. However, should extra or added weights appear necessary to operate a net, permission to use in excess of two pounds weight per fathom of net may be granted by the Director upon written application which includes adequate justification for the additional leads or weights.

(2) It is *unlawful*:

(a) For a gill net in whole or in part to be anchored, tied, staked, fixed, or attached to the bottom, shore, or a beached boat; left unattended at any time it is fished; or attended by more than one boat while being fished;

(b) To take any species of salmon from the Columbia River for commercial purposes by any means other than by gill net, beach seine, or purse seine;

(c) To fish more than one gill net from a licensed commercial fishing boat at any one time;

(d) To fish with or have on the boat while fishing a gill net which exceeds 1,500 feet in length;

(e) To fish with or have on the boat while fishing any gill net of a mesh size not authorized for use at that time, except:

(A) During December 1-March 31 when the following applies:

(i) While fishing during open salmon and/or sturgeon seasons, smelt gill nets with a mesh size not more than two inches may be onboard the boat;

(ii) While fishing during open smelt seasons, gill nets with a mesh size greater than two inches may be onboard the boat.

(B) Nets with a minimum mesh size of 9.0 inches may be onboard the boat.

(C) When specifically authorized, nets not lawful for use at that time and area may be onboard the boat 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.

(f) Fish with or have on the boat while fishing any gill net of a mesh size greater than 9-3/4 inches, except that snagging nets as described in ORS 509.240 are permitted;

(g) Fish with or have on the boat while fishing a gill net which does not meet the construction requirements for a gill net as set forth in section (1) of this rule, except while fishing during the Tongue Point Select Area Salmon Season (OAR 635-042-0170) gill nets with leadline in excess of two pounds per fathom may be stored on the boat.

(3) The mesh size of any gill net is determined only after the meshes are wet from soaking in water not less than one hour. Three consecutive meshes are then placed under ten pounds of vertical 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.

(4) As used in these rules, "slackers" means a single piece of material or cord, not webbing or mesh, connected vertically or woven in the mesh of the net between the cork and lead lines. It is used to tie netting in a shortened state to give the net surface flexibility.

(5) Nets fished any time between official sunset and sunrise must have lighted buoys on both ends of the net. If the net is attached to the boat, then one lighted buoy on the end of the net opposite the boat is required.

(6) The use of a "chafing strip panel" attached to the bottom of the net is allowed. A "chafing strip panel" consists of no more than 60 inches of non-mono-filament webbing (such as nylon seine web or polyethylene trawl web) with a maximum mesh size of 3.5 inches. There are no restrictions associated with hangings used to connect the net to the chafing panel or the net or chafing panel to the leadline or corkline.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 85, f. & ef. 1-28-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 23-1978, f. & ef. 5-4-78; FWC 2-1979, f. & ef. 1-25-79, Renumbered from 635-035-0110; FWC 6-1980, f. & ef. 1-28-80; FWC 1-1981, f. & ef. 1-19-81; FWC 13-1981, f. & ef. 4-3-81; FWC 6-1982, f. & ef. 1-28-82; FWC 4-1984, f. & ef. 1-31-84; FWC 2-1985, f. & ef. 1-30-85; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 11-1993, f. 2-11-93, cert. ef. 2-16-93; FWC 9-1994, f. 2-14-94, cert. ef. 2-15-94; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; Administrative correction 9-16-07; DFW 10-2008, f. & cert. ef. 2-11-08; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 121-2014(Temp), f. & cert. ef. 8-13-14 thru 9-30-14; Administrative correction, 10-24-14; DFW 107-2015(Temp), f. 8-13-15, cert. ef. 8-24-15 thru 9-30-15

## 635-042-0031

### Early Fall Salmon Season

(1) Salmon and sturgeon may be taken for commercial purposes in the waters of the Columbia River; Zones 4-5, as identified in OAR 635-042-0001. The deadline at the lower end of Zone 4 is defined as a straight line projected from the Warrior Rock Lighthouse on the Oregon shore easterly

through the green navigation Buoy #1 and continuing to the Washington shore.

(a) Authorized fishing periods are as follows:

9:00 p.m. Sunday, August 9 to 6:00 a.m. Monday, August 10 (9 hours);

9:00 p.m. Tuesday, August 11 to 6:00 a.m. Wednesday, August 12 (9 hours);

9:00 p.m. Thursday, August 13 to 6:00 a.m. Friday, August 14 (9 hours);

9:00 p.m. Sunday, August 16 to 6:00 a.m. Monday, August 17 (9 hours);

9:00 p.m. Tuesday, August 18 to 6:00 a.m. Wednesday, August 19 (9 hours);

9:00 p.m. Thursday, August 20 to 6:00 a.m. Friday, August 21 (9 hours);

9:00 p.m. Sunday, August 23 to 6:00 a.m. Monday, August 24 (9 hours);

9:00 p.m. Tuesday, August 25 to 6:00 a.m. Wednesday, August 26 (9 hours); and

9:00 p.m. Thursday, August 27 to 6:00 a.m. Friday, August 28 (9 hours).

(b) Sanctuaries include: Washougal and Sandy rivers.

(c) Gear is restricted to drift gill nets only with 9 inch minimum and 9.75-inch maximum mesh sizes. The multiple net rule is NOT in effect and nets not authorized for this fishery are prohibited to be onboard the vessel.

(d) Allowable sales include: Chinook, coho, pink, and sockeye salmon and shad.

(e) Oregon buyers are required to submit fish receiving tickets electronically through the Pacific States Marine Fisheries Commission (PSMFC) West Coast E-Ticket System within 24 hours of closure of the fishing period, or within 24 hours of landing for fishing periods lasting longer than 24 hours, pursuant to OAR 635-006-0210.

(2) Non-Indian mainstem commercial seine fishery:

(a) Salmon and shad may be taken with seine gear by those individuals possessing a 2015 seine permit issued by Oregon or Washington (Emerging Fishery license and Experimental Fishery Permit in WA; Experimental Gear Permit in OR) in the mainstem Columbia River in Zones 2-3 through August 26, 2015; and Zones 2-3 plus upper Zone 4 thereafter. The lower boundary for Zone 4 is described as a line from USCG light #10 "Red" on the Oregon shore at Henric Landing across to a wing jetty on the Washington shore at river mile 90.25.

(b) Season: — Area:

6:00 a.m. to 8:00 p.m. Monday, August 24 (14 hours) — Zones 2-3;

6:00 a.m. to 8:00 p.m. Wednesday, August 26 (14 hours) — Zones 2-3;

6:00 a.m. to 8:00 p.m. Monday, August 31 (14 hours) — Zones 2-3, 4;

6:00 a.m. to 8:00 p.m. Tuesday, September 1 (14 hours) — Zones 2-3, 4;

6:00 a.m. to 8:00 p.m. Wednesday, September 2 (14 hours) — Zones 2-3, 4;

6:00 a.m. to 8:00 p.m. Thursday, September 3 (14 hours) — Zones 2-3, 4;

6:00 a.m. to 8:00 p.m. Tuesday, September 8 (14 hours) — Zones 2-3, 4;

6:00 a.m. to 8:00 p.m. Wednesday, September 9 (14 hours) — Zones 2-3, 4;

6:00 a.m. to 8:00 p.m. Thursday, September 10 (14 hours) — Zones 2-3, 4;

6:30 a.m. to 7:30 p.m. Monday, September 14 (13 hours) — Zones 2-3, 4;

6:30 a.m. to 7:30 p.m. Wednesday, September 16 (13 hours) — Zones 2-3, 4;

6:30 a.m. to 7:30 p.m. Monday, September 21 (13 hours) — Zones 2-3, 4;

6:30 a.m. to 7:30 p.m. Wednesday, September 23 (13 hours) — Zones 2-3, 4;

6:30 a.m. to 7:30 p.m. Monday, September 28 (13 hours) — Zones 2-3, 4; and

6:30 a.m. to 7:30 p.m. Wednesday, September 30 (13 hours) — Zones 2-3, 4.

(c) Sanctuaries: Elochoman-B, Cowlitz, Kalama-B, Lewis-B, Sandy, and Washougal rivers. Fishing in Select Area commercial fishing sites is prohibited.

(d) Gear:

(A) Beach or purse seine gear is allowed. Only one net is allowed per primary vessel.

(B) Mesh size restricted to a 3.5-inch maximum (inside of knot to outside of knot using hand tension stretched measure).

(C) Net material to consist of 3-strand nylon; twine size greater than or equal to #12.

(D) Seines may include a bunt of 1.0-2.0 inch knotless mesh.

(E) Net length not to exceed 200 fathoms (not including associated lead nets) and depth not to exceed 200 meshes.

(F) No restrictions on corkline, leadline or use of stringers and slackers.

(G) A chafing strip panel consisting of non-monofilament webbing (such as nylon seine web or polyethylene trawl web) is allowed on bottom of net; maximum panel depth is five feet. Chafing mesh not to exceed 3.5-inch stretched measure for beach seines and 5-inch stretched measure for purse seines. There are no restrictions associated with hangings used to connect the net to the chafing panel or the net or chafing panel to the leadline or corkline.

(H) Red corks are required at 25-fathom intervals and red corks must be in contrast to the corks used in the remainder of the net.

(I) The use of one optional lead net is allowed per fishing operation. Lead nets may not exceed 100 fathoms in length. Seine and lead lines may not be connected. Lead nets must be retrieved daily. Lead nets may be constructed in either of the following configurations:

(i) 3.5-inch maximum mesh size webbing constructed with 3-strand nylon twine greater than or equal to #12; or

(ii) 14-inch minimum mesh size webbing constructed with nylon or cotton twine.

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(e) Allowable sales include: Adipose or left ventral fin-clipped Chinook, adipose-clipped coho, pink and sockeye salmon and shad subject to Individual Fishing Quotas (as defined in the 2015 seine permits). All legal salmon caught must be kept and sold.

(f) Hand sorting or use of a knotless dip net is required for sorting. All fish must be sorted and/or released prior to removing entire seine from the water. Dry sorting is not permitted.

(g) Sort time is not to exceed 75 minutes:

(A) For beach seines, sort time is defined as the elapsed time from when the outer towed end of the net first contacts the shore or block until the net is emptied of fish.

(B) For purse seines, sort time is defined as the elapsed time from when all rings are pursued and out of the water until the net is emptied of fish.

(h) As a condition of fishing, agency observers are required to be present at all times during fishing operations.

(i) Oregon buyers are required to submit fish receiving tickets electronically through the Pacific States Marine Fisheries Commission (PSMFC) West Coast E-Ticket System within 24 hours of closure of the fishing period, or within 24 hours of landing for fishing periods lasting longer than 24 hours, pursuant to OAR 635-006-0210.

Stat. Auth.: ORS 496.118, 506.109 & 506.129

Stats. Implemented: ORS 506.119 & 507.030

Hist.: FWC 63-1987, f. & cert. 8-7-87; FWC 67-1988, f. & cert. 8-15-88; FWC 68-1988(Temp), f. & cert. 8-15-88; FWC 54-1989(Temp), f. & cert. 8-7-89; FWC 56-1989(Temp), f. & cert. 8-11-89; FWC 58-1989(Temp), f. & cert. 8-14-89; FWC 80-1989(Temp), f. & cert. 8-28-89; FWC 82-89; FWC 80-1990(Temp), f. & cert. 8-8-90; FWC 85-1991, f. & cert. 8-7-91; FWC 91-1991(Temp), f. & cert. 8-29-91; FWC 73-1992(Temp), f. & cert. 8-10-92; FWC 46-1996, f. & cert. 8-23-96; FWC 53-1996(Temp), f. & cert. 9-16-96; FWC 49-1997, f. & cert. 8-24-97; FWC 74-1998(Temp), f. & cert. 8-25-98 thru 8-26-98; FWC 59-1999(Temp), f. & cert. 8-23-99 thru 9-11-99; DFW 75-1999(Temp), f. & cert. 9-29-99, cert. 9-30-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. & cert. 8-21-00 thru 9-9-00; DFW 52-2000(Temp), f. & cert. 8-23-00, cert. 8-23-00 thru 8-24-00; Administrative correction 6-20-01; DFW 68-2001(Temp), f. & cert. 8-7-01, cert. 8-8-01 thru 8-9-01; DFW 76-2001(Temp), f. & cert. 8-20-01 thru 10-31-01; DFW 79-2001(Temp), f. & cert. 8-22-01 thru 12-31-01; DFW 80-2001(Temp), f. & cert. 8-24-01 thru 12-31-01; DFW 86-2001(Temp), f. & cert. 9-4-01 thru 12-31-01; DFW 81-2002(Temp), f. & cert. 8-2-02, cert. 8-4-02 thru 8-9-02; DFW 87-2002(Temp), f. & cert. 8-9-02 thru 8-12-02; DFW 89-2002(Temp), f. & cert. 8-16-02, cert. 8-18-02 thru 12-31-02; DFW 75-2003(Temp), f. & cert. 8-1-03 thru 12-31-03; DFW 77-2003(Temp), f. & cert. 8-13-03 thru 12-31-03; DFW 82-2003(Temp), f. & cert. 8-25-03 thru 12-31-03; DFW 87-2003(Temp), f. & cert. 8-27-03 thru 12-31-03; DFW 81-2004(Temp), f. & cert. 8-12-04 thru 12-31-04; DFW 82-2004(Temp), f. & cert. 8-16-04 thru 12-31-04; DFW 86-2004(Temp), f. & cert. 8-19-04 thru 12-31-04; DFW 88-2004(Temp), f. & cert. 8-23-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 85-2005(Temp), f. & cert. 8-1-05, cert. 8-3-05 thru 12-31-05; DFW 88-2005(Temp), f. & cert. 8-11-05, cert. 8-14-05 thru 12-31-05; DFW 90-2005(Temp), f. & cert. 8-17-05 thru 12-31-05; DFW 96-2005(Temp), f. & cert. 8-22-05 thru 12-31-05; DFW 98-2005(Temp), f. & cert. 8-25-05 thru 12-31-05; Administrative correction 1-19-06; DFW 72-2006(Temp), f. & cert. 8-1-06, cert. 8-2-06 thru 12-31-06; DFW 82-2006(Temp), f. & cert. 8-13-06 thru 12-31-06; DFW 88-2006(Temp), f. & cert. 8-18-06, cert. 8-21-06 thru 12-31-06; DFW 89-2006(Temp), f. & cert. 8-24-06, cert. 8-25-06 thru 12-31-06; Administrative correction 1-16-07; DFW 61-2007(Temp), f. & cert. 8-1-07 thru 10-31-07; DFW 72-2007(Temp), f. & cert. 8-23-07 thru 8-31-07; Administrative correction 9-16-07; DFW 85-2008(Temp), f. & cert. 8-1-08 thru 12-31-08; DFW 93-2008(Temp), f. & cert. 8-12-08 thru 12-31-08; DFW 95-2008(Temp), f. & cert. 8-14-08 thru 9-30-08; DFW 100-2008(Temp), f. & cert. 8-22-08, cert. 8-25-08 thru 9-30-08; DFW 102-2008(Temp), f. & cert. 8-26-08 thru 9-1-08; Administrative correction 9-29-08; Administrative correction 10-21-08; DFW 89-2009(Temp), f. & cert. 8-4-09 thru 12-31-09; DFW 90-2009(Temp), f. & cert. 8-7-09, cert. 8-8-09 thru 12-31-09; DFW 96-2009(Temp), f. & cert. 8-21-09 thru 8-31-09; DFW 97-2009(Temp), f. & cert. 8-25-09 thru 8-31-09; DFW 100-2009(Temp), f. & cert. 8-27-09 thru 8-31-09; Administrative correction 9-29-09; DFW 112-2010(Temp), f. & cert. 8-3-10 thru 8-31-10; DFW 121-2010(Temp), f. & cert. 8-18-10, cert. 8-19-10 thru 8-31-10; Administrative correction 9-22-10; DFW 132-2010(Temp), f. & cert. 9-21-10, cert. 9-22-10 thru 10-31-10; DFW 137-2010(Temp), f. & cert. 9-24-10 thru 10-31-10; Administrative correction 11-23-10; DFW 105-2011(Temp), f. & cert. 8-4-11 thru 8-31-11; DFW 120-2011(Temp), f. & cert. 8-26-11, cert. 8-28-11 thru 9-14-11; DFW 128-2011(Temp), f. & cert. 9-14-11, cert. 9-18-11 thru 9-30-11; DFW 134-2011(Temp), f. & cert. 9-22-11 thru 9-30-11; DFW 136-2011(Temp), f. & cert. 9-28-11 thru 10-5-11; DFW 140-2011(Temp), f. & cert. 10-4-11, cert. 10-5-11 thru 10-12-11; DFW 144-2011(Temp), f. & cert. 10-11-11, cert. 10-13-11 thru 10-31-11; DFW 147-2011(Temp), f. & cert. 10-17-11, cert. 10-18-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 98-2012(Temp), f. & cert. 8-12-12, cert. 8-5-12 thru 10-31-12; DFW 112-2012(Temp), f. & cert. 8-24-12, cert. 8-26-12 thru 10-31-12; DFW 121-2012(Temp), f. & cert. 9-18-12 thru 10-31-12; Administrative correction 11-23-12; DFW 83-2013(Temp), f. & cert. 8-11-13 thru 8-31-13; DFW 95-2013(Temp), f. & cert. 8-23-13, cert. 8-25-13 thru 8-31-13; DFW 97-2013(Temp), f. & cert. 8-27-13, cert. 8-28-13 thru 8-31-13; DFW 101-2013(Temp), f. & cert. 9-13-13, cert. 9-15-13 thru 9-30-13; DFW 105-2013(Temp), f. & cert. 9-19-13 thru 9-30-13; DFW 108-2013(Temp), f. & cert. 9-25-13, cert. 9-26-13 thru 9-30-13; DFW 113-2013(Temp), f. & cert. 10-1-13 thru 10-16-13; Administrative correction, 11-22-13; DFW 107-2014(Temp), f. & cert. 9-30-14, cert. 8-13-14 thru 8-31-14; DFW 121-2014(Temp), f. & cert. 8-13-14 thru 9-30-14; DFW 124-2014(Temp), f. & cert. 8-26-14 thru 9-30-14; DFW 130-2014(Temp), f. & cert. 9-12-14 thru 9-30-14; DFW 137-2014(Temp), f. & cert. 9-19-14 thru 9-30-14; DFW 138-2014(Temp), f. & cert. 9-24-14, cert. 9-25-14 thru 10-31-14; Administrative correction 11-24-14; DFW 101-2015(Temp), f. & cert. 8-5-15, cert. 8-9-15 thru 8-31-15; DFW 107-2015(Temp), f. & cert. 8-24-15 thru 9-30-15

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**Rule Caption:** Columbia River Treaty Indian Fall Commercial Gill Net Season Set.

**Adm. Order No.:** DFW 108-2015(Temp)

**Filed with Sec. of State:** 8-13-2015

**Certified to be Effective:** 8-17-15 thru 10-31-15

**Notice Publication Date:**

**Rules Amended:** 635-041-0075

**Rules Suspended:** 635-041-0075(T)

**Subject:** This amended rule allows commercial sales of fish caught during the Treaty Indian fall commercial gill net fishery in the Columbia River and its Washington tributaries. The first of four fishing periods authorized for the fall gill net fishery is scheduled to begin at 6:00 a.m. Monday, August 17, 2015. Rule modifications are consistent with action taken August 12, 2015 by the Departments of Fish & Wildlife for the States of Oregon and Washington in cooperation with the Columbia River Treaty Tribes at a meeting of the Columbia River Compact.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

## 635-041-0075

### Fall Salmon Season

(1) Salmon, steelhead, shad, walleye, catfish, bass, yellow perch, and carp may be taken for commercial purposes in all of Zone 6 of the Columbia River above Bonneville Dam from August 1 through October 31, 2015. Legal fish landed during an open commercial period may be sold after the period concludes.

(a) White sturgeon between 43–54 inches in fork length caught in The Dalles Pool and John Day Pool and white sturgeon between 38–54 inches in fork length caught in the Bonneville Pool may not be sold but may be retained for subsistence use.

(b) Gear is restricted to subsistence fishing gear which includes hoop-nets, dipnets, and rod and reel with hook-and-line. Fish may also be taken by gill net with an 8-inch minimum mesh size during the following fishing periods:

(A) 6:00 a.m. Monday, August 17 through 6:00 p.m. Friday, August 21, 2015 (4.5 days);

(B) 6:00 a.m. Monday, August 24 through 6:00 p.m. Friday, August 28, 2015 (4.5 days);

(C) 6:00 a.m. Monday, August 31 through 6:00 p.m. Saturday, September 5, 2015 (5.5 days);

(D) 6:00 a.m. Tuesday, September 8 through 6:00 p.m. Saturday, September 12, 2015 (4.5 days).

(2) Closed areas are set forth in OAR 635-041-0045, including the closure at the mouth of Spring Creek which during August 25 through September 20, is the larger area described in 635-041-0045(11).

(3) Beginning August 1 through October 31, 2015 commercial sales of salmon, steelhead, walleye, shad, catfish, carp, bass and yellow perch caught in Yakama Nation tributary fisheries in the Klickitat River; Wind River; and Drano Lake are allowed for Yakama Nation members during those days and hours when these tributaries are open under lawfully enacted Yakama Nation fishing periods. Legal fish landed during the open periods may be sold after the period concludes.

(a) Sturgeon may not be sold. Sturgeon between 38–54 inches in fork length may be kept for ceremonial or subsistence purposes.

(b) Gear is restricted to subsistence fishing gear which includes hoop-nets, dipnets, and rod and reel with hook-and-line. Gillnets may only be used in Drano Lake.

Stat. Auth.: ORS 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: FWC 25-1979, f. & cert. 8-2-79; FWC 36-1979(Temp), f. & cert. 8-22-79; FWC 47-1979(Temp), f. & cert. 9-21-79; FWC 44-1980(Temp), f. & cert. 8-22-80; FWC 46-1980(Temp), f. & cert. 9-13-80; FWC 33-1981(Temp), f. & cert. 9-15-81; FWC 58-1982(Temp), f. & cert. 8-27-82; FWC 62-1982(Temp), f. & cert. 9-7-82; FWC 63-1982(Temp), f. & cert. 9-14-82; FWC 75-1982 (Temp), f. & cert. 10-29-82; FWC 36-1983, f. & cert. 8-18-83; FWC 49-1983(Temp), f. & cert. 9-26-83; FWC 51-1983(Temp), f. & cert. 9-30-83; FWC 55-1983(Temp), f. & cert. 10-4-83; FWC 46-1984, f. & cert. 8-30-84; FWC 55-1984(Temp), f. & cert. 9-10-84; FWC 58-1984(Temp), f. & cert. 9-17-84; FWC 61-1984 (Temp), f. & cert. 9-21-84; FWC 70-1984(Temp), f. & cert. 10-9-84; FWC 47-1985, f. & cert. 8-23-85; FWC 60-1985(Temp), f. & cert. 9-13-85; FWC 63-1985(Temp), f. & cert. 9-24-85; FWC 42-1986, f. & cert. 8-15-86; FWC 53-1986(Temp), f. & cert. 9-4-86; FWC 54-1986(Temp), f. & cert. 9-5-86; FWC 57-1986(Temp), f. & cert. 9-11-86; FWC 60-1986(Temp), f. & cert. 9-26-86; FWC 62-1986(Temp), f. & cert. 10-2-86; FWC 63-1987, f. & cert. 8-7-87; FWC 74-1987(Temp), f. & cert. 9-4-87; FWC 75-1987 (Temp), f. & cert. 9-1-87; FWC 78-1987(Temp), f. & cert. 9-15-87; FWC 80-1987(Temp), f. & cert. 9-18-87; FWC 87-1987(Temp), f. & cert. 10-9-87; FWC 89-1987(Temp), f. & cert. 10-12-87; FWC 67-1988, f. & cert. 8-15-88; FWC 72-1988(Temp), f. & cert. 8-19-88; FWC 77-1988(Temp), f. & cert. 9-2-88; FWC 91-1988(Temp), f. & cert. 9-16-88; FWC 95-1988 (Temp), f. & cert. 9-27-88, cert. 9-28-88; FWC 54-1989(Temp), f. & cert. 8-7-89; FWC 78-1989(Temp), f. & cert. 9-1-89; FWC 95-1989(Temp), f. & cert. 9-19-89; FWC 96-1989 (Temp), f. & cert. 9-21-89; FWC 99-1989(Temp), f. & cert. 9-27-89; FWC 100-1989(Temp), f. & cert. 9-28-89; FWC 80-1990(Temp), f. & cert. 8-7-90, cert. 8-8-90; FWC 90-1990, f. & cert. 8-31-90; FWC 96-1990(Temp), f. & cert. 9-7-90, cert. 9-10-90; FWC 98-

# ADMINISTRATIVE RULES

1990(Temp), f. 9-14-90, cert. ef. 9-17-90; FWC 85-1991, f. 8-7-91, cert. ef. 8-12-91; FWC 96-1991, f. & cert. ef. 9-9-91; FWC 101-1991(Temp), f. & cert. ef. 9-10-91; FWC 103-1991(Temp), f. 9-17-91, cert. ef. 9-18-91; FWC 110-1991(Temp), f. & cert. ef. 9-27-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 86-1992(Temp), f. 9-1-92, cert. ef. 9-2-92; FWC 87-1992(Temp), f. 9-4-92, cert. ef. 9-7-92; FWC 91-1992(Temp), f. 9-16-92, cert. ef. 9-17-92; FWC 96-1992(Temp), f. 9-22-92, cert. ef. 9-23-92; FWC 105-1992(Temp), f. 10-2-92, cert. ef. 10-5-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 47-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 52-1993, f. & cert. ef. 8-30-93; FWC 57-1993(Temp), f. & cert. ef. 9-13-93; FWC 59-1993(Temp), f. 9-17-93, cert. ef. 9-20-93; FWC 61-1993(Temp), f. & cert. ef. 9-24-93; FWC 55-1994(Temp), f. 8-26-94, cert. ef. 8-29-94; FWC 61-1994(Temp), f. 9-7-94, cert. ef. 9-8-94; FWC 74-1994(Temp), f. & cert. ef. 10-12-94; FWC 68-1995(Temp), f. 8-25-95, cert. ef. 8-29-95; FWC 72-1995(Temp), f. & cert. ef. 9-1-95; FWC 75-1995(Temp), f. 9-12-95, cert. ef. 9-13-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1996(Temp), f. 8-29-96, cert. ef. 9-2-96; FWC 51-1996(Temp), f. 9-6-96, cert. ef. 9-9-96; FWC 53-1996(Temp), f. & cert. ef. 9-26-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 52-1997(Temp), f. 8-29-97, cert. ef. 9-2-97; FWC 57(Temp), f. & cert. ef. 9-9-97; FWC 60-1997(Temp), f. 9-16-97, cert. ef. 9-17-97; FWC 68-1998(Temp), f. & cert. ef. 8-25-98 thru 9-25-98; DFW 76-1998(Temp), f. & cert. ef. 9-8-98 thru 9-25-98; DFW 77-1998(Temp), f. 9-14-98, cert. ef. 9-15-98 thru 9-25-98; DFW 79-1998(Temp), f. 9-21-98, cert. ef. 9-22-98 thru 9-25-98; DFW 80-1998(Temp), f. 9-23-98, cert. ef. 9-24-98 thru 9-25-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 62-1999(Temp), f. 9-2-99, cert. ef. 9-3-99 thru 9-11-99; DFW 65-1999(Temp), f. 9-14-99, cert. ef. 9-15-99 thru 9-17-99; DFW 69-1999(Temp), f. & cert. ef. 9-17-99 thru 9-18-99; DFW 72-1999(Temp), f. 9-21-99, cert. ef. 9-22-99 thru 10-22-99; DFW 74-1999(Temp), f. 9-28-99, cert. ef. 9-29-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 60-2000(Temp), f. 9-11-00, cert. ef. 9-12-00 thru 12-31-00; DFW 61-2000(Temp), f. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; Administrative correction 6-19-01; DFW 75-2001(Temp), f. & cert. ef. 8-20-01 thru 9-8-01; DFW 87-2001(Temp), f. 9-10-01, cert. ef. 9-11-01 thru 9-15-01; DFW 91-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 94-2001(Temp), f. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; DFW 100-2001(Temp), f. 10-16-01, cert. ef. 10-17-01 thru 12-31-01; DFW 89-2002(Temp), f. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 98-2002(Temp), f. & cert. ef. 8-30-02 thru 12-31-02; DFW 102-2002(Temp), f. & cert. ef. 9-13-02 thru 12-31-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 113-2002(Temp), f. 10-14-02, cert. ef. 10-15-02 thru 12-31-02; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 81-2003(Temp), f. 8-25-03, cert. ef. 8-26-03 thru 12-31-03; DFW 91-2003(Temp), f. 9-12-03, cert. ef. 9-16-03 thru 12-31-03; DFW 97-2003(Temp), f. 9-22-03, cert. ef. 9-24-03 thru 12-31-03; DFW 101-2003(Temp), f. 9-26-03, cert. ef. 10-1-03 thru 12-31-03; DFW 103-2003(Temp), f. 10-3-03, cert. ef. 10-8-03 thru 12-31-03; DFW 104-2003(Temp), f. 10-10-03, cert. ef. 10-11-03 thru 12-31-03; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 104-2004(Temp), f. 10-12-04, cert. ef. 10-13-04 thru 12-31-04; DFW 110-2004(Temp), f. & cert. ef. 10-29-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; DFW 104-2005(Temp), f. & cert. ef. 9-12-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 113-2005(Temp), f. & cert. ef. 9-28-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; Administrative correction 1-19-06; DFW 71-2006(Temp), f. 7-31-06, cert. ef. 8-1-06 thru 12-31-06; DFW 86-2006(Temp), f. 8-18-06, cert. ef. 8-21-06 thru 12-31-06; DFW 94-2006(Temp), f. 9-8-06, cert. ef. 9-11-06 thru 12-31-06; DFW 101-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 107-2006(Temp), f. 9-28-06, cert. ef. 10-3-06 thru 12-31-06; DFW 115-2006(Temp), f. 10-13-06, cert. ef. 10-15-06 thru 12-31-06; Administrative correction 1-16-07; DFW 60-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 12-31-07; DFW 77-2007(Temp), f. 8-17-07, cert. ef. 8-22-07 thru 12-31-07; DFW 88-2007(Temp), f. 9-10-07, cert. ef. 9-11-07 thru 12-31-07; DFW 95-2007(Temp), f. 9-21-07, cert. ef. 9-25-07 thru 12-31-07; DFW 100-2007(Temp), f. 9-28-07, cert. ef. 10-3-07 thru 12-31-07; DFW 110-2007(Temp), f. 10-16-07, cert. ef. 10-20-07 thru 12-31-07; DFW 106-2008(Temp), f. 9-4-08, cert. ef. 9-6-08 thru 10-31-08; DFW 109-2008(Temp), f. 9-12-08, cert. ef. 9-15-08 thru 10-31-08; DFW 112-2008(Temp), f. 9-17-08, cert. ef. 9-18-08 thru 10-31-08; DFW 117-2008(Temp), f. & cert. ef. 9-22-08 thru 10-31-08; DFW 122-2008(Temp), f. & cert. ef. 9-29-08 thru 10-31-08; DFW 125-2008(Temp), f. 10-6-08, cert. ef. 10-7-08 thru 10-31-08; DFW 134-2008(Temp), f. & cert. ef. 10-17-08 thru 10-31-08; DFW 141-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 11-30-08; DFW 88-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 95-2009(Temp), f. 8-19-09, cert. ef. 8-24-09 thru 12-31-09; DFW 111-2009(Temp), f. 9-11-09, cert. ef. 9-13-09 thru 9-30-09; DFW 114-2009(Temp), f. 9-18-09, cert. ef. 9-21-09 thru 10-31-09; DFW 119-2009(Temp), f. & cert. ef. 9-29-09 thru 10-31-09; DFW 129-2009(Temp), f. 10-13-09, cert. ef. 10-14-09 thru 10-31-09; Administrative correction 11-19-09; DFW 111-2010(Temp), f. 7-30-10, cert. ef. 8-1-10 thru 10-31-10; DFW 120-2010(Temp), f. 8-18-10, cert. ef. 8-24-10 thru 10-31-10; DFW 128-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; DFW 136-2010(Temp), f. 9-24-10, cert. ef. 9-27-10 thru 10-31-10; DFW 142-2010(Temp), f. 10-8-10, cert. ef. 10-9-10 thru 10-31-10; DFW 149-2010(Temp), f. 10-18-10, cert. ef. 10-19-10 thru 10-31-10; Administrative correction 11-23-10; DFW 103-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 10-31-11; DFW 119-2011(Temp), f. 8-26-11, cert. ef. 8-29-11 thru 10-31-11; DFW 124-2011(Temp), f. 9-8-11, cert. ef. 9-12-11 thru 10-31-11; DFW 130-2011(Temp), f. 9-15-11, cert. ef. 9-19-11 thru 10-31-11; DFW 133-2011(Temp), f. 9-21-11, cert. ef. 9-22-11 thru 10-31-11; DFW 138-2011(Temp), f. 9-30-11, cert. ef. 10-3-11 thru 10-31-11; DFW 142-2011(Temp), f. 10-6-11, cert. ef. 10-8-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 94-2012(Temp), f. & cert. ef. 7-27-12 thru 10-31-12; DFW 107-2012(Temp), f. 8-15-12, cert. ef. 8-21-12 thru 10-31-12; DFW 119-2012(Temp), f. 9-10-12, cert. ef. 9-11-12 thru 10-31-12; DFW 120-2012(Temp), f. & cert. ef. 9-18-12 thru 10-31-12; DFW 124-2012(Temp), f. 9-25-12, cert. ef. 9-26-12 thru 10-31-12; DFW 127-2012(Temp), f. & cert. ef. 10-2-12 thru 10-31-12; DFW 143-2012(Temp), f. 11-7-12, cert. ef. 11-8-12 thru 1-29-13; Administrative correction, 2-25-13; DFW 88-2013(Temp), f. 8-9-13, cert. ef. 8-12-13 thru 12-31-13; DFW 89-2013(Temp), f. 8-14-13, cert. ef. 8-19-13 thru 12-31-13; DFW 98-2013(Temp), f. 9-6-13, cert. ef. 9-10-13 thru 10-31-13; DFW 102-2013(Temp), f. 9-13-13, cert. ef. 9-16-13 thru 10-31-13; DFW 106-2013(Temp), f. 9-19-13, cert. ef. 9-24-13 thru 10-31-13; DFW 111-2013(Temp), f. 9-27-13, cert. ef. 9-30-13 thru 10-31-13; DFW 116-2013(Temp), f. 10-8-13, cert. ef. 10-9-13 thru 12-31-13; DFW 105-2014(Temp), f. 7-30-14, cert. ef. 8-1-14 thru 10-31-14; DFW 118-2014(Temp), f. 8-7-14, cert. ef. 8-18-14 thru 10-31-14; DFW 134-2014(Temp), f. 9-19-14, cert. ef. 9-23-14 thru 10-31-14; DFW 140-2014(Temp), f. 9-24-14, cert. ef. 9-25-14 thru 10-31-14; DFW 142-2014(Temp), f. 10-2-14, cert. ef. 10-3-14 thru 10-31-14; DFW 146-2014(Temp), f. 10-8-14, cert. ef. 10-13-14 thru 10-31-14; DFW 153-2014(Temp), f. 10-23-14, cert. ef. 10-31-14 thru 12-31-14; Administrative correction, 1-27-15; DFW 97-2015(Temp), f. 7-30-15, cert. ef. 8-1-15 thru 10-31-15; DFW 108-2015(Temp), f. 8-13-15, cert. ef. 8-17-15 thru 10-31-15

**Rule Caption:** Confidentiality and Inadmissibility of Mediation Communications

**Adm. Order No.:** DFW 109-2015(Temp)

**Filed with Sec. of State:** 8-14-2015

**Certified to be Effective:** 8-14-15 thru 2-8-16

**Notice Publication Date:**

**Rules Adopted:** 635-001-0341

**Subject:** These temporary rules adopt by reference the temporary model mediation confidentiality rules filed by the Department of Justice on May 22, 2015, with Secretary of State. Oregon Laws 2015, ch. 114 (SB 189) allows agencies to adopt model rules developed by the Attorney General related to confidentiality and inadmissibility of mediation communications.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

## 635-001-0341

### Confidentiality and Inadmissibility of Mediation Communications

Pursuant to ORS 36.224, the Oregon Department of Fish and Wildlife hereby adopts OAR 137-005-0052 as promulgated by the Attorney General.

Stat. Auth.: 2015 SB 189 (OL 2015 ch 114)

Stats. Implemented: 2015 SB 189 (OL 2015 ch 114)

Hist.: DFW 109-2015(Temp), f. & cert. ef. 8-14-15 thru 2-8-16

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### Department of Human Services, Administrative Services Division and Director's Office Chapter 407

**Rule Caption:** Correction on Potentially Disqualifying Abuse for Children's Program Background Check

**Adm. Order No.:** DHSD 4-2015

**Filed with Sec. of State:** 7-31-2015

**Certified to be Effective:** 8-1-15

**Notice Publication Date:** 7-1-2015

**Rules Amended:** 407-007-0290

**Rules Repealed:** 407-007-0290(T)

**Subject:** This amendment corrects an error in previous rule language. Only abuse cases with an outcome of substantiated or founded are potentially disqualifying. Adoption of this amendment will repeal the temporary rule in place through August 1, 2015.

**Rules Coordinator:** Jennifer Bittel—(503) 947-5250

## 407-007-0290

### Other Potentially Disqualifying Conditions

The following are potentially disqualifying conditions, if they exist on the date the Department receives the background check request:

(1) The SI makes a false statement to the QE, Department, or Authority, including the provision of materially false information, false information regarding criminal records, or failure to disclose information regarding criminal records. Nondisclosure of violation or infraction charges may not be considered a false statement.

(2) The SI is a registered sex offender in any jurisdiction. There is a rebuttable presumption that an SI is likely to engage in conduct that would pose a significant risk to vulnerable individuals if the SI has been designated a predatory sex offender in any jurisdiction under ORS 181.585 or found to be a sexually violent dangerous offender under ORS 144.635 (or similar statutes in other jurisdictions).

(3) The SI has an outstanding warrant for any crime in any jurisdiction.

(4) The SI has a deferred sentence, conditional discharge, or is participating in a diversion program for any crime in any jurisdiction.

(5) The SI is currently on probation, parole, or post-prison supervision for any crime in any jurisdiction, regardless of the original conviction date (or date of guilty or no contest plea if there is no conviction date).

(6) The SI has been found in violation of post-prison supervision, parole, or probation for any crime in any jurisdiction, regardless of the original conviction date (or date of guilty or no contest plea if there is no conviction date) within five years from the date the background check request was electronically submitted to BCU through CRIMS or the date BCU conducted a criminal records check due to imminent danger.

(7) The SI has an unresolved arrest, charge, or a pending indictment for any crime in any jurisdiction.

(8) The SI has been arrested in any jurisdiction as a fugitive from another state or a fugitive from justice, regardless of the date of arrest.

# ADMINISTRATIVE RULES

1-13; DHSD 2-2014, f. & cert. ef. 12-1-14; DHSD 1-2015(Temp), f. & cert. ef. 2-3-15 thru 8-1-15; DHSD 4-2015, f. 7-31-15, cert. ef. 8-1-15

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(9) The SI has an adjudication in a juvenile court in any jurisdiction, finding that the SI was responsible for a potentially disqualifying crime that would result in a conviction if committed by an adult. Subsequent adverse rulings from a juvenile court, such as probation violations, shall also be considered potentially disqualifying if within five years from the date the background check request was signed or the date BCU conducted a criminal records check due to imminent danger.

(10) The SI has a finding of “guilty except for insanity,” “guilty except by reason of insanity,” “not guilty by reason of insanity,” “responsible except for insanity,” “not responsible by reason of mental disease or defect,” or similarly worded disposition in any jurisdiction regarding a potentially disqualifying crime, unless the local statutes indicate that such an outcome is considered an acquittal.

(11) Potentially disqualifying abuse as determined from abuse investigation reports which have an outcome of founded, substantiated, or valid and in which the SI is determined to have been responsible for the abuse.

(a) For SIs associated with child foster homes licensed by the Department’s DD programs, child foster homes licensed through the Department’s Child Welfare Division, child foster homes licensed through a private licensed child caring agency, adoptive families through a private licensed child caring agency, or adoptive families through the Department’s Child Welfare Division, potentially disqualifying abuse includes:

(A) Child protective services history held by the Department or OAAPI regardless of the date of initial report;

(B) Child protective services history reviewed pursuant to the federal Adam Walsh Act requirements, determined by BCU ADs to be potentially disqualifying; and

(C) Adult protective services investigations of physical abuse, sexual abuse, or financial exploitation initiated on or after January 1, 2010, as provided to BCU by OAAPI and APD programs based on severity.

(b) For staff, volunteers, or contractors of a private licensed child caring agency, an ISRS program, a SPRF provider, or a System of Care contractor providing child welfare services pursuant to ORS chapter 418 potentially disqualifying abuse includes:

(A) Child protective services history held by the Department or OAAPI regardless of the date of initial report; and

(B) Adult protective services investigations of physical abuse, sexual abuse, or financial exploitation initiated on or after January 1, 2010, as provided to BCU by OAAPI and APD based on severity.

(c) For child care providers and associated subject individuals defined in OAR 407-007-0210(30)(a)(I):

(A) Child protective services history held by the Department or OAAPI regardless of the date of initial report, date of outcome, and considered potentially disqualifying pursuant to OAR 461-165-0420; and

(B) Adult protective services investigations of physical abuse, sexual abuse, or financial exploitation initiated on or after January 1, 2010, as provided to BCU by the OAAPI and APD programs based on severity.

(d) For all other SIs, potentially disqualifying abuse includes founded or substantiated adult protective services investigations of physical abuse, sexual abuse, or financial exploitation initiated on or after January 1, 2010, as provided to the BCU by OAAPI and APD programs based on severity.

(12) Child protective services investigations open or pending through the Department or OAAPI as of the date the background check request was electronically submitted to BCU through CRIMS or the date BCU conducted a criminal records check due to imminent danger. This potentially disqualifying condition only applies to:

(a) SIs associated with child foster homes licensed by the Department’s DD programs, child foster homes licensed through the Department’s Child Welfare Division, child foster homes licensed through a private licensed child caring agency, adoptive families through a private licensed child caring agency, or adoptive families through the Department’s Child Welfare Division;

(b) Staff, volunteers or contractors of a private licensed child caring agency, an ISRS program, a SPRF provider, or a System of Care contractor, providing child welfare services pursuant to ORS chapter 418; or

(c) Child care providers and associated subject individuals defined in OAR 407-007-0210(30)(a)(I).

Stat. Auth.: ORS 181.537, 409.027 & 409.050

Stats. Implemented: ORS 181.534, 181.537, 409.010, 409.027 & 443.004

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0290, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12; DHSD 1-2013(Temp), f. & cert. ef. 2-5-13 thru 8-2-13; DHSD 3-2013, f. & cert. ef. 8-

**Rule Caption:** Integrated Employment Services to Individuals with Intellectual and Developmental Disabilities

**Adm. Order No.:** DHSD 5-2015

**Filed with Sec. of State:** 8-7-2015

**Certified to be Effective:** 8-9-15

**Notice Publication Date:** 7-1-2015

**Rules Adopted:** 407-025-0115

**Rules Amended:** 407-025-0000, 407-025-0010, 407-025-0020, 407-025-0030, 407-025-0040, 407-025-0050, 407-025-0060, 407-025-0070, 407-025-0080, 407-025-0090, 407-025-0100, 407-025-0110  
**Rules Repealed:** 407-025-0000(T), 407-025-0010(T), 407-025-0020(T), 407-025-0030(T), 407-025-0040(T), 407-025-0050(T), 407-025-0060(T), 407-025-0070(T), 407-025-0080(T), 407-025-0090(T), 407-025-0100(T), 407-025-0110(T), 407-025-0120

**Subject:** The purpose of these rules is to effectuate Oregon’s Executive Order 13-04. Governor Kitzhaber signed Executive Order 15-01 on February 2, 2015 which supersedes Executive Order 13-04 and holds the same title “Providing Employment Services To Individuals With Intellectual And Developmental Disabilities.” Executive Order 15-01 does not have the force of law. Therefore, to ensure compliance with the Governor’s new Executive Order, these rule actions align rule and Executive Order definitions and direction and mitigate any confusion with regards to which policies and authority are enforced. Amendment of these rules will repeal the temporary rules in effect through August 9, 2015.

**Rules Coordinator:** Jennifer Bittel—(503) 947-5250

**407-025-0000**

**Purpose and Scope**

(1) The purpose of these rules (OAR 407-025-0000 through 407-025-0115) is to effectuate:

(a) Executive Order 15-01 which supersedes Executive Order 13-04 and outlines detailed strategies and requires the Oregon Department of Human Services (Department) to work with the Oregon Department of Education (ODE) to further improve Oregon’s systems of designing and delivering employment services to those with intellectual and developmental disabilities toward fulfillment of Oregon’s Employment First Policy, including a significant reduction over time of state support of sheltered work and an increased investment in employment services.

(b) ORS 427.007(1)(a), as added by 2013 Senate Bill 22 Enrolled, Chapter 36, 2013 Laws, which provides that individuals with intellectual and other developmental disabilities and society as a whole benefit when the individuals exercise choice and self-determination, living and working in the most integrated community settings appropriate to their needs, with supportive services that are designed and implemented consistent with the choice of the individuals regarding services, providers, goals and activities.

(c) ORS 427.007(1)(b), as added by 2013 Senate Bill 22 Enrolled, Chapter 36, 2013 Laws, which provides that the employment of individuals with developmental disabilities in fully integrated work settings is the highest priority over unemployment, segregated employment, facility-based employment or day habilitation.

(2) Consistent with Executive Order 15-01, the Department finds that:

(a) Individuals with disabilities persistently face higher rates of unemployment than their non-disabled fellow citizens.

(b) Oregon is a leader in providing supported employment services to individuals with intellectual and developmental disabilities. In 2008, Oregon adopted an Employment First Policy, which makes competitive integrated employment the goal for all Oregonians with intellectual and developmental disabilities.

(c) While the state cannot guarantee a job to any Oregonian, the state can and should consistently work to continue to improve its provision of employment services to provide the best possible opportunities for success and choice for individuals receiving those services. This requires new approaches and partnerships with government, the non-profit services sector, and potential employers in the business community.

(d) Improving Oregon’s delivery of employment services, with the goal of achieving competitive integrated employment for individuals with intellectual and developmental disabilities, consistent with their abilities and choices, will benefit individuals with disabilities, their families, our communities, the economy, and the state.

# ADMINISTRATIVE RULES

(3) The Department is not directed by the Department's integrated employment rules to act in a way that would jeopardize the Department's federal funding, such as funding from United States Department of Education, Centers for Medicare and Medicaid Services, or Rehabilitation Services Administration, or that would violate federal law or regulations. Wherever possible, the Department's integrated employment rules shall be read as consistent with federal law.

(4) The State of Oregon's obligations under the Department's integrated employment rules are conditioned upon the Department's receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow the Department, in the exercise of its reasonable administrative discretion, to meet its payment obligations under the Department's integrated employment rules. The Department's integrated employment rules do not obligate any part of Oregon state government other than the Department. Nothing in the Department's integrated employment rules is to be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon. The Department shall employ good-faith efforts to request and seek funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow the Department to perform its payment obligations throughout the term of the Department's integrated employment rules.

(5) The Department's integrated employment rules do not provide a right to any person to claim that he or she has not received services required under any other state or federal statute or regulation.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.050

Hist.: DHSD 4-2013, f. & cert. ef. 10-1-13; DHSD 2-2015(Temp), f. & cert. ef. 2-11-15 thru 8-9-15; DHSD 5-2015, f. 8-7-15, cert. ef. 8-9-15

## 407-025-0010

### Definitions

As used in OAR 407-025-0000 through 407-025-0115, the following definitions apply:

(1) "Annual plan" means the written summary a service coordinator or personal agent completes for an individual who is not enrolled in the waiver or community first choice services. An annual plan is not an individual support plan ("ISP") and is not a plan of care for Medicaid purposes.

(2) "Career development plan" means part of an ISP or annual plan regarding Office of Developmental Disability Services' (ODDS) services. A career development plan identifies the individual's employment goals and objectives, the persons, agencies, and providers assigned to assist the individual to attain those goals, the obstacles to the individual working in competitive integrated employment in an integrated employment setting, and the services and supports necessary to overcome those obstacles. Career development plans shall be based on person-centered planning principles.

(3) "Competitive integrated employment" means work that is performed on a full-time or part-time basis (including self-employment):

(a) For which an individual:

(A) Is compensated at a rate that:

(i) Is not less than the higher of the rate specified in federal, state, or local minimum wage law, and also is not less than the customary rate paid by the employer for the same or similar work performed by other employees who are not individuals with disabilities, and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills; or

(ii) In the case of an individual who is self-employed, yields an income that is comparable to the income received by other individuals who are not individuals with disabilities, and who are self-employed in similar occupations or on similar tasks and who have similar training experience, and skills; and

(B) Is eligible for the level of benefits provided to other employees;

(b) That is at a location where the employee interacts with other persons who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that individuals who are not individuals with disabilities and who are in comparable positions interact with other persons; and

(c) That, as appropriate, presents opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.

(4) "Comprehensive vocational assessment" means an assessment administered for individuals eligible for employment services from vocational rehabilitation or transition services from local educational agencies under the Individuals with Disabilities Education Act (IDEA) to provide

employment-related information for the development or revision of an individual's employment-related planning document, such as the individual plan for employment (IPE), or individual education plan (IEP).

(5) "Department" means the Department of Human Services.

(6) "Department integrated employment rules" means this rule and any ODDS rule or Vocational Rehabilitation Services (VR) rule that expressly describes itself as falling under this definition.

(7) "Deputy Superintendent of Public Instruction" means the head of the Oregon Department of Education who oversees the education of students in the state's public and charter schools. The position is appointed by the Governor and formally confirmed by the Oregon Senate.

(8) "Director" means the Director of the Department of Human Services.

(9) "Discovery" means a time-limited, comprehensive and person-centered employment planning support service to better inform an individual seeking competitive integrated employment in an integrated employment setting and to create a discovery profile for the individual. Discovery includes a series of work or volunteer-related activities to inform the individual and the job developer about the individual's strengths, interests, abilities, skills, experiences, and support needs, as well as to identify the conditions or employment settings in which the individual will be successful. Discovery is not a comprehensive vocational assessment.

(10) "Employment services" means services provided or funded by ODDS or VR that are intended to assist an individual with an intellectual or developmental disability (I/DD) to choose, get, learn, and keep work in an integrated employment setting. Employment services will utilize evidence-based practices in instances where they exist. Employment services shall be self-directed and "individualized," meaning that services shall be individually planned, based on person-centered planning. Employment services may include post-secondary education and training to the extent they reinforce employment goals and are reflected in an individual's ISP or individual plan for employment services.

(11) "Evidence-based practices" means well-defined best practices which have been demonstrated to be effective with the I/DD population or the relevant subset of that population, such as youth 16 or older, by multiple peer-reviewed research studies that are specific to the I/DD population or subset of that population.

(12) "Goals achievement statement" means a document published by the Department stating either:

(a) The Department is meeting the goals described in OAR 407-025-0030(1); or

(b) The Department has not met a current goal described in OAR 407-025-0030, and the Department's corrective action plan for meeting the goals described in OAR 407-025-0030 in the future.

(13) "Individual" or "Individuals with I/DD" are persons who have an intellectual disability as defined in OAR chapter 411, division 320, or a developmental disability as defined in OAR chapter 411, division 320.

(14) "Integrated employment setting" means:

(a) An employment setting that satisfies the requirements for competitive integrated employment, or

(b) An employment setting that provides opportunities for individuals to have interaction with non-disabled persons. The setting must allow an individual to interact with non-disabled persons in a manner typical to the employment setting. Such settings may include small group employment. Employment in an integrated employment setting does not mean facility-based work in a sheltered workshop, and cannot be non-work activities such as day support activities.

(15) "ODDS" means the Department's Office of Developmental Disability Services.

(16) "ODDS/VR target population" means sheltered workshop workers and transition-age individuals as defined in this rule.

(17) "Person-centered planning" for employment services means:

(a) A timely and formal or informal process that is driven by the individual with an intellectual or developmental disability that gathers and organizes information that helps an individual:

(A) Determine and describe choices about personal employment goals, activities, services, provides, and lifestyle preferences;

(B) Design strategies and networks of support to achieve goals and a preferred lifestyle using individual strengths, relationships, and resources; and

(C) Identify, use, and strengthen naturally occurring opportunities for support at home and in the community.

(b) The methods for gathering information vary, but all are consistent with the individual's cultural considerations, needs, and preferences.

# ADMINISTRATIVE RULES

(18) “Policy group” means a group consisting of representatives of the Oregon Department of Education (ODE), the Department, legislators, and stakeholders formed to make recommendations to the Director and the Deputy Superintendent of Public Instruction regarding design and implementation on issues including but not limited to education, outreach, development of provider capacity, training, and processes for assessment and discovery.

(19) “Qualified employment services provider” means a provider of employment services that meets the qualification requirements to deliver employment services consistent with OAR chapter 411, division 323; OAR chapter 411, division 340; OAR chapter 411, division 345; and OAR chapter 582, division 010.

(20) “Related employment services” are services which are provided by ODDS or VR in conjunction with or after the completion of needed employment services in order to enable an individual to maintain or advance in competitive integrated employment. Services may include but are not limited to benefits counseling, transportation support, personal care supports (such as activities of daily living), environmental accessibility adaptations, behavioral supports, assistive technology, and social skills training as they relate to continued participation in competitive integrated employment.

(21) “Self-employment” means an option for achieving competitive integrated employment and is recognized as a viable means of promoting independence and economic self-sufficiency. Self-employment generally refers to one person owning and controlling the operations and management of an enterprise that reflects the owner’s skills, interests, and preferred work environment. An individual in self-employment may or may not receive ongoing supports. Self-employment yields an income that is comparable to the income received by other individuals who are not individuals with disabilities, who are self-employed in similar occupations or on similar tasks, and who have similar training, experience, and skills.

(22) “Sheltered workshop workers” means working-age individuals with I/DD found eligible for ODDS employment services and who worked in sheltered workshops on or after the effective date of Executive Order 13-04.

(23) “Sheltered workshop” means a facility in which individuals with I/DD are congregated for the purpose of receiving employment services and performing work tasks for pay at the facility. A sheltered workshop primarily employs individuals with I/DD and other disabilities, with the exception of service support staff. A sheltered workshop is a fixed site that is owned, operated, or controlled by a provider, where an individual has few or no opportunities to interact with non-disabled individuals, except paid support staff. A sheltered workshop is not small group employment in an integrated employment setting, and is not otherwise an integrated employment setting as defined in this rule.

(24) “Small group employment” means work performed in regular business, industry, and community settings by groups of two to eight individuals with I/DD. It is not competitive integrated employment, which is the much preferred and optimal form of employment for individuals with I/DD, but small group employment can have value as a way to offer additional opportunities for integration and employment while further exploring competitive integrated employment. Small group employment is provided in an integrated employment setting and in a manner that promotes integration into the workplace and interaction between participants and people without disabilities. Small group employment must allow an individual to interact with non-disabled persons in a manner typical to the employment setting. The wage paid to the supported individual must meet or exceed state and local minimum wage requirements as specified in competitive integrated employment, and wages and benefits must be comparable to those paid without disabilities who perform similar work. The individual must maintain goals to pursue competitive integrated employment opportunities. Small group employment support is funded by ODDS. VR may not fund small group employment.

(25) “Statewide Employment Coordinator” means the person designated by the Director to oversee and coordinate the Department’s employment services program and all activities required by the Department, ODDS, or VR under the Department’s integrated employment rules.

(26) “Supported employment” means services provided to support competitive integrated employment, self-employment, and small group employment.

(27) “The State” means the Office of Developmental Disability Services and Vocational Rehabilitation, as administered through the Department of Human Services and the Oregon Department of Education.

(28) “Transition age” means individuals:

(a) Not older than 24 years of age,

(b) Not younger than 14 years of age.

(A) With respect to VR, individuals who are under 16 years of age may receive employment services with Department approval.

(B) With respect to ODDS, individuals who are under 18 years of age may receive employment services with Department approval.

(29) “Transition-age individuals” means individuals with I/DD who at any time from the effective date of Executive Order 13-04 until July 1, 2022 meet the definition of transition-age, and who are found eligible for ODDS employment services as described in OAR chapter 411, division 345, or who are found eligible for ODDS and VR services.

(30) “Transition age target population” means transition age individuals with I/DD who receive employment services on or after July 1, 2013 through July 1, 2022.

(31) “Target population” means the transition age target population and the working age target population.

(32) “VR” means the Department’s Vocational Rehabilitation Services.

(33) “Working age individuals” means adults with I/DD who are 21 or older and who no longer receive public school services, and those with I/DD over 60 or older who choose to continue employment.

(34) “Working age target population” means working age individuals with I/DD who receive sheltered workshop services on or after July 1, 2013.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.050

Hist.: DHSD 4-2013, f. & cert. ef. 10-1-13; DHSD 1-2014, f. & cert. ef. 2-14-14; DHSD 2-2015(Temp), f. & cert. ef. 2-11-15 thru 8-9-15; DHSD 5-2015, f. 8-7-15, cert. ef. 8-9-15

## 407-025-0020

### Sheltered Workshops

(1) Effective July 1, 2014, ODDS and VR shall no longer purchase or fund vocational assessments for individuals with I/DD that occur in sheltered workshop settings.

(2) Effective July 1, 2015, ODDS and VR shall no longer purchase or fund sheltered workshop placements for:

(a) Transition-age individuals with I/DD;

(b) Any working age individual with I/DD newly eligible for ODDS or VR services; and

(c) Any working age individual with I/DD already utilizing ODDS or VR services who is not already working in a sheltered workshop.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.050

Hist.: DHSD 4-2013, f. & cert. ef. 10-1-13; DHSD 2-2015(Temp), f. & cert. ef. 2-11-15 thru 8-9-15; DHSD 5-2015, f. 8-7-15, cert. ef. 8-9-15

## 407-025-0030

### Employment Services Provided through ODDS and VR

(1) ODDS and VR will provide employment services as described in section (6) of this rule to at least 7000 unique individuals in the ODDS/VR target population, including sheltered workshop workers who wish to receive those employment services, between July 1, 2013 and July 1, 2022, in accordance with the following schedule:

(a) By July 1, 2014, to at least 600 individuals.

(b) By July 1, 2015, to at least 1,350 individuals.

(c) By July 1, 2016, to at least 2,200 individuals.

(d) By July 1, 2017, to at least 3,000 individuals.

(e) By July 1, 2018, to at least 3,800 individuals.

(f) By July 1, 2019, to at least 4,600 individuals.

(g) By July 1, 2020, to at least 5,400 individuals.

(h) By July 1, 2021, to at least 6,200 individuals.

(i) By July 1, 2022, to at least 7,000 individuals.

(2) The requirement in this section that additional individuals receive employment services by a given date refers to a cumulative number of additional individuals.

(3) Any sheltered workshop worker who, in his or her career development plan as described in OAR 407-025-0050 indicates a desire to work in an integrated employment setting and to receive employment services as described in section (5) of this rule, shall receive these employment services.

(4) The policy group, as defined in OAR 407-025-0020, shall be responsible for recommending metrics aimed at assessing the delivery of employment services described in this rule to sheltered workshop workers who desire to receive employment services, as well as reviewing the state’s performance under those metrics.

(5) Both ODDS/VR target populations will receive employment services as described in section (6) of this rule. The delivery proportions of employment services to different target populations shall be reviewed by

# ADMINISTRATIVE RULES

the policy group to assure delivery is consistent with the expected outcomes as outlined in this rule. On an annual basis, beginning July 1, 2016, the Department shall evaluate whether the service numbers in section (1) of this rule should be increased or otherwise changed in light of the demand for services and other appropriate factors. By September 1, 2016, and annually thereafter, the Department shall report in writing its evaluation and any recommendations to the policy group.

(6) For an individual to be counted as being provided an employment service under this rule, that individual must have received one or more of the following:

- (a) Discovery services through ODDS;
- (b) Comprehensive vocational assessments through VR;
- (c) An approved IPE with VR;
- (d) Job development services through ODDS; or
- (e) Supported employment services through ODDS.

(7) None of the services listed in section (6) of this rule shall be counted in a way that creates a duplicate count of individuals that were provided employment services. Any additions to the list of employment services to be counted will be subject to review and approval by the policy group.

(8) The policy group shall be responsible for recommending outcome metrics aimed at assessing the effectiveness of the employment services described in this rule as well as reviewing the Department's performance under those metrics.

(9) Any person or organization may request a goals achievement statement as defined in OAR 407-025-0010 from the Department if the Department has not published a currently effective goals achievement statement.

(a) If the Department has not already published a goals achievement statement, the Department must publish a goals achievement statement upon request.

(A) The person or organization must submit the request in writing or email to the Director or the Statewide Employment Coordinator.

(B) Within ten (10) business days of receipt of a request for a goals achievement statement, the Department shall deliver by US Mail or email to the requesting person or organization a written acknowledgement of the request.

(C) The Director or Statewide Employment Coordinator shall publish the Department's goals achievement statement and shall deliver the statement to the requesting person or organization by certified US Mail within forty-five (45) calendar days of the receipt of request.

(b) If the Department publishes a goals achievement statement, and if any person or organization disagrees with that statement, a complainant may submit a grievance to the Director or Statewide Employment Coordinator.

(A) The complainant must submit the grievance in writing to the Director or Statewide Employment Coordinator within three (3) calendar months of the goals achievement statement being published.

(B) The grievance must specify what part of the goals achievement statement the complainant is grieving and the remedy sought, if applicable.

(C) The Department will consolidate all grievances with respect to a particular goals achievement statement into a single proceeding.

(D) Within ten (10) business days after three (3) calendar months from the goals achievement statement being published, the Director or Statewide Employment Coordinator shall deliver by US Mail or email to any complainants, a written acknowledgement of the grievances. The acknowledgement shall offer the complainants the opportunity to meet with the Director or the Statewide Employment Coordinator within ten (10) business days of the date of the Department's letter to resolve the grievance informally.

(E) If the grievances are resolved informally, the Director or Statewide Employment Coordinator shall deliver by certified US Mail within forty-five (45) calendar days of resolution, a written response documenting the agreed upon resolution.

(F) If a complainant declines the informal review, which may be made verbally, in writing, by email, or no response, or the grievance is not resolved during the informal review, then the Director or Statewide Employment Coordinator shall deliver to the complainant a written decision by certified US Mail within forty-five (45) calendar days of receipt of the grievance.

(G) If the complainant is unsatisfied with the Department's decision, the complainant may seek additional review in through a contested case hearing as provided under ORS 183.411 to 183.471. The Department, in its sole discretion, may consolidate any requests for hearing into a single contested case proceeding with respect to a particular goals achievement statement.

Stat. Auth.: ORS 409.050

Stat. Implemented: ORS 409.050

Hist.: DHSD 4-2013, f. & cert. ef. 10-1-13; DHSD 2-2015(Temp), f. & cert. ef. 2-11-15 thru 8-9-15; DHSD 5-2015, f. 8-7-15, cert. ef. 8-9-15

## 407-025-0040

### General Policies

ODDS and VR shall establish and implement a policy that employment services shall be evidence-based and individualized. Employment services shall be individualized and services shall be individually planned, based on person-centered planning principles and evidence-based practices, when they exist. Employment services shall be based on an individual's capabilities, choices, and strengths and shall be individually tailored.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.050

Hist.: DHSD 4-2013, f. & cert. ef. 10-1-13; DHSD 2-2015(Temp), f. & cert. ef. 2-11-15 thru 8-9-15; DHSD 5-2015, f. 8-7-15, cert. ef. 8-9-15

## 407-025-0050

### Career Development Planning

(1) No later than January 1, 2014, ODDS shall adopt and implement policies and procedures for developing career development plans. The policies must include a presumption that all individuals in the ODDS/VR target population are capable of working in an integrated employment setting.

(2) Career development plans shall be based on person-centered planning principles.

(3) The career development plan shall prioritize competitive integrated employment before other employment in integrated employment settings. The career development process shall focus on the strengths of the individual and shall be conducted with the goal of maximizing the number of hours spent working, consistent with an individual's abilities and choices.

(4) By July 1, 2015 sheltered workshop workers who desire to receive employment services described in OAR 407-025-0030 shall receive a career development plan as part of the employment services they receive under OAR 407-025-0030. Transition-age individuals should have a career development plan no later than the date of their anticipated departure from the Oregon public schools, but no later than one year after their departure. The provision of employment services by ODDS may not be delayed or denied due to the lack of a career development plan.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.050

Hist.: DHSD 4-2013, f. & cert. ef. 10-1-13; DHSD 1-2014, f. & cert. ef. 2-14-14; DHSD 2-2015(Temp), f. & cert. ef. 2-11-15 thru 8-9-15; DHSD 5-2015, f. 8-7-15, cert. ef. 8-9-15

## 407-025-0060

### Training

(1) Effective January 1, 2014, ODDS and VR shall establish and update, when appropriate, competencies for providing employment services, and shall adopt and implement competency-based training standards for career development plans, job creation, job development, job coaching, and coordination of those services.

(2) Effective July 1, 2016, ODDS and VR shall purchase employment services for individuals with I/DD only from agencies or individual providers licensed, certified, credentialed or otherwise qualified as required by Department rules or contracts. The requirements for providing employment services shall be competency-based and may include such national credentialing programs as the APSE Certified Employment Support Professional exam or a substantial equivalent.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.050

Hist.: DHSD 4-2013, f. & cert. ef. 10-1-13; DHSD 2-2015(Temp), f. & cert. ef. 2-11-15 thru 8-9-15; DHSD 5-2015, f. 8-7-15, cert. ef. 8-9-15

## 407-025-0070

### Outreach and Awareness

Effective January 1, 2014, ODDS and VR shall develop, and update when appropriate, an outreach and informational education program for all individuals in the target population that explains the benefits of employment, addresses concerns of families and perceived obstacles to participating in employment services, and is designed to encourage individuals with I/DD and their families to seek employment services.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.050

Hist.: DHSD 4-2013, f. & cert. ef. 10-1-13; DHSD 2-2015(Temp), f. & cert. ef. 2-11-15 thru 8-9-15; DHSD 5-2015, f. 8-7-15, cert. ef. 8-9-15

## 407-025-0080

### Provider Capacity

The Department shall make good faith efforts, within available budgetary resources, to ensure that there are a sufficient number of qualified

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employment providers to deliver the services and supports necessary for individuals in the ODDS/VR target population to receive employment services consistent with the terms of the Department's integrated employment rules.

Stat. Auth.: ORS 409.050  
Stats. Implemented: ORS 409.050  
Hist.: DHSD 4-2013, f. & cert. ef. 10-1-13; DHSD 2-2015(Temp), f. & cert. ef. 2-11-15 thru 8-9-15; DHSD 5-2015, f. 8-7-15, cert. ef. 8-9-15

## 407-025-0090

### Director Actions

(1) Effective January 1, 2014, the Department shall designate a statewide employment coordinator to oversee and coordinate its employment services program and all activities required by the Department, ODDS, or VR under the Department's integrated employment rules.

(2) Effective January 1, 2014, the Department shall support new or existing technical assistance provider(s) or use other available training resources to provide leadership, training and technical assistance to employment providers and to provider, county, support services brokerage, and vocational rehabilitation staff to support the performance of the Department's integrated employment rules.

(3) Effective November 1, 2013, the Department shall adopt an integrated employment plan to further carry out the goals of the Department's integrated employment rules. The Department and the policy group, as defined in OAR 407-025-0010, shall review the plan at least annually, and update the integrated employment plan as appropriate.

(4) ODDS shall include specific provisions in its contracts with each support services brokerage and each community developmental disability program (CDDP) to accomplish the full implementation of the Department's integrated employment rules.

Stat. Auth.: ORS 409.050  
Stats. Implemented: ORS 409.050  
Hist.: DHSD 4-2013, f. & cert. ef. 10-1-13; DHSD 2-2015(Temp), f. & cert. ef. 2-11-15 thru 8-9-15; DHSD 5-2015, f. 8-7-15, cert. ef. 8-9-15

## 407-025-0100

### Quality Assessment and Improvement

Effective July 1, 2014, the Department shall develop, implement and update, as appropriate, a quality improvement plan that is designed to promote employment services developed in accordance with the Department's integrated employment rules and to evaluate the quality of employment services provided to persons with I/DD under the Department's integrated employment rules statewide.

Stat. Auth.: ORS 409.050  
Stats. Implemented: ORS 409.050  
Hist.: DHSD 4-2013, f. & cert. ef. 10-1-13; DHSD 2-2015(Temp), f. & cert. ef. 2-11-15 thru 8-9-15; DHSD 5-2015, f. 8-7-15, cert. ef. 8-9-15

## 407-025-0110

### Data Collection and Reporting

(1) Effective January 1, 2014, and semi-annually thereafter, the employment coordinator shall monitor the progress of implementation of the Department's integrated employment plan through data collection, data analysis, and quality improvement activities.

(2) Effective January 1, 2014, and semi-annually thereafter, ODDS and VR shall collect data and report to the employment coordinator and the policy group the following data for working age individuals in the ODDS/VR target populations:

- The number of individuals receiving employment services;
- The number of persons working in the following settings: competitive integrated employment, self-employment, sheltered employment, and small group employment (8 or fewer);
- The number of individuals in supported employment;
- The number of hours worked per week and hourly wages paid to those persons;
- The outcomes of employment services selected by individuals through the career development planning process, including the selection of non-employment services;
- Complaints and grievances; and
- The number of individuals receiving related employment services.

(3) Effective January 1, 2014, and semi-annually thereafter, VR and ODDS shall report to the employment coordinator on the progress made on the terms of the Department's integrated employment plan and the results of the data collected under this rule.

(4) ODDS and VR shall begin a program of regularly collecting and analyzing data described in this rule, and shall identify problems or barriers to placement in or retaining jobs in an integrated employment setting, as well as service gaps, and shall recommend to the Director actions to

improve services. The Department and policy group shall review this information on a semi-annual basis. The Department shall develop and implement measures to improve services with respect to the problems and barriers identified.

Stat. Auth.: ORS 409.050  
Stats. Implemented: ORS 409.050  
Hist.: DHSD 4-2013, f. & cert. ef. 10-1-13; DHSD 2-2015(Temp), f. & cert. ef. 2-11-15 thru 8-9-15; DHSD 5-2015, f. 8-7-15, cert. ef. 8-9-15

## 407-025-0115

### Policy Group

(1) A policy group consisting of representatives of the Oregon Department of Education, the Department, legislators, and stakeholders shall be formed to make recommendations to the Director and the Deputy Superintendent of Public Instruction regarding design and implementation on issues including but not limited to education, outreach, development of provider capacity, training, and processes for assessment and discovery.

(2) The policy group shall recommend outcome metrics to the State, review the state's performance under those metrics, and make annual recommendations to the Governor for improving performance. Metrics developed by the policy group shall not create enforceable rights.

Stat. Auth.: ORS 409.050  
Stats. Implemented: ORS 409.050  
Hist.: DHSD 5-2015, f. 8-7-15, cert. ef. 8-9-15

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

**Rule Caption:** ODDS — Medically Involved Children's Program

**Adm. Order No.:** APD 16-2015(Temp)

**Filed with Sec. of State:** 7-30-2015

**Certified to be Effective:** 8-1-15 thru 1-27-16

**Notice Publication Date:**

**Rules Adopted:** 411-355-0045, 411-355-0075

**Rules Amended:** 411-355-0000, 411-355-0010, 411-355-0020, 411-355-0030, 411-355-0040, 411-355-0050, 411-355-0080, 411-355-0090, 411-355-0100

**Rules Suspended:** 411-355-0060, 411-355-0070, 411-355-0110, 411-355-0120

**Subject:** The Department of Human Services, Office of Developmental Disabilities Services (Department) is immediately updating the rules in OAR chapter 411, division 355 for the Medically Involved Children's Program (MICP).

The temporary rules in OAR chapter 411, division 355:

- Incorporate the general definitions in OAR 411-317-0000, update the definitions to reflect correct terminology, and include definitions for terms created by the temporary rulemaking;

- Incorporate the expenditure guidelines;

- Account for changes in Medicaid service eligibility;

- Clarify when a child may be exited from the MICP and reiterate the requirement for a Notification of Planned Action in the instance services are terminated;

- Include a timeframe for when a functional needs assessment must be completed and clarify service planning;

- Update the language to reflect the completion of the transition period for implementation of the Community First Choice 1915(k) state plan amendment and update the available supports to reflect changes to the Medically Involved Model Waiver;

- Adopt standards for employers to assure the proper authority exists to withdraw employer authority in cases where it is necessary to protect a child, parent, or an employee from its misuse. The rule defines indications of misuse of employer authority, the steps that must be taken to remove employer authority, and appeals of the removal;

- Expand provider types to include personal support workers, independent providers, provider organizations, and general business providers, and specify the qualifications;

- Implement Senate Bill 22 by updating the rights of a child and providing a uniform dispute resolution process by incorporating the

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individual rights, complaint, Notification of Planned Action, and hearing rules adopted in OAR chapter 411, division 318; and

- Remove the sanctions for providers and include termination of provider enrollment.

**Rules Coordinator:** Kimberly Colkitt-Hallman—(503) 945-6398

## 411-355-0000

### Statement of Purpose

(1) The rules in OAR chapter 411, division 355 establish the policy of, and prescribe the standards and procedures for, the provision of services for children enrolled in the Medically Involved Children's Program.

(2) MICP services are exclusively intended to enable a child who meets the nursing facility level of care to return to the family home, or remain at the family home, with specialized supports and services. MICP services specifically preserve the capacity of a parent to care for their child, assure the health and safety of the child within the family home, and enable a child who has been separated from their family due to their health and medical care needs to return to the family home to prevent out of home placement. MICP services complement and supplement the services that are available through the State Medicaid Plan and other federal, state, and local programs as well as the natural supports that families and communities provide.

Stat. Auth.: ORS 409.050 & 417.345

Stats. Implemented: ORS 417.345, 427.007 & 430.215

Hist.: SPD 5-2008(Temp), f. & cert. ef. 4-15-08 thru 10-12-08; SPD 14-2008, f. & cert. ef. 10-9-08; SPD 56-2013, f. 12-27-13, cert. ef. 12-28-13; APD 16-2015(Temp), f. 7-30-15, cert. ef. 8-1-15 thru 1-27-16

## 411-355-0010

### Definitions

Unless the context indicates otherwise, the following definitions and the definitions in OAR 411-317-0000 apply to the rules in OAR chapter 411, division 355:

(1) "Abuse" means "abuse" of a child as defined in ORS 419B.005.

(2) "ADL" means "activities of daily living". ADL are basic personal everyday activities, such as eating, using the restroom, grooming, dressing, bathing, and transferring.

(3) "Administrator Review" means the Director of the Department reviews a decision upon request, including the documentation related to the decision, and issues a determination.

(4) "Aide" means a non-licensed caregiver who may, or may not, be a certified nursing assistant.

(5) "Alternative Resources" mean possible resources for the provision of supports to meet the needs of a child. Alternative resources include, but are not limited to, private or public insurance, vocational rehabilitation services, supports available through the Oregon Department of Education, or other community supports.

(6) "Assistive Devices" mean the devices, aids, controls, supplies, or appliances described in OAR 411-355-0040 that are necessary to enable a child to increase the ability of the child to perform ADL and IADLs or to perceive, control, or communicate with the home and community environment in which the child lives.

(7) "Assistive Technology" means the devices, aids, controls, supplies, or appliances described in OAR 411-355-0040 that are purchased to provide support for a child and replace the need for direct interventions to enable self-direction of care and maximize independence of the child.

(8) "Attendant Care" means assistance with ADL, IADL, and health-related tasks through cueing, monitoring, reassurance, redirection, set-up, hands-on, standby assistance, and reminding as described in OAR 411-355-0040.

(9) "Background Check" means a criminal records check and abuse check as defined in OAR 407-007-0210.

(10) "Behavior Consultant" means a contractor with specialized skills as described in OAR 411-355-0050 who conducts functional assessments and develops a Behavior Support Plan.

(11) "Behavior Support Plan" means the written strategy based on person-centered planning and a functional assessment that outlines specific instructions for a primary caregiver or provider to follow in order to reduce the frequency and intensity of the challenging behaviors of a child and to modify the behavior of the primary caregiver or provider, adjust environment, and teach new skills.

(12) "Behavior Support Services" mean the services consistent with positive behavioral theory and practice that are provided to assist with behavioral challenges of a child that prevents the child from accomplishing ADL, IADL, health-related tasks, and provides cognitive supports to miti-

gate behavior. Behavior support services are provided in the home or community.

(13) "Billing Form" means the document generated by the Department that acts as a prior authorization, contract, and payment mechanism for services.

(14) "Case Management" means the functions performed by a service coordinator. Case management includes, but is not limited to, determining service eligibility, developing a plan of authorized services, and monitoring the effectiveness of services and supports.

(15) "CDDP" means "Community Developmental Disability Program" as defined in OAR 411-320-0020.

(16) "Child" means an individual who is less than 18 years of age, and applying for, or accepted for, the Medically Involved Children's Program under the Medically Involved Model Waiver.

(17) "Chore Services" mean the services described in OAR 411-355-0040 that are needed to restore a hazardous or unsanitary situation in the family home to a clean, sanitary, and safe environment.

(18) "Community Nursing Services" mean the nursing services described in OAR 411-355-0040 that focus on the chronic and ongoing health and safety needs of a child living in the family home. Community nursing services include an assessment, monitoring, delegation, training, and coordination of services. Community nursing services are provided according to the rules in OAR chapter 411, division 048 and the Oregon State Board of Nursing rules in OAR chapter 851.

(19) "Community Transportation" means the services described in OAR 411-355-0040 that enable a child to gain access to community-based state plan and waiver services, activities, and resources that are not medical in nature. Community transportation is provided in the area surrounding the family home that is commonly used by people in the same area to obtain ordinary goods and services.

(20) "Cost Effective" means being responsible and accountable with Department resources by offering less costly alternatives when providing choices that adequately meet the support needs of a child. Less costly alternatives include other programs available from the Department and the utilization of assistive devices, natural supports, environmental modifications, and alternative resources. Less costly alternatives may include resources not paid for by the Department.

(21) "Delegation" is the process by which a registered nurse authorizes an unlicensed person to perform nursing tasks and confirms that authorization in writing. Delegation may occur only after a registered nurse follows all steps of the delegation process as outlined in OAR chapter 851, division 047.

(22) "Department" means the Department of Human Services.

(23) "Designated Representative" means any adult who is not a paid provider of ODDS funded services, such as a family member or advocate, who is chosen by a parent or guardian and authorized by the parent or guardian to serve as the representative of the parent or guardian in connection with the provision of ODDS funded supports. A parent or guardian is not required to appoint a designated representative.

(24) "Director" means the Director of the Department of Human Services, Office of Developmental Disability Services, or the designee of the Director.

(25) "Employer of Record" means, for the purpose of obtaining MICP services through a personal support worker as described in these rules, the parent or guardian or a person selected by the parent or guardian to act on the behalf of the parent or guardian to conduct the employer responsibilities described in OAR 411-355-0045. An employer of record may also be a designated representative.

(26) "Employer-Related Supports" mean the activities that assist a family with directing and supervising provision of services described in the ISP for a child. Employer-related supports may include, but are not limited to:

- (a) Education about employer responsibilities;
- (b) Orientation to basic wage and hour issues;
- (c) Use of common employer-related tools such as service agreements; and
- (d) Fiscal intermediary services.

(27) "Entry" means admission to a Department-funded disability service.

(28) "Environmental Modifications" mean the physical adaptations described in OAR 411-355-0040 that are necessary to ensure the health, welfare, and safety of a child in the family home, or that are necessary to enable the child to function with greater independence around the family home or lead to a substitution for, or decrease in, direct human assistance to the extent expenditures would otherwise be made for human assistance.

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(29) "Environmental Safety Modifications" mean the physical adaptations described in OAR 411-355-0040 that are made to the exterior of a family home as identified in the ISP for a child to ensure the health, welfare, and safety of the child or to enable the child to function with greater independence around the family home or lead to a substitution for, or decrease in direct human assistance to the extent expenditures would otherwise be made for human assistance.

(30) "Exit" means termination or discontinuance of MICP services.

(31) "Expenditure Guidelines" mean the guidelines published by the Department that describe allowable uses for MICP funds. The Department incorporates the Expenditure Guidelines into these rules by this reference. The Expenditure Guidelines are maintained by the Department at: <http://www.oregon.gov/dhs/dd/>. Printed copies may be obtained by calling (503) 945-6398 or writing the Department of Human Services, Developmental Disabilities, ATTN: Rules Coordinator, 500 Summer Street NE, E-48, Salem, Oregon 97301.

(32) "Family":

(a) Means a unit of two or more people that includes at least one child where the primary caregiver is:

(A) Related to the child by blood, marriage, or legal adoption; or

(B) In a domestic relationship where partners share:

(i) A permanent residence;

(ii) Joint responsibility for the household in general, such as child-rearing, maintenance of the residence, and basic living expenses; and

(iii) Joint responsibility for supporting a child when the child is related to one of the partners by blood, marriage, or legal adoption.

(b) The term "family" is defined as described above for purposes of:

(A) Determining the eligibility of a child for MICP services as a resident in the family home;

(B) Identifying people who may apply, plan, and arrange for individual services; and

(C) Determining who may receive family training.

(33) "Family Home" means the primary residence for a child that is not under contract with the Department to provide services as a certified foster home or a licensed or certified residential care facility, assisted living facility, nursing facility, or other residential setting.

(34) "Family Training" means the training services described in OAR 411-355-0040 that are provided to a family to increase the capacity of the family to care for, support, and maintain a child in the family home.

(35) "Functional Needs Assessment":

(a) Means the comprehensive assessment or reassessment that:

(A) Documents physical, mental, and social functioning;

(B) Identifies risk factors and support needs; and

(C) Determines the service level.

(b) The functional needs assessment for a child enrolled in MICP services is known as the Child Needs Assessment (CNA). Effective December 31, 2014, the Department incorporates Version C of the CNA into these rules by this reference. The CNA is maintained by the Department

at: <http://www.dhs.state.or.us/spd/tools/dd/CNAchildInhome.xls>. A printed copy of a blank CNA may be obtained by calling (503) 945-6398 or writing the Department of Human Services, Developmental Disabilities, ATTN: Rules Coordinator, 500 Summer Street NE, E-48, Salem, OR 97301.

(36) "General Business Provider" means an organization or entity selected by a parent or guardian and paid with MICP funds that:

(a) Is primarily in business to provide the service chosen by the parent or guardian to the general public;

(b) Provides services for the child through employees, contractors, or volunteers; and

(c) Receives compensation to recruit, supervise, and pay the person who actually provides support for the child.

(37) "Guardian" means the parent of a minor child or a person or agency appointed and authorized by a court to make decisions about services for a child.

(38) "IADL" means "instrumental activities of daily living". IADL include activities other than ADL required to enable a child to be independent in the family home and community, such as:

(a) Meal planning and preparation;

(b) Managing personal finances;

(c) Shopping for food, clothing, and other essential items;

(d) Performing essential household chores;

(e) Communicating by phone or other media; and

(f) Traveling around and participating in the community.

(39) "Independent Provider" means a person selected by a parent or guardian and paid with MICP funds to directly provide services to a child.

(40) "Individual-Directed Goods and Services" mean the services, equipment, or supplies described in OAR 411-355-0040, not otherwise provided through other waiver or state plan services, that address an identified need in an ISP. Individual-directed goods and services may include services, equipment, or supplies that improve and maintain the full membership of a child in the community.

(41) "ISP" means "Individual Support Plan". An ISP includes the written details of the supports, activities, and resources required for a child to achieve and maintain personal goals and health and safety. The ISP is developed at least annually to reflect decisions and agreements made during a person-centered process of planning and information gathering. The ISP reflects services and supports that are important to meet the needs of the child identified through a functional needs assessment as well as the preferences for providers, delivery, and frequency of services and supports. The ISP is the plan of care for Medicaid purposes and reflects whether services are provided through a waiver, the Community First Choice state plan, natural supports, or alternative resources.

(42) "Level of Care" means a child meets the institutional level of care for a nursing facility:

(a) The child has a documented medical condition and demonstrates the need for active treatment as assessed by the medically involved criteria; and

(b) The medical condition requires the care and treatment of services normally provided in a nursing facility.

(43) "Medically Involved Criteria" means the criteria used by the Department to evaluate the intensity of the challenges presented by a child eligible for MICP services.

(44) "MICP" means "Medically Involved Children's Program". MICP is the waiver granted by the federal Centers for Medicare and Medicaid Services that allows Title XIX funds to be spent on a child living in the family home who otherwise would have to be served in a nursing facility if the waiver program was not available.

(45) "Natural Supports" mean the parental responsibilities for a child who is less than 18 years of age and the voluntary resources available to the child from the relatives, friends, neighbors, and the community that are not paid for by the Department.

(46) "Nursing Service Plan" means the plan that is developed by a registered nurse based on an initial nursing assessment, reassessment, or an update made to a nursing assessment as the result of a monitoring visit.

(a) The Nursing Service Plan is specific to a child and identifies the diagnoses and health needs of the child and any service coordination, teaching, or delegation activities.

(b) The Nursing Service Plan is separate from the ISP as well as any service plans developed by other health professionals.

(47) "Nursing Tasks" mean the care or services that require the education and training of a licensed professional nurse to perform. Nursing tasks may be delegated.

(48) "ODDS" means the Department of Human Services, Office of Developmental Disability Services.

(49) "OHP" means the Oregon Health Plan.

(50) "OHP Plus" means only the Medicaid benefit packages provided under OAR 410-120-1210(4)(a) and (b). This excludes individuals receiving Title XXI benefits.

(51) "OIS" means the "Oregon Intervention System". OIS is the system of providing training of elements of positive behavior support and non-aversive behavior intervention. OIS uses principles of pro-active support and describes approved protective physical intervention techniques that are used to maintain health and safety.

(52) "OSIPM" means "Oregon Supplemental Income Program-Medical" as described in OAR 461-001-0030. OSIPM is Oregon Medicaid insurance coverage for children who meet the eligibility criteria described in OAR chapter 461.

(53) "Parent" means the biological parent, adoptive parent, or step-parent of a child. Unless otherwise specified, references to parent also include a person chosen by the parent or guardian to serve as the designated representative of the parent or guardian in connection with the provision of ODDS funded supports.

(54) "Person-Centered Planning":

(a) Means a timely and formal or informal process driven by a child, that includes people chosen by the child and their parent or guardian, ensures the child directs the process to the maximum extent possible, and assures the child is enabled to make informed choices and decisions consistent with 42 CFR 441.540.

(b) Person-centered planning includes gathering and organizing information to reflect what is important to and for the child and to help:

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(A) Determine and describe choices about personal goals, activities, services, providers, service settings, and lifestyle preferences;

(B) Design strategies and networks of support to achieve goals and a preferred lifestyle using individual strengths, relationships, and resources; and

(C) Identify, use, and strengthen naturally occurring opportunities for support at home and in the community.

(c) The methods for gathering information vary, but all are consistent with the cultural considerations, needs, and preferences of the child.

(55) "Personal Support Worker" means "personal support worker" as defined in OAR 411-375-0010.

(56) "Positive Behavioral Theory and Practice" means a proactive approach to behavior and behavior interventions that:

(a) Emphasizes the development of functional alternative behavior and positive behavior intervention;

(b) Uses the least intrusive intervention possible;

(c) Ensures that abusive or demeaning interventions are never used; and

(d) Evaluates the effectiveness of behavior interventions based on objective data.

(57) "Primary Caregiver" means the parent, guardian, relative, or other non-paid parental figure of a child that provides direct care at the times that a paid provider is not available. In this context, the term parent or guardian may include a designated representative.

(58) "Protective Physical Intervention" means any manual physical holding of, or contact with, a child that restricts freedom of movement.

(59) "Provider" means a person, agency, organization, or business selected by a parent or guardian that provides recognized Department-funded services and is approved by the Department or other appropriate agency to provide Department-funded services. A provider is not a primary caregiver.

(60) "Provider Organization" means an entity licensed or certified by the Department that is selected by a parent or guardian and paid with MICP funds that:

(a) Is primarily in business to provide supports for children with disabilities;

(b) Provides supports for a child through employees, contractors, or volunteers; and

(c) Receives compensation to recruit, supervise, and pay the person who actually provides support for the child.

(61) "Relief Care" means the intermittent services described in OAR 411-355-0040 that are provided on a periodic basis for the relief of, or due to the temporary absence of, a primary caregiver.

(62) "Scope of Work" means the written statement of all proposed work requirements for an environmental modification which may include dimensions, measurements, materials, labor, and outcomes necessary for a contractor to submit a proposal to complete such work. The scope of work is specific to the identified tasks and requirements necessary to address the needs outlined in the supplemental assessment referenced in an ISP and relating to the ADL, IADL, and health-related tasks of a child as discussed by the parent or guardian, services coordinator, and ISP team.

(63) "Service Agreement":

(a) Is the written agreement consistent with an ISP that describes at a minimum:

(A) Type of service to be provided;

(B) Hours, rates, location of services, and expected outcomes of services; and

(C) Any specific individual health, safety, and emergency procedures that may be required, including action to be taken if a child is unable to provide for their own safety and the child is missing while in the community under the service of a contractor or provider organization.

(b) For employed personal support workers, the service agreement serves as the written job description.

(64) "Service Level" means the amount of attendant care, hourly relief care, or skills training services determined necessary by a functional needs assessment and medically involved criteria and made available to meet the identified support needs of a child.

(65) "Services Coordinator" means an employee of a CDDP, the Department, or other agency that contracts with the county or Department who provides case management services including, but not limited to, planning, procuring, coordinating, and monitoring services who ensures the eligibility of a child for services. The services coordinator acts as the proponent for children enrolled in the MICP and their families and is the person-centered plan coordinator for the child as defined in the Community First Choice state plan amendment.

(66) "Skills Training" means the activities described in OAR 411-355-0040 that are intended to maximize the independence of a child through training, coaching, and prompting the child to accomplish ADL, IADL, and health-related skills.

(67) "Social Benefit" means the service or financial assistance solely intended to assist a child enrolled in the MICP to function in society on a level comparable to that of a child not enrolled in the MICP. Social benefits are pre-authorized by a services coordinator and provided according to the description and limits written in an ISP.

(a) Social benefits may not:

(A) Duplicate benefits and services otherwise available to a child regardless of a disability;

(B) Replace normal parental responsibilities for the services, education, recreation, and general supervision of a child;

(C) Provide financial assistance with food, clothing, shelter, and laundry needs common to a child with or without a disability; or

(D) Replace other governmental or community services available to a child.

(b) Assistance provided as a social benefit is reimbursement for an expense previously authorized in an ISP or prior payment in anticipation of an expense authorized in a previously authorized ISP.

(c) Assistance provided as a social benefit may not exceed the actual cost of the support required by a child to be supported in the family home.

(68) "Special Diet" means the specially prepared food or particular types of food described in OAR 411-355-0040 that are specific to the medical condition or diagnosis of a child and in support of an evidence-based treatment regimen.

(69) "Specialized Medical Supplies" mean the medical and ancillary supplies described in OAR 411-355-0040, such as:

(a) Necessary medical supplies specified in an ISP that are not available through state plan or alternative resources;

(b) Ancillary supplies necessary to the proper functioning of items necessary for life support or to address physical conditions; and

(c) Supplies necessary for the continued operation of augmentative communication devices or systems.

(70) "Substantiated" means an abuse investigation has been completed by the Department or the designee of the Department and the preponderance of the evidence establishes the abuse occurred.

(71) "Supplant" means take the place of.

(72) "Support" means the assistance that a child and a family requires, solely because of the effects of a disability or medical condition of the child, to maintain or increase the age-appropriate independence of the child, achieve age-appropriate community presence and participation of the child, and to maintain the child in the family home. Support is subject to change with time and circumstances.

(73) "These Rules" mean the rules in OAR chapter 411, division 355.

(74) "Transition Costs" mean the expenses described in OAR 411-350-0050 required for a child to make the transition to the family home from a nursing facility, or intermediate care facility for individuals with intellectual or developmental disabilities.

(75) "Unacceptable Background Check" means an administrative process that produces information related to the background of a person that precludes the person from being an independent provider for one or more of the following reasons:

(a) Under OAR 407-007-0275, the person applying to be an independent provider has been found ineligible due to ORS 443.004;

(b) Under OAR 407-007-0275, the person was enrolled as an independent provider for the first time, or after any break in enrollment, after July 28, 2009 and has been found ineligible due to ORS 443.004; or

(c) A background check and fitness determination has been conducted resulting in a "denied" status as defined in OAR 407-007-0210.

(76) "Vehicle Modifications" mean the adaptations or alterations described in OAR 411-350-0050 that are made to the vehicle that is the primary means of transportation for a child in order to accommodate the service needs of the child.

(77) "Waiver Services" mean the menu of disability related services and supplies that are specifically identified by the Medically Involved Model Waiver.

Stat. Auth.: ORS 409.050 & 417.345

Stats. Implemented: ORS 417.345, 427.007 & 430.215

Hist.: SPD 5-2008(Temp), f. & cert. ef. 4-15-08 thru 10-12-08; SPD 14-2008, f. & cert. ef. 10-9-08; SPD 25-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 5-2010, f. 6-29-10, cert. ef. 7-1-10; SPD 29-2013(Temp), f. & cert. ef. 7-2-13 thru 12-29-13; SPD 56-2013, f. 12-27-13, cert. ef. 12-28-13; APD 16-2015(Temp), f. 7-30-15, cert. ef. 8-1-15 thru 1-27-16

# ADMINISTRATIVE RULES

## 411-355-0020

### Eligibility

(1) **ELIGIBILITY.** In order to be eligible for the MICP, a child must:

- (a) Be under the age of 18;
- (b) Be an Oregon resident who meets the citizenship and alien status requirements of OAR 461-120-0110;

- (c) Be receiving Medicaid Title XIX benefits under OSIPM;
- (d) For a child with excess income, contribute to the cost of services pursuant to OAR 461-160-0610 and OAR 461-160-0620;

- (e) Meet the level of care as defined in OAR 411-355-0010;
- (f) Be accepted by the Department by scoring 100 or greater on the medically involved criteria and maintain an eligibility score of 100 or greater as determined by a reassessment annually;

- (g) Require services offered under the MICP;
- (h) Reside in the family home; and
- (i) Be safely served in the family home. This includes, but is not limited to, a qualified primary caregiver demonstrating the willingness, skills, and ability to provide direct care as outlined in an ISP in a cost effective manner, as determined by a services coordinator within the limitations of OAR 411-355-0040, and participate in planning, monitoring, and evaluation of the MICP services provided.

### (2) TRANSFER OF ASSETS.

(a) As of October 1, 2014, a child receiving medical benefits under OAR chapter 410, division 200 requesting Medicaid coverage for services in a nonstandard living arrangement (see OAR 461-001-0000) is subject to the requirements of the rules regarding transfer of assets (see OAR 461-140-0210 to 461-140-0300) in the same manner as if the child was requesting these services under OSIPM. This includes, but is not limited to, the following assets:

(A) An annuity evaluated according to OAR 461-145-0022;

(B) A transfer of property when a child retains a life estate evaluated according to OAR 461-145-0310;

(C) A loan evaluated according to OAR 461-145-0330; or

(D) An irrevocable trust evaluated according to OAR 461-145-0540.

(b) When a child is considered ineligible for MICP services due to a disqualifying transfer of assets, the parent or guardian and child must receive a notice meeting the requirements of OAR 461-175-0310 in the same manner as if the child was requesting services under OSIPM.

(3) **ENROLLMENT.** If a child meets the criteria of section (1) of this rule and space is available in the MICP, the priority of the child for enrollment is in accordance with ORS 417.345, Medically Involved Model Waiver requirements. The date the initial application is complete is the date that the Department receives all of the required demographic and referral information on the child.

(4) **INELIGIBILITY.** A child is not eligible for the MICP if the child:

- (a) Continues to reside in a medical hospital, psychiatric hospital, school, sub-acute facility, nursing facility, intermediate care facility for individuals with intellectual or developmental disabilities, foster home, or other 24-hour residential setting;

- (b) Does not require waiver services or Community First Choice state plan services;

- (c) Receives sufficient family, government, or community resources available to provide for his or her care; or

- (d) Cannot be safely served in the family home as described in section (1)(i) of this rule.

(5) **REDETERMINATION.** The Department redetermines the eligibility of a child for the MICP using the medically involved criteria at least every 12 months, or as the status of the child changes.

(6) **TRANSITION.** A child whose reassessment score on the medically involved criteria is less than 100 is transitioned out of the MICP within 30 days. The child must exit from the MICP at the end of the 30 day transition period.

### (7) DISENROLLMENT.

(a) A child is disenrolled from the MICP:

- (A) At the oral or written request of a parent or guardian to end the service relationship; or

- (B) In any of the following circumstances:

- (i) The child no longer meets the eligibility criteria in section (1) of this rule;

- (ii) The child does not require waiver services or Community First Choice state plan services;

- (iii) There are sufficient family, government, community, or alternative resources available to provide for the care of the child;

- (iv) The child may not be safely served in the family home as described in section (1)(i) of this rule;

- (v) The parent or guardian either cannot be located or has not responded after 30 days of repeated attempts by a services coordinator to complete ISP development and monitoring activities and does not respond to a notice of intent to terminate;

- (vi) The services coordinator has sufficient evidence that the parent or guardian has engaged in fraud or misrepresentation, failed to use resources as agreed upon in the ISP, refused to cooperate with documenting expenses of MICP funds, or otherwise knowingly misused public funds associated with the MICP;

- (vii) The child is incarcerated or admitted to a medical hospital, psychiatric hospital, sub-acute facility, nursing facility, intermediate care facility for individuals with intellectual or developmental disabilities, foster home, or other 24-hour residential setting and it is determined that the child is not returning to the family home or is not returning to the family home after 90 consecutive days; or

- (viii) The child does not reside in Oregon.

(b) In the event a child is disenrolled from the MICP, a written Notification of Planned Action must be provided as described in OAR chapter 411, division 318.

(8) **WAIT LIST.** If the maximum number of children allowed on the Medically Involved Model Waiver are enrolled and being served, the Department may place a child eligible for the MICP on a wait list. A child on the wait list may access other Medicaid-funded services or General Fund services for which the child is determined eligible.

(a) The date of the initial completed application for the MICP determines the order on the wait list. A child, who previously received children's intensive in-home services that currently meets the criteria for eligibility as described in section (1) of this rule, is put on the wait list as of the date the original application for MICP services was complete.

(b) The date the application for the MICP is complete is the date that the Department has the required demographic data and referral information for the child.

(c) Children on the wait list are prioritized for entry if they are currently residing in a nursing facility for long term care and whose family wishes them to return home, enrolled in another waiver meeting the medically involved criteria, are residing in the community and at imminent risk of placement in a nursing facility, and as space on the Medically Involved Model Waiver allows. An evaluation is completed prior to entry to determine current eligibility.

(9) **ASSESSMENT.** Anyone may request an assessment for a child for MICP services.

Stat. Auth.: ORS 409.050 & 417.345

Stats. Implemented: ORS 417.345, 427.007 & 430.215

Hist.: SPD 5-2008(Temp), f. & cert. ef. 4-15-08 thru 10-12-08; SPD 14-2008, f. & cert. ef. 10-9-08; SPD 29-2013(Temp), f. & cert. ef. 7-2-13 thru 12-29-13; SPD 56-2013, f. 12-27-13, cert. ef. 12-28-13; APD 16-2015(Temp), f. 7-30-15, cert. ef. 8-1-15 thru 1-27-16

## 411-355-0030

### Service Planning

(1) To develop an ISP, a services coordinator must complete a functional needs assessment using a person-centered planning approach and assess the service needs of the child. The assessment must take place in person and the services coordinator must interview the child's parent, provider, and when appropriate, any other person at the parent's request. The assessment must identify the following:

- (a) The current care needs of the child including ADL care, medication management, communication, supervisory needs, and physical environment;

- (b) The services for which the child is currently eligible;

- (c) The services currently being provided;

- (d) All available family, private health insurance, and government or community resources that meet any, some, or all of the child's needs; and

- (e) Areas of unmet needs.

(2) The service coordinator must prepare, with the input of the child's parent and any other person at the parent's request, a written ISP that identifies:

- (a) The service needs of the child;

- (b) The most cost effective services for safely and appropriately meeting the child's service needs; and

- (c) The methods, resources, and strategies that address the child's service needs.

(3) The ISP must include:

- (a) A description of the supports required, including the reason the support is necessary. The description must be consistent with the needs identified in the functional needs assessment;

- (b) A list of personal, community, and public resources that are available to the child and how the resources may be applied to provide the

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required supports. Sources of support may include waiver services, state plan services, state general funds, or natural supports;

- (c) The maximum hours of provider services authorized for the child;
- (d) The annual average service level;
- (e) The number of hours of attendant care or other related services authorized for the child;
- (f) Additional services authorized by the Department for the child;
- (g) All behavior and specialized consultant services purchased through the MICP;
- (h) The projected date of when specific services are to begin and end, as well as the end date, if any, of the period of service covered by the ISP;
- (i) Projected costs with sufficient detail to support estimates;
- (j) The manner in which services are delivered and the frequency of services;
- (k) Service providers;
- (l) The child's strengths and preferences;
- (m) If the child has a determined service level, the clinical and support needs as identified through the functional needs assessment;
- (n) Individually identified goals and desired outcomes;
- (o) The services and supports (paid and unpaid) to assist the child to achieve identified goals and the providers of the services and supports, including voluntarily provided natural supports;
- (p) The risk factors and the measures in place to minimize the risk factors, including back-up plans;
- (q) The identity of the person responsible for case management and monitoring the ISP;
- (r) The date of the next ISP review that, at a minimum, must be completed within 12 months of the last ISP;
- (s) The Nursing Care Plan as a supporting document, when one exists;
- (t) A provision to prevent unnecessary or inappropriate care; and
- (u) If the child has a determined service level, any changes in support needs identified through a functional needs assessment.

(4) The child's parent must review the ISP prior to implementation. The parent and the services coordinator must sign the ISP and a copy must be provided to the parent.

(5) A services coordinator must reflect significant changes in the needs of a child in the child's ISP, as they occur, and provide a copy of the revised ISP to the parent.

Stat. Auth.: ORS 409.050 & 417.345

Stats. Implemented: ORS 417.345, 427.007 & 430.215

Hist.: SPD 5-2008(Temp), f. & cert. ef. 4-15-08 thru 10-12-08; SPD 14-2008, f. & cert. ef. 10-9-08; SPD 29-2013(Temp), f. & cert. ef. 7-2-13 thru 12-29-13; SPD 56-2013, f. 12-27-13, cert. ef. 12-28-13; APD 16-2015(Temp), f. 7-30-15, cert. ef. 8-1-15 thru 1-27-16

## 411-355-0040

### Scope of MICP Services and Limitations

(1) MICP services are intended to support, not supplant, the naturally occurring services provided by a legally responsible primary caregiver and enable the primary caregiver to meet the needs of caring for a child on the MICP. MICP services are not meant to replace other available governmental or community services and supports. All services funded by the Department must be provided in accordance with the Expenditure Guidelines and based on the actual and customary costs related to best practice standards of care for children with similar disabilities.

(2) When multiple children in the same family home or setting qualify for MICP services, the same provider may provide services to all qualified children if services may be safely delivered by a single provider, as determined by the services coordinator.

(3) The use of MICP funds to purchase supports is limited to:

(a) The service level for a child as determined by a functional needs assessment. The functional needs assessment determines the total number of hours needed to meet the identified needs of the child. The total number of assessed hours may not be exceeded without prior approval from the Department. The types of services that contribute to the total number of hours used include attendant care, skills training, hourly relief care, and state plan personal care service hours as described in OAR chapter 411, division 034; and

(b) Other services and supports determined by a services coordinator to be necessary to meet the support needs identified through a person-centered planning process and consistent with the Expenditure Guidelines.

(4) To be authorized and eligible for payment by the Department, all MICP services and supports must be:

- (a) Directly related to the disability of a child;
- (b) Required to maintain the health and safety of a child;
- (c) Cost effective;
- (d) Considered not typical for a parent or guardian to provide to a child of the same age;

(e) Required to help the parent or guardian to continue to meet the needs of caring for the child;

(f) Included in an approved ISP;

(g) Provided in accordance with the Expenditure Guidelines; and

(h) Based on the actual and customary costs related to best practice standards of care for children with similar disabilities.

(5) When conditions of purchases are met and provided purchases are not prohibited, MICP funds may be used to purchase a combination of the following supports based upon the needs of a child as determined by a services coordinator and consistent with a functional needs assessment, initial or annual ISP, and the OSIPM or OHP Plus benefits the child qualifies for:

(a) Community First Choice state plan services:

(A) Behavior support services as described in section (6) of this rule;

(B) Community nursing services as described in section (7) of this rule;

(C) Environmental modifications as described in section (8) of this rule;

(D) Attendant care as described in section (9) of this rule;

(E) Skills training as described in section (10) of this rule;

(F) Relief care as described in section (11) of this rule;

(G) Assistive devices as described in section (12) of this rule;

(H) Assistive technology as described in section (13) of this rule;

(I) Chore services as described in section (14) of this rule;

(J) Community transportation as described in section (15) of this rule;

and

(K) Transition costs as described in section (16) of this rule.

(b) Home and community-based waiver services:

(A) Case management as defined in OAR 411-355-0010;

(B) Family training as described in section (17) of this rule;

(C) Environmental safety modifications as described in section (18) of this rule;

(D) Vehicle modifications as described in section (19) of this rule;

(E) Specialized medical supplies as described in section (20) of this rule;

(F) Special diet as described in section (21) of this rule; and

(G) Individual-directed goods and services as described in section (22) of this rule.

(c) State Plan personal care services.

(6) BEHAVIOR SUPPORT SERVICES. Behavior support services may be authorized to support a primary caregiver in their caregiving role and to respond to specific problems identified by a child, primary caregiver, or a services coordinator. Positive behavior support services are used to enable a child to develop, maintain, or enhance skills to accomplish ADLs, IADLs, and health-related tasks.

(a) A behavior consultant must:

(A) Work with the child and primary caregiver to identify:

(i) Areas of the family home life that are of most concern for the child and the parent or guardian;

(ii) The formal or informal responses the family or the provider has used in those areas; and

(iii) The unique characteristics of the child and family that may influence the responses that may work with the child.

(B) Assess the child. The assessment must include:

(i) Specific identification of the behaviors or areas of concern;

(ii) Identification of the settings or events likely to be associated with, or to trigger, the behavior;

(iii) Identification of early warning signs of the behavior;

(iv) Identification of the probable reasons that are causing the behavior and the needs of the child that are met by the behavior, including the possibility that the behavior is:

(I) An effort to communicate;

(II) The result of a medical condition;

(III) The result of an environmental cause; or

(IV) The symptom of an emotional or psychiatric disorder.

(v) Evaluation and identification of the impact of disabilities (i.e. autism, blindness, deafness, etc.) that impact the development of strategies and affect the child and the area of concern; and

(vi) An assessment of current communication strategies.

(C) Develop a variety of positive strategies that assist the primary caregiver and the provider to help the child use acceptable, alternative actions to meet the needs of the child in the safest, most positive, and cost effective manner. These strategies may include changes in the physical and social environment, developing effective communication, and appropriate responses by the primary caregiver.

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(i) When interventions in behavior are necessary, the interventions must be performed in accordance with positive behavioral theory and practice as defined in OAR 411-355-0010.

(ii) The least intrusive intervention possible to keep the child and others safe must be used.

(iii) Abusive or demeaning interventions must never be used.

(iv) The strategies must be adapted to the specific disabilities of the child and the style or culture of the family.

(D) Develop a written Behavior Support Plan using clear, concrete language that is understandable to the primary caregiver and the provider that describes the assessment, strategies, and procedures to be used;

(E) Develop emergency and crisis procedures to be used to keep the child, primary caregiver, and the provider safe. When interventions in the behavior of the child are necessary, positive, preventative, non-aversive interventions that conform to OIS must be utilized. The use of protective physical intervention must be part of the Behavior Support Plan for the child. When protective physical intervention is required, the protective physical intervention must only be used as a last resort and the provider must be appropriately trained in OIS;

(F) Teach the primary caregiver and the provider the strategies and procedures to be used; and

(G) Monitor and revise the Behavior Support Plan as needed.

(b) Behavior support services may include:

(A) Training the primary caregiver or provider of a child;

(B) Developing a visual communication system as a strategy for behavior support; and

(C) Communicating, as authorized by a parent or guardian through a release of information, with other professionals about the strategies and outcomes of the Behavior Support Plan as written in the Behavior Support Plan within authorized consultation hours only.

(c) Behavior support services exclude:

(A) Mental health therapy or counseling;

(B) Health or mental health plan coverage;

(C) Educational services including, but not limited to, consultation and training for classroom staff;

(D) Adaptations to meet the needs of a child at school;

(E) An assessment in a school setting;

(F) Attendant care;

(G) Relief care; or

(H) Communication or activities not directly related to the development, implementation, or revision of the Behavior Support Plan.

(7) COMMUNITY NURSING SERVICES.

(a) Community nursing services include:

(A) Nursing assessments, including medication reviews;

(B) Care coordination;

(C) Monitoring;

(D) Development of a Nursing Service Plan;

(E) Delegation and training of nursing tasks to a provider and primary caregiver;

(F) Teaching and education of a primary caregiver and provider and identifying supports that minimize health risks while promoting the autonomy of a child and self-management of healthcare; and

(G) Collateral contact with a services coordinator regarding the community health status of a child to assist in monitoring safety and well-being and to address needed changes to the ISP for the child.

(b) Community nursing services exclude private duty nursing care.

(c) A Nursing Service Plan must be present when MICP funds are used for community nursing services. A services coordinator must authorize the provision of community nursing services as identified in an ISP.

(d) After an initial nursing assessment, a nursing reassessment must be completed every six months or sooner if a change in a medical condition requires an update to the Nursing Service Plan.

(8) ENVIRONMENTAL MODIFICATIONS.

(a) Environmental modifications include, but are not limited to:

(A) An environmental modification consultation to determine the appropriate type of adaptation;

(B) Installation of shatter-proof windows;

(C) Hardening of walls or doors;

(D) Specialized, hardened, waterproof, or padded flooring;

(E) An alarm system for doors or windows;

(F) Protective covering for smoke alarms, light fixtures, and appliances;

(G) Installation of ramps, grab-bars, and electric door openers;

(H) Adaptation of kitchen cabinets and sinks;

(I) Widening of doorways;

(J) Handrails;

(K) Modification of bathroom facilities;

(L) Individual room air conditioners for a child whose temperature sensitivity issues create behaviors or medical conditions that put the child or others at risk;

(M) Installation of non-skid surfaces;

(N) Overhead track systems to assist with lifting or transferring;

(O) Specialized electric and plumbing systems that are necessary to accommodate the medical equipment and supplies necessary for the welfare of the child; and

(P) Adaptations to control lights, heat, stove, etc.

(b) Environmental modifications exclude:

(A) Adaptations or improvements to the family home that are of general utility, such as carpeting, roof repair, and central air conditioning, unless directly related to the health and safety needs of the child and identified in the ISP for the child;

(B) Adaptations that add to the total square footage of the family home except for ramps that attach to the home for the purpose of entry or exit;

(C) Adaptations outside of the family home; and

(D) General repair or maintenance and upkeep required for the family home.

(c) Environmental modifications must be tied to supporting assessed ADL, IADL, and health-related tasks as identified in the ISP for the child.

(d) Environmental modifications are limited to \$5,000 per modification. A services coordinator must request approval for additional expenditures through the Department prior to expenditure. Approval is based on the service and support needs and goals of the child and the determination by the Department of appropriateness and cost effectiveness. In addition, separate environmental modification projects that cumulatively total up to over \$5,000 in a plan year must be submitted to the Department for review,

(e) Environmental modifications must be completed by a state licensed contractor with a minimum of \$1,000,000 liability insurance. Any modification requiring a permit must be inspected by a local inspector and certified as in compliance with local codes. Certification of compliance must be filed in the file for the contractor prior to payment.

(f) Environmental modifications must be made within the existing square footage of the family home, except for external ramps, and may not add to the square footage of the family home.

(g) Payment to the contractor is to be withheld until the work meets specifications.

(h) A scope of work as defined in OAR 411-355-0010 must be completed for each identified environmental modification project. All contractors submitting bids must be given the same scope of work.

(i) A services coordinator must follow the processes outlined in the Expenditure Guidelines for contractor bids and the awarding of work.

(j) All dwellings must be in good repair and have the appearance of sound structure.

(k) The identified home may not be in foreclosure or the subject of legal proceedings regarding ownership.

(l) Environmental modifications must only be completed to the family home.

(m) Upgrades in materials that are not directly related to the health and safety needs of the child are not paid for or permitted.

(n) Environmental modifications are subject to Department requirements regarding material and construction practices based on industry standards for safety, liability, and durability, as referenced in building codes, materials manuals, and industry and risk management publications.

(o) RENTAL PROPERTY.

(A) Environmental modifications to rental property may not substitute or duplicate services otherwise the responsibility of the landlord under the landlord tenant laws, the Americans with Disabilities Act, or the Fair Housing Act.

(B) Environmental modifications made to a rental structure must have written authorization from the owner of the rental property prior to the start of the work.

(C) The Department does not fund work to restore the rental structure to the former condition of the rental structure.

(9) ATTENDANT CARE. Attendant care services include direct support provided to a child in the family home or community by a qualified personal support worker or provider organization. ADL and IADL services provided through attendant care must support the child to live as independently as appropriate for the age of the child, support the family in their primary caregiver role, and be based on the identified goals, preferences, and

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needs of the child. The primary caregiver is expected to be present or available during the provision of attendant care.

(a) ADL services include, but are not limited to:

(A) Basic personal hygiene — providing or assisting with needs, such as bathing (tub, bed, bath, shower), hair care, grooming, shaving, nail care, foot care, dressing, skin care, or oral hygiene;

(B) Toileting, bowel, and bladder care — assisting to and from the bathroom, on and off toilet, commode, bedpan, urinal, or other assistive device used for toileting, changing incontinence supplies, following a toileting schedule, managing menses, cleansing a child or adjusting clothing related to toileting, emptying a catheter, drainage bag, or assistive device, ostomy care, or bowel care;

(C) Mobility, transfers, and repositioning — assisting with ambulation or transfers with or without assistive devices, turning a child or adjusting padding for physical comfort or pressure relief, or encouraging or assisting with range-of-motion exercises;

(D) Nutrition - assisting with adequate fluid intake or adequate nutrition, assisting with food intake (feeding), monitoring to prevent choking or aspiration, assisting with adaptive utensils, cutting food, and placing food, dishes, and utensils within reach for eating;

(E) Delegated nursing tasks;

(F) First aid and handling emergencies — addressing medical incidents related to the conditions of a child, such as seizure, aspiration, constipation, or dehydration, responding to the call of the child for help during an emergent situation, or for unscheduled needs requiring immediate response;

(G) Assistance with necessary medical appointments — help scheduling appointments, arranging medical transportation services, accompaniment to appointments, follow up from appointments, or assistance with mobility, transfers, or cognition in getting to and from appointments; and

(H) Observation of the status of a child and reporting of significant changes to a physician, health care provider, or other appropriate person.

(b) IADL services include, but are not limited to, the following services provided solely for the benefit of the child:

(A) Light housekeeping tasks necessary to maintain the child in a healthy and safe environment - cleaning surfaces and floors, making the child's bed, cleaning dishes, taking out the garbage, dusting, and laundry;

(B) Grocery and other shopping necessary for the completion of other ADL and IADL tasks;

(C) Meal preparation and special diets;

(D) Cognitive assistance or emotional support provided to a child - helping the child cope with change and assisting the child with decision-making, reassurance, orientation, memory, or other cognitive functions;

(E) Medication and medical equipment — assisting with ordering, organizing, and administering medications (including pills, drops, ointments, creams, injections, inhalers, and suppositories), monitoring a child for choking while taking medications, assisting with the administration of medications, maintaining equipment, or monitoring for adequate medication supply; and

(F) Support in the community around socialization and participation in the community:

(i) Support with socialization — assisting a child in acquiring, retaining, and improving self-awareness and self-control, social responsiveness, social amenities, and interpersonal skills;

(ii) Support with community participation — assisting a child in acquiring, retaining, and improving skills to use available community resources, facilities, or businesses; and

(iii) Support with communication — assisting a child in acquiring, retaining, and improving expressive and receptive skills in verbal and non-verbal language and the functional application of acquired reading and writing skills.

(c) Assistance with ADLs, IADLs, and health-related tasks may include cueing, monitoring, reassurance, redirection, set-up, hands-on, or standby assistance. Assistance may be provided through human assistance or the use of electronic devices or other assistive devices. Assistance may also require verbal reminding to complete any of the IADL tasks described in subsection (b) of this section.

(A) "Cueing" means giving verbal, audio, or visual cues during an activity to help a child complete the activity without hands-on assistance.

(B) "Hands-on" means a provider physically performs all or parts of an activity because a child is unable to do so.

(C) "Monitoring" means a provider observes a child to determine if assistance is needed.

(D) "Reassurance" means to offer a child encouragement and support.

(E) "Redirection" means to divert a child to another more appropriate activity.

(F) "Set-up" means the preparation, cleaning, and maintenance of personal effects, supplies, assistive devices, or equipment so that a child may perform an activity.

(G) "Stand-by" means a provider is at the side of a child ready to step in and take over the task if the child is unable to complete the task independently.

(d) Attendant care services must:

(A) Be prior authorized by the services coordinator before services begin;

(B) Be delivered through the most cost effective method as determined by the services coordinator; and

(C) Only be provided when the child is present to receive services.

(e) Attendant care services exclude:

(A) Hours that supplant parental responsibilities or other natural supports and services as defined in this rule available from the family, community, other government or public services, insurance plans, schools, philanthropic organizations, friends, or relatives;

(B) Hours solely to allow the primary caregiver to work or attend school;

(C) Hours that exceed what is necessary to support the child based on the functional needs assessment and medically involved criteria;

(D) Support generally provided for a child of similar age without disabilities by the parent or guardian or other family members;

(E) Supports and services in the family home that are funded by Child Welfare;

(F) Educational and supportive services provided by schools as part of a free and appropriate public education for children and young adults under the Individuals with Disabilities Education Act;

(G) Services provided by the family; and

(H) Home schooling.

(f) Attendant care services may not be provided on a 24-hour shift-staffing basis.

(10) SKILLS TRAINING. Skills training is specifically tied to accomplishing ADL, IADL, and other health-related tasks as identified by the functional needs assessment and ISP and is a means for a child to acquire, maintain, or enhance independence.

(a) Skills training may be applied to the use and care of assistive devices and technologies.

(b) Skills training is authorized when:

(A) The anticipated outcome of the skills training, as documented in the ISP, is measurable;

(B) Timelines for measuring progress towards the anticipated outcome are established in the ISP; and

(C) Progress towards the anticipated outcome are measured and the measurements are evaluated by a services coordinator no less frequently than every six months, based on the start date of the initiation of the skills training.

(c) When anticipated outcomes are not achieved within the timeframe outline in the ISP, the services coordinator must reassess or redefine the use of skills training with the child for that particular goal.

(d) Skills training does not replace the responsibilities of the school system.

(11) RELIEF CARE.

(a) Relief care may not be characterized as daily or periodic services provided solely to allow the primary caregiver to attend school or work. Daily relief care may be provided in segments that are sequential but may not exceed seven consecutive days without permission from the Department. No more than 14 days of relief care in a plan year are allowed without approval from the Department.

(b) Relief care may include both day and overnight services that may be provided in:

(A) The family home;

(B) A licensed or certified setting;

(C) The home of a qualified provider chosen by the parent or guardian as a safe setting for the child; or

(D) The community during the provision of ADL, IADL, health-related tasks, and other supports identified in the ISP for the child.

(c) Relief care services are not authorized for the following:

(A) Solely to allow the primary caregiver of the child to attend school or work;

(B) For more than seven consecutive overnight stays without permission from the Department;

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(C) For more than 10 days per individual plan year when provided at a camp that meets provider qualifications;

(D) For vacation, travel, and lodging expenses; or

(E) To pay for room and board.

(12) ASSISTIVE DEVICES. Assistive devices are primarily and customarily used to meet an ADL, IADL, or health-related support need. The purchase, rental, or repair of an assistive device must be limited to the types of equipment that are not excluded under OAR 410-122-0080.

(a) Assistive devices may be purchased with MICP funds when the disability of a child otherwise prevents or limits the independence of the child to assist in areas identified in a functional needs assessment.

(b) Assistive devices that may be purchased for the purpose described in subsection (a) of this section must be of direct benefit to the child and may include:

(A) Devices to secure assistance in an emergency in the community and other reminders, such as medication minders, alert systems for ADL or IADL supports, or mobile electronic devices.

(B) Assistive devices not provided by any other funding source to assist and enhance the independence of a child in performing ADLs or IADLs, such as durable medical equipment, mechanical apparatus, or electronic devices.

(c) Expenditures for assistive devices are limited to \$5,000 per plan year without Department approval. Any single purchase costing more than \$500 must be approved by the Department prior to expenditure. Approval is based on the service and support needs and goals of the child and a determination by the Department of appropriateness and cost-effectiveness.

(d) Devices must be limited to the least costly option necessary to meet the assessed need of a child.

(e) To be authorized by a services coordinator, assistive devices must be:

(A) In addition to any assistive devices, medical equipment, or supplies furnished under OHP, private insurance, or alternative resources;

(B) Determined necessary to the daily functions of a child; and

(C) Directly related to the disability of a child.

(f) Assistive devices exclude:

(A) Items that are not necessary or of direct medical or remedial benefit to the child or do not address the underlying need for the device;

(B) Items intended to supplant similar items furnished under OHP, private insurance, or alternative resources;

(C) Items that are considered unsafe for a child;

(D) Toys or outdoor play equipment; and

(E) Equipment and furnishings of general household use.

(13) ASSISTIVE TECHNOLOGY. Assistive technology is primarily and customarily used to provide additional safety and support and replace the need for direct interventions, to enable self-direction of care, and maximize independence. Assistive technology includes, but is not limited to, motion or sound sensors, two-way communication systems, automatic faucets and soap dispensers, incontinence and fall sensors, or other electronic backup systems.

(a) Expenditures for assistive technology are limited to \$5,000 per plan year without Department approval. Any single purchase costing more than \$500 must be approved by the Department prior to expenditure. A services coordinator must request approval for additional expenditures through the Department prior to expenditure. Approval is based on the service and support needs and goals of the child and a determination by the Department of appropriateness and cost-effectiveness.

(b) Payment for ongoing electronic back-up systems or assistive technology costs must be paid to providers each month after services are received.

(A) Ongoing costs do not include electricity or batteries.

(B) Ongoing costs may include minimally necessary data plans and the services of a company to monitor emergency response systems.

(14) CHORE SERVICES. Chore services may be provided only in situations where no one else is responsible or able to perform or pay for the services.

(a) Chore services include heavy household chores, such as:

(A) Washing floors, windows, and walls;

(B) Tacking down loose rugs and tiles; and

(C) Moving heavy items of furniture for safe access and egress.

(b) Chore services may include yard hazard abatement to ensure the outside of the family home is safe for the child to traverse and enter and exit the home.

(15) COMMUNITY TRANSPORTATION.

(a) Community transportation includes, but is not limited to:

(A) Community transportation provided by a common carrier or bus in accordance with standards established for these entities;

(B) Reimbursement on a per-mile basis for transporting a child; or

(C) Assistance with the purchase of a bus pass.

(b) Community transportation may only be authorized when natural supports or volunteer services are not available and one of the following is identified in the ISP for the child:

(A) The child has an assessed need for ADL, IADL, or a health-related task during transportation; or

(B) The child has either an assessed need for ADL, IADL, or a health-related task at the destination or a need for waiver funded services at the destination.

(c) Community transportation must be provided in the most cost-effective manner which meets the needs identified in the ISP for the child.

(d) Community transportation expenses exceeding \$500 per month must be approved by the Department.

(e) Community transportation must be prior authorized by a services coordinator and documented in an ISP. The Department does not pay any provider under any circumstances for more than the total number of hours, miles, or rides prior authorized by the services coordinator and documented in the ISP. Personal support workers who use their own personal vehicles for community transportation are reimbursed as described in OAR chapter 411, division 375.

(f) Community transportation excludes:

(A) Medical transportation;

(B) Purchase or lease of a vehicle;

(C) Routine vehicle maintenance and repair, insurance, and fuel;

(D) Ambulance services;

(E) Costs for transporting a person other than the child;

(F) Transportation for a provider to travel to and from the workplace of the provider;

(G) Transportation that is not for the sole benefit of the child;

(H) Transportation to vacation destinations or trips for relaxation purposes;

(I) Transportation provided by family members;

(J) Transportation normally provided by schools;

(K) Transportation used for behavioral intervention or calming;

(L) Transportation normally provided by a primary caregiver for a child of similar age without disabilities;

(M) Reimbursement for out-of-state travel expenses; and

(N) Transportation services that may be obtained through other means, such as OHP or other alternative resources available to the child.

(16) TRANSITION COSTS.

(a) Transition costs are limited to a child transitioning to the family home from a nursing facility or intermediate care facility for individuals with intellectual or developmental disabilities.

(b) Transition costs are based on the assessed need of a child determined during the person-centered service planning process and must support the desires and goals of the child receiving services and supports. Final approval for transition costs must be through the Department prior to expenditure. The approval of the Department is based on the need of the child and the determination by the Department of appropriateness and cost-effectiveness.

(c) Financial assistance for transition costs is limited to:

(A) Moving and move-in costs including movers, cleaning and security deposits, payment for background or credit checks (related to housing), or initial deposits for heating, lighting, and phone;

(B) Payment of previous utility bills that may prevent the child from receiving utility services and basic household furnishings such as a bed; and

(C) Other items necessary to re-establish a home.

(d) Transition costs are provided no more than twice annually.

(e) Transitions costs for basic household furnishings and other items are limited to one time per year.

(f) Transition costs may not supplant the legal responsibility of the parent or guardian. In this context, the term parent or guardian does not include a designated representative.

(17) FAMILY TRAINING. Family training services are provided to the family of a child to increase the abilities of the family to care for, support, and maintain the child in the family home.

(a) Family training services include:

(A) Instruction about treatment regimens and use of equipment specified in an ISP;

(B) Information, education, and training about the disability, medical, and behavioral conditions of a child; and

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(C) Registration fees for organized conferences and workshops specifically related to the disability of the child or the identified, specialized, medical, or behavioral support needs of the child.

(i) Conferences and workshops must be prior authorized by a services coordinator, directly relate to the disability or medical condition of a child, and increase the knowledge and skills of the family to care for and maintain the child in the family home.

(ii) Conference and workshop, costs exclude:

(I) Travel, food, and lodging expenses;

(II) Services otherwise provided under OHP or available through other resources; or

(III) Costs for individual family members who are employed to care for the child.

(b) Family training services exclude:

(A) Mental health counseling, treatment, or therapy;

(B) Training for a paid provider;

(C) Legal fees;

(D) Training for a family to carry out educational activities in lieu of school;

(E) Vocational training for family members; and

(F) Paying for training to carry out activities that constitute abuse of a child.

(18) ENVIRONMENTAL SAFETY MODIFICATIONS.

(a) Environmental safety modifications must be made from materials of the most cost effective type and may not include decorative additions.

(b) Fencing may not exceed 200 linear feet without approval from the Department.

(c) Environmental safety modifications exclude:

(A) Large gates such as automobile gates;

(B) Costs for paint and stain;

(C) Adaptations or improvements to the family home that are of general utility and are not for the direct medical or remedial benefit to the child or do not address the underlying environmental need for the modification; and

(D) Adaptations that add to the total square footage of the family home.

(d) Environmental safety modifications must be tied to supporting ADL, IADL, and health-related tasks as identified in the ISP for the child.

(e) Environmental safety modifications are limited to \$5,000 per modification. A services coordinator must request approval for additional expenditures through the Department prior to expenditure. Approval is based on the service and support needs and goals of the child and a determination by the Department of appropriateness and cost-effectiveness.

(f) In addition, separate environmental safety modification projects that cumulatively total up to over \$5,000 in a plan year must be submitted to the Department for review.

(g) Environmental safety modifications must be completed by a state licensed contractor with a minimum of \$1,000,000 liability insurance. Any modification requiring a permit must be inspected by a local inspector and certified as in compliance with local codes. Certification of compliance must be filed in the file for the contractor prior to payment.

(h) Environmental safety modifications must be made within the existing square footage of the family home and may not add to the square footage of the family home.

(i) Payment to the contractor is to be withheld until the work meets specifications.

(j) A scope of work as defined in OAR 411-355-0010 must be completed for each identified environmental modification project. All contractors submitting bids must be given the same scope of work.

(k) A services coordinator must follow the processes outlined in the Expenditure Guidelines for contractor bids and the awarding of work.

(l) All dwellings must be in good repair and have the appearance of sound structure.

(m) The identified home may not be in foreclosure or the subject of legal proceedings regarding ownership.

(n) Environmental modifications must only be completed to the family home.

(o) Upgrades in materials that are not directly related to the health and safety needs of the child are not paid for or permitted.

(p) Environmental modifications are subject to Department requirements regarding material and construction practices based on industry standards for safety, liability, and durability, as referenced in building codes, materials manuals, and industry and risk management publications.

(q) RENTAL PROPERTY.

(A) Environmental modifications to rental property may not substitute or duplicate services otherwise the responsibility of the landlord under the landlord tenant laws, the Americans with Disabilities Act, or the Fair Housing Act.

(B) Environmental modifications made to a rental structure must have written authorization from the owner of the rental property prior to the start of the work.

(C) The Department does not fund work to restore the rental structure to the former condition of the rental structure.

(19) VEHICLE MODIFICATIONS.

(a) Vehicle modifications may only be made to the vehicle primarily used by a child to meet the unique needs of the child. Vehicle modifications may include a lift, interior alterations to seats, head and leg rests, belts, special safety harnesses, other unique modifications to keep the child safe in the vehicle, and the upkeep and maintenance of a modification made to the vehicle.

(b) Vehicle modifications exclude:

(A) Adaptations or improvements to a vehicle that are of general utility and are not of direct medical benefit to a child or do not address the underlying need for the modification;

(B) The purchase or lease of a vehicle; or

(C) Routine vehicle maintenance and repair.

(c) Vehicle modifications are limited to \$5,000 per modification. A services coordinator must request approval for additional expenditures through the Department prior to expenditure. Approval is based on the service and support needs and goals of the child and a determination by the Department of appropriateness and cost-effectiveness. In addition, separate vehicle modification projects that cumulatively total up to over \$5,000 in a plan year must be submitted to the Department for review.

(d) Vehicle modifications must meet applicable standards of manufacture, design, and installation.

(20) SPECIALIZED MEDICAL SUPPLIES. Specialized medical supplies do not cover services which are otherwise available to a child under Vocational Rehabilitation and Other Rehabilitation Services, 29 U.S.C. 701-7961 as amended, or the Individuals with Disabilities Education Act, 20 U.S.C. 1400 as amended. Specialized medical supplies may not overlap with, supplant, or duplicate other services provided through a waiver, OHP, or Medicaid state plan services.

(21) SPECIAL DIET.

(a) A special diet is a supplement and is not intended to meet the complete, daily nutritional requirements for a child.

(b) A special diet must be ordered at least annually by a physician licensed by the Oregon Board of Medical Examiners and periodically monitored by a dietician or physician.

(c) The maximum monthly purchase for special diet supplies may not exceed \$100 per month.

(d) Special diet supplies must be in support of an evidence-based treatment regimen.

(e) A special diet excludes restaurant and prepared foods and vitamins.

(22) INDIVIDUAL-DIRECTED GOODS AND SERVICES.

(a) Individual-directed goods and services provide equipment and supplies that are not otherwise available through another source, such as waiver services, OHP, or Medicaid State Plan services.

(b) Individual-directed goods and services are therapeutic in nature and must be recommended in writing by at least one licensed health professional or by a behavior consultant.

(c) Individual-directed goods and services must directly address an identified disability related need of a child in the ISP.

(d) Individual-directed goods and services must:

(A) Decrease the need for other Medicaid services;

(B) Promote inclusion of a child in the community; or

(C) Increase the safety of a child in the family home.

(e) Individual-directed goods and services may not be:

(A) Otherwise available through another source, such as waiver services or state plan services;

(B) Experimental or prohibited treatment;

(C) Goods or services that are normally purchased by a family for a typically developing child of the same age; or

(D) Purchased solely due to the inability of the parent or guardian to pay for an item or service.

(f) Individual-directed goods and services purchased must be the most cost effective option available to meet the needs of the child.

(23) The assessed supports as authorized by the Department in the ISP, dated from the initial ISP to the anniversary date, must not be exceed-

# ADMINISTRATIVE RULES

ed. Supports may increase or decrease in direct relationship to the functional needs assessment.

(24) All MICP services authorized by the Department must be included in a written ISP in order to be eligible for payment. The ISP must use the most cost effective services for safely and appropriately meeting the assessed needs of a child as determined by a services coordinator. Any goods purchased with MICP funds that are not used according to an ISP may be immediately recovered by the Department.

(25) All requests for General Fund expenditures and expenditures exceeding limitations in the Expenditure Guidelines must be authorized by the Department. The approval of the Department is limited to 90 days unless re-authorized. A request for a General Fund expenditure or an expenditure exceeding limitations in the Expenditure Guidelines is only authorized in the following circumstances:

(a) The child is not safely served in the family home without the expenditure;

(b) The expenditure provides supports for emerging or changing service needs or behaviors of the child;

(c) A significant medical condition or event, as documented by a primary caregiver, prevents or seriously impedes the primary caregiver from providing services; or

(d) The services coordinator, and if appropriate a behavior consultant, determines that the child needs two staff present at one time to ensure the safety of the child and others. Prior to approval, the services coordinator must determine that the caregiver, including the parent or guardian, and where indicated, has been trained in behavior management and that all other feasible recommendations from the behavior consultant and the services coordinator have been implemented.

(26) Payment for CIIS is made in accordance with the Expenditure Guidelines.

(27) The Department does not pay for MICP services that are:

(a) Illegal, experimental, or determined unsafe for the general public by a recognized child or consumer safety agency;

(b) Notwithstanding abuse as defined in ORS 419B.005, abusive, aversive, or demeaning;

(c) Not necessary, not in accordance with the Expenditure Guidelines, not cost effective, or do not meet the definition of support or social benefit as defined in OAR 411-355-0010;

(d) Educational services for school-age children, including professional instruction, formal training, and tutoring in communication, socialization, and academic skills;

(e) Services or activities that the legislative or executive branch of Oregon government has prohibited use of public funds;

(f) Medical treatments; or

(g) Provided by private health insurance, OHP, or alternative resources.

Stat. Auth.: ORS 409.050, 417.345

Stats. Implemented: ORS 417.345, 427.007, 430.215

Hist.: SPD 5-2008(Temp), f. & cert. ef. 4-15-08 thru 10-12-08; SPD 14-2008, f. & cert. ef. 10-9-08; SPD 25-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 5-2010, f. 6-29-10, cert. ef. 7-1-10; SPD 29-2013(Temp), f. & cert. ef. 7-2-13 thru 12-29-13; SPD 56-2013, f. 12-27-13, cert. ef. 12-28-13; APD 16-2015(Temp), f. 7-30-15, cert. ef. 8-1-15 thru 1-27-16

## 411-355-0045

### Standards for Employers

(1) **EMPLOYER OF RECORD.** An employer of record is required when a personal support worker who is not an independent contractor is selected by a parent or guardian to provide supports. The Department may not act as the employer of record.

(2) **SERVICE AGREEMENT.** The employer must create and maintain a service agreement for a personal support worker that is in coordination with the services authorized in the ISP.

(3) **BENEFITS.** Only personal support workers qualify for benefits. The benefits provided to personal support workers are described in OAR chapter 411, division 375.

(4) **INTERVENTION.** For the purpose of this rule, "intervention" means the action the Department or the designee of the Department requires when an employer fails to meet the employer responsibilities described in this rule. Intervention includes, but is not limited to:

(a) A documented review of the employer responsibilities described in section (5) of this rule;

(b) Training related to employer responsibilities;

(c) Corrective action taken as a result of a personal support worker filing a complaint with the Department, the designee of the Department, or other agency who may receive labor related complaints;

(d) Identifying an employer representative if a person is not able to meet the employer responsibilities described in section (5) of this rule; or

(e) Identifying another representative if the current employer representative is not able to meet the employer responsibilities described in section (5) of this rule.

### (5) EMPLOYER RESPONSIBILITIES.

(a) For a child to be eligible for MICP services provided by an employed personal support worker, an employer must demonstrate the ability to:

(A) Locate, screen, and hire a qualified personal support worker;

(B) Supervise and train the personal support worker;

(C) Schedule work, leave, and coverage;

(D) Track the hours worked and verify the authorized hours completed by the personal support worker;

(E) Recognize, discuss, and attempt to correct any performance deficiencies with the personal support worker and provide appropriate, progressive, disciplinary action as needed; and

(F) Discharge an unsatisfactory personal support worker.

(b) Indicators that an employer may not be meeting the employer responsibilities described in subsection (a) of this section include, but are not limited to:

(A) Personal support worker complaints;

(B) Multiple complaints from a personal support worker requiring intervention from the Department as defined in section (4) of this rule;

(C) Frequent errors on timesheets, mileage logs, or other required documents submitted for payment that results in repeated coaching from the Department;

(D) Complaints to Medicaid Fraud involving the employer; or

(E) Documented observation by the Department of services not being delivered as identified in an ISP.

(c) The Department may require intervention as defined in section (4) of this rule when an employer has demonstrated difficulty meeting the employer responsibilities described in subsection (a) of this section.

(d) A child may not receive MICP services provided by a personal support worker if, after appropriate intervention and assistance, an employer is not able to meet the employer responsibilities described in subsection (a) of this section. The child may receive MICP services provided by a provider organization or general business provider, when available.

### (6) DESIGNATION OF EMPLOYER RESPONSIBILITIES.

(a) A parent or guardian not able to meet all of the employer responsibilities described in section (5)(a) of this rule must:

(A) Designate an employer representative in order for the child to receive or continue to receive MICP services provided by a personal support worker; or

(B) Select a provider organization or general business provider to provide MICP services.

(b) A parent or guardian able to demonstrate the ability to meet some of the employer responsibilities described in section (5)(a) of this rule must:

(A) Designate an employer representative to fulfill the responsibilities the parent or guardian is not able to meet in order for the child to receive or continue to receive MICP services provided by a personal support worker; and

(B) On a Department approved form, document the specific employer responsibilities to be performed by the parent or guardian and the employer responsibilities to be performed by the employer representative.

(c) When an employer representative is not able to meet the employer responsibilities described in section (5)(a) or the qualifications in section (7)(c) of this rule, the parent or guardian must:

(A) Designate a different employer representative in order for the child to receive or continue to receive MICP services provided by a personal support worker; or

(B) Select a provider organization or general business provider to provide MICP services.

### (7) EMPLOYER REPRESENTATIVE.

(a) A parent or guardian may designate an employer representative to act on behalf of the parent or guardian to meet the employer responsibilities described in section (5)(a) of this rule.

(b) If a personal support worker is selected by the parent or guardian to act as the employer, the parent or guardian must seek an alternate employer for purposes of the employment of the personal support worker. The alternate employer must:

(A) Track the hours worked and verify the authorized hours completed by the personal support worker; and

(B) Document the specific employer responsibilities performed by the employer on a Department-approved form.

# ADMINISTRATIVE RULES

(c) The Department may suspend, terminate, or deny a request for an employer representative if the requested employer representative has:

- (A) A founded report of child abuse or substantiated adult abuse;
- (B) Participated in billing excessive or fraudulent charges; or

(C) Failed to meet the employer responsibilities in section (5)(a) or (7)(b) of this rule, including previous termination as a result of failing to meet the employer responsibilities in section (5)(a) or (7)(b) of this rule.

(d) If the Department suspends, terminates, or denies a request for an employer representative for the reasons described in subsection (c) of this section, the parent or guardian may select another employer representative.

(8) NOTICE.

(a) The Department shall mail a notice to the parent or guardian when:

(A) The Department denies, suspends, or terminates an employer from performing the employer responsibilities described in sections (5)(a) or (7)(b) of this rule; and

(B) The Department denies, suspends, or terminates an employer representative from performing the employer responsibilities described in section (5)(a) or (7)(b) of this rule because the employer representative does not meet the qualifications in section (7)(c) of this rule.

(b) If the parent or guardian does not agree with the action taken by the Department, the parent or guardian may request an administrator review.

(A) The request for an administrator review must be made in writing and received by the Department within 45 days from the date of the notice.

(B) The determination of the Director is issued in writing within 30 days from the date the written request for an administrator review was received by the Department.

(C) The determination of the Director is the final response from the Department.

(c) When a denial, suspension, or termination of an employer results in the Department denying, suspending, or terminating a child from MFC services, the hearing rights in OAR chapter 411, division 318 apply.

Stat. Auth.: ORS 409.050, 417.345

Stats. Implemented: ORS 417.345, 427.007, 430.215

Hist.: APD 16-2015(Temp), f. 7-30-15, cert. ef. 8-1-15 thru 1-27-16

## 411-355-0050

### Standards for Providers Paid with MICP Funds

(1) PERSONAL SUPPORT WORKERS. A personal support worker must meet the qualifications described in OAR chapter 411, division 375.

(2) INDEPENDENT PROVIDERS WHO ARE NOT PERSONAL SUPPORT WORKERS.

(a) An independent provider who is not a personal support worker who is paid as a contractor or a self-employed person and selected to provide MICP services must:

(A) Be at least 18 years of age;

(B) Have approval to work based on Department policy and a background check completed by the Department in accordance with OAR 407-007-0200 to 407-007-0370. A subject individual as defined in OAR 407-007-0210 may be approved for one position to work with multiple individuals statewide when the subject individual is working in the same employment role. The Background Check Request form must be completed by the subject individual to show intent to work statewide;

(i) Prior background check approval for another Department provider type is inadequate to meet background check requirements for independent provider enrollment.

(ii) Background check approval is effective for two years from the date an independent provider is contracted with to provide in-home services, except in the following circumstances:

(I) Based on possible criminal activity or other allegations against the independent provider, a new fitness determination is conducted resulting in a change in approval status; or

(II) The background check approval has ended because the Department has inactivated or terminated the provider enrollment for the independent provider.

(C) Effective July 28, 2009, not have been convicted of any of the disqualifying crimes listed in OAR 407-007-0275;

(D) Be legally eligible to work in the United States;

(E) Not be the primary caregiver, parent, adoptive parent, stepparent, spouse, or other person legally responsible for the child receiving MICP services;

(F) Demonstrate by background, education, references, skills, and abilities that he or she is capable of safely and adequately performing the tasks specified in the ISP for the child, with such demonstration confirmed in writing by the parent or guardian including:

(i) Ability and sufficient education to follow oral and written instructions and keep any records required;

(ii) Responsibility, maturity, exercising sound judgment, and reputable character;

(iii) Ability to communicate with the parent or guardian;

(iv) Training of a nature and type sufficient to ensure that the provider has knowledge of emergency procedures specific to the child.

(G) Hold current, valid, and unrestricted appropriate professional license or certification where services and supervision requires specific professional education, training, and skill;

(H) Understand requirements of maintaining confidentiality and safeguarding information about the child and family;

(I) Not be on the list of excluded or debarred providers maintained by the Office of Inspector General (<http://exclusions.oig.hhs.gov/>);

(J) If providing transportation, a valid license to drive and proof of insurance, as well as any other license or certification that may be required under state and local law depending on the nature and scope of the transportation; and

(K) Sign a Medicaid provider agreement and be enrolled as a Medicaid provider prior to delivery of any services.

(b) Subsection (1)(a)(C) of this section does not apply to employees of a parent or guardian, employees of a general business provider, or employees of a provider organization, who were hired prior to July 28, 2009 and remain in the current position for which the employee was hired.

(c) If a provider is an independent contractor during the terms of a contract, the provider must maintain in force, at the expense of the provider, professional liability insurance with a combined single limit of not less than \$1,000,000 for each claim, incident, or occurrence. Professional liability insurance is to cover damages caused by error, omission, or negligent acts related to the professional services.

(A) The provider must provide written evidence of insurance coverage to the Department prior to beginning work and at any time upon the request of the Department.

(B) There must be no cancellation of insurance coverage without 30 days prior written notice to the Department.

(3) All providers must self-report any potentially disqualifying condition as described in OAR 407-007-0280 and OAR 407-007-0290. The provider must notify the Department or the designee of the Department within 24 hours.

(4) A provider must immediately notify the parent or guardian and the services coordinator of injury, illness, accident, or any unusual circumstance that may have a serious effect on the health, safety, physical, emotional well-being, or level of service required by the child for whom MICP services are being provided.

(5) All providers are mandatory reporters and are required to report suspected child abuse to the local Department office or to the police in the manner described in ORS 419B.010.

(6) Independent providers, including personal support workers, are not employees of the state, CDDP, or Support Services Brokerage.

(7) BEHAVIOR CONSULTANTS. Behavior consultants are not personal support workers. Behavior consultants may include, but are not limited to, autism specialists, licensed psychologists, or other behavioral specialists. Behavior consultants providing specialized supports must:

(a) Have education, skills, and abilities necessary to provide behavior support services as described in OAR 411-355-0040;

(b) Have current certification demonstrating completion of OIS training; and

(c) Submit a resume or the equivalent to the Department indicating at least one of the following:

(A) A bachelor's degree in special education, psychology, speech and communication, occupational therapy, recreation, art or music therapy, or a behavioral science or related field, and at least one year of experience with individuals who present difficult or dangerous behaviors; or

(B) Three years of experience with individuals who present difficult or dangerous behaviors and at least one year of that experience includes providing the services of a behavior consultant as described in OAR 411-355-0040.

(d) Additional education or experience may be required to safely and adequately provide the services described in OAR 411-355-0040.

(8) COMMUNITY NURSE. A nurse providing community nursing services must be an enrolled Medicaid provider and meet the qualifications in OAR 411-048-0210.

(9) DIETICIANS. Dieticians providing specialized diets must be licensed according to ORS 691.415 through 691.465.

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## (10) PROVIDER ORGANIZATIONS WITH CURRENT LICENSE OR CERTIFICATION.

(a) The following provider organizations may not require additional certification as an organization to provide relief care, attendant care, skills training, community transportation, or behavior support services:

(A) 24-hour residential settings certified, endorsed, and licensed under OAR chapter 411, division 325;

(B) Foster homes for children certified under OAR chapter 411, division 346;

(C) Foster homes for adults licensed under OAR chapter 411, division 360;

(D) Employment settings certified and endorsed under OAR chapter 411, divisions 323 and 345; and

(E) Supported living settings certified and endorsed under OAR chapter 411, divisions 323 and 328.

(b) Current license, certification, or endorsement is considered sufficient demonstration of ability to:

(A) Recruit, hire, supervise, and train qualified staff;

(B) Provide services according to an ISP; and

(C) Develop and implement operating policies and procedures required for managing an organization and delivering services, including provisions for safeguarding individuals receiving services.

(c) Provider organizations must assure that all people directed by the provider organization as employees, contractors, or volunteers to provide services paid for with MICP funds meet the standards for independent providers described in this rule.

(11) GENERAL BUSINESS PROVIDERS. General business providers providing services to children paid with MICP funds must hold any current license appropriate to operate required by the State of Oregon or federal law or regulation. Services purchased with MICP funds must be limited to those within the scope of the license of the general business provider. Licenses for general business providers include, but are not limited to:

(a) For a home health agency, a license under ORS 443.015;

(b) For an in-home care agency, a license under ORS 443.315;

(c) For providers of environmental modifications involving building modifications or new construction, a current license and bond as a building contractor as required by either OAR chapter 812 (Construction Contractor's Board) or OAR chapter 808 (Landscape Contractors Board), as applicable;

(d) For environmental modification consultants, a current license as a general contractor as required by OAR chapter 812, including experience evaluating homes, assessing the needs of a child, and developing cost-effective plans to make homes safe and accessible;

(e) For public transportation providers, a business license, vehicle insurance in compliance with the laws of the Department of Motor Vehicles, and operators with a valid license to drive;

(f) For vendors and medical supply companies providing assistive devices, a current retail business license and, if vending medical equipment, be enrolled as Medicaid providers through the Division of Medical Assistance Programs;

(g) For providers of personal emergency response systems, a current retail business license; and

(h) For vendors and supply companies providing specialized diets, a current retail business license.

Stat. Auth.: ORS 409.050 & 417.345

Stats. Implemented: ORS 417.345, 427.007 & 430.215

Hist.: SPD 5-2008(Temp), f. & cert. ef. 4-15-08 thru 10-12-08; SPD 14-2008, f. & cert. ef. 10-9-08; SPD 25-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 2-2010(Temp), f. & cert. ef. 3-18-10 thru 6-30-10; SPD 5-2010, f. 6-29-10, cert. ef. 7-1-10; SPD 56-2013, f. 12-27-13, cert. ef. 12-28-13; APD 16-2015(Temp), f. 7-30-15, cert. ef. 8-1-15 thru 1-27-16

## 411-355-0060

### Standards for Provider Organizations Paid by SPD

(1) A provider organization may not require additional certification to provide relief care, community inclusion, or emergent services if they are licensed or certified as:

(a) Twenty-four hour residential programs under OAR chapter 411, division 325;

(b) Foster homes for children with intellectual or developmental disabilities under OAR chapter 411, division 346;

(c) Child care centers under OAR chapter 414, division 300; or

(d) Organizational camps under OAR chapter 333, division 030.

(2) Provider organizations licensed or certified as described in section (1) of this rule may be considered sufficient demonstration of ability to:

(a) Recruit, hire, supervise, and train qualified staff;

(b) Provide services according to an ISP; and

(c) Develop and implement operating policies and procedures required for managing an organization and delivering services, including provisions for safeguarding individuals receiving services.

(3) A provider organization that wishes to enroll with the MICP must maintain and submit evidence upon initial application and upon request by the Department the following:

(a) Current background checks on each employee who shall be providing services in a family home showing that the employee has no disqualifying criminal convictions, including crimes identified in OAR 407-007-0275;

(b) Professional liability insurance that meets the requirements of OAR 411-355-0050; and

(c) Any licensure required of the agency by the state of Oregon or federal law or regulation.

(4) Provider organizations must assure that all individuals directed by the provider organization as employees, contractors, or volunteers to provide services paid for with MICP funds meet standards for qualification of providers outlined in OAR 411-355-0050.

Stat. Auth.: ORS 409.050 & 417.345

Stats. Implemented: ORS 427.007 & 430.215

Hist.: SPD 5-2008(Temp), f. & cert. ef. 4-15-08 thru 10-12-08; SPD 14-2008, f. & cert. ef. 10-9-08; SPD 25-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 5-2010, f. 6-29-10, cert. ef. 7-1-10; SPD 56-2013, f. 12-27-13, cert. ef. 12-28-13; Suspended by APD 16-2015(Temp), f. 7-30-15, cert. ef. 8-1-15 thru 1-27-16

## 411-355-0070

### Standards for General Business Providers paid by SPD

General business providers providing services to children paid with MICP funds must hold any current license appropriate to operate required by the state of Oregon or federal law or regulation.

(1) Home health agencies must be licensed under ORS 443.015.

(2) In-home care agencies must be licensed under ORS 443.315.

(3) Public transportation providers must be regulated according to established standards and private transportation providers must have business license and drivers licensed to drive in Oregon.

(4) Vendors and medical supply companies providing specialized medical equipment and supplies must have a current retail business license and, if vending medical equipment, be enrolled as Medicaid providers through the Division of Medical Assistance Programs.

(5) Providers of personal emergency response systems must have a current retail business license.

(6) Vendors and supply companies providing specialized diets must have a current retail business license.

Stat. Auth.: ORS 409.050 & 417.345

Stats. Implemented: ORS 417.345, 427.007 & 430.215

Hist.: SPD 5-2008(Temp), f. & cert. ef. 4-15-08 thru 10-12-08; SPD 14-2008, f. & cert. ef. 10-9-08; SPD 56-2013, f. 12-27-13, cert. ef. 12-28-13; Suspended by APD 16-2015(Temp), f. 7-30-15, cert. ef. 8-1-15 thru 1-27-16

## 411-355-0075

### Provider Enrollment Inactivation and Termination

(1) PERSONAL SUPPORT WORKERS. The provider enrollment for a personal support worker is inactivated or terminated as described in OAR chapter 411, division 375.

(2) INDEPENDENT PROVIDERS WHO ARE NOT PERSONAL SUPPORT WORKERS.

(a) The provider enrollment for an independent provider who is not a personal support worker may be inactivated in the following circumstances:

(A) The provider has not provided any paid services to a child within the last previous 12 months;

(B) The provider informs the Department, CDDP, MICP, or Support Services Brokerage that the provider is no longer providing services in Oregon;

(C) The background check for the provider results in a closed case pursuant to OAR 407-007-0325;

(D) The actions of the provider are being investigated by adult or child protective services for suspected abuse that poses imminent danger to current or future children; or

(E) Payments to the provider, either whole or in part, for the provider have been suspended based on a credible allegation of fraud or has a conviction of fraud pursuant to federal law under 42 CFR 455.23.

(b) The enrollment for an independent provider, who is not a personal support worker, may be terminated when the Department determines after enrollment that the independent provider has:

(A) Been convicted of any crime that would have resulted in an unacceptable background check upon hiring or authorization of service;

(B) Been convicted of unlawfully manufacturing, distributing, prescribing, or dispensing a controlled substance;

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(C) Surrendered his or her professional license or had his or her professional license suspended, revoked, or otherwise limited;

(D) Failed to safely and adequately provide the authorized services;

(E) Had a founded report of child abuse or substantiated adult abuse;

(F) Failed to cooperate with any Department or CDDP investigation or grant access to, or furnish, records or documentation, as requested;

(G) Billed excessive or fraudulent charges or been convicted of fraud;

(H) Made a false statement concerning conviction of a crime or substantiated abuse;

(I) Falsified required documentation;

(J) Been suspended or terminated as a provider by the Department or Oregon Health Authority;

(K) Violated the requirement to maintain a drug-free work place;

(L) Failed to provide services as required;

(M) Failed to provide a tax identification number or social security number that matches the legal name of the independent provider, as verified by the Internal Revenue Service or Social Security Administration; or

(N) Been excluded or debarred by the Office of the Inspector General.

(c) If the Department makes a decision to terminate the provider enrollment of an independent provider who is not a personal support worker, the Department must issue a written notice. The written notice must include:

(A) An explanation of the reason for termination of the provider enrollment;

(B) The alleged violation as listed in subsection (A) or (B) of this section; and

(C) The appeal rights for the independent provider, including how to file an appeal.

(d) For terminations based on substantiated abuse allegations, the notice may only contain the limited information allowed by law. In accordance with ORS 124.075, 124.085, 124.090, and OAR 411-020-0030, complainants, witnesses, the name of the alleged victim, and protected health information may not be disclosed.

(e) The provider may appeal a termination within 30 days from the date the termination notice was mailed to the provider. The provider must appeal a termination separately from any appeal of audit findings and overpayments.

(A) A provider of Medicaid services may appeal a termination by requesting an administrator review.

(B) For an appeal regarding provision of Medicaid services to be valid, written notice of the appeal must be received by the Department within 30 days from the date the termination notice was mailed to the provider.

(f) At the discretion of the Department, providers who have previously been terminated or suspended by the Department or by the Oregon Health Authority may not be authorized as providers of Medicaid services.

Stat. Auth.: ORS 409.050, 417.345

Stats. Implemented: ORS 417.345, 427.007, 430.215

hist.: APD 16-2015(Temp), f. 7-30-15, cert. ef. 8-1-15 thru 1-27-16

## 411-355-0080

### MICP Documentation Needs

(1) Accurate timesheets of MICP services must be dated and signed by the provider and the parent or guardian of the child after the services are provided. Timesheets must be maintained and submitted to the Department with any request for payment for services.

(2) Requests for payment for MICP services must:

(a) Include the billing form indicating prior authorization for the services;

(b) Be signed by the provider acknowledging agreement with the terms and condition of the billing form and attesting that the hours were delivered as billed; and

(c) Be signed by the parent or guardian of the child after the services were delivered, verifying that the services were delivered as billed.

(3) Documentation of MICP services provided must be provided to the services coordinator upon request or as outlined in the ISP for the child and maintained in the family home or the place of business of the provider of services. The Department does not pay for services that are not outlined in the ISP for the child or unrelated to the disability of the child.

(4) The Department retains billing forms and timesheets for at least five years from the date of service.

(5) Behavior consultants must submit the following to the Department written in clear, concrete language, understandable to the parent or guardian of the child and the provider:

(a) An evaluation of the child, the concerns of the parent or guardian, the environment of the child, current communication strategies used by the

child and used by others with the child, and any other disability of the child that may impact the appropriateness of strategies to be used with the child; and

(b) Any behavior plan or instructions left with the parent or provider that describes the suggested strategies to be used with the child.

(6) A Nursing Service Plan must be developed within seven days of the initiation of MICP services and submitted to the Department for approval when services which require nursing delegation are provided.

(a) The Nursing Service Plan must be reviewed, updated, and resubmitted to the Department in the following instances:

(A) Every six months;

(B) Within seven working days of a change of the nurse who writes the Nursing Service Plan;

(C) With any request for authorization of an increase in hours of service; or

(D) After any significant change of condition, such as hospital admission or change in health status.

(b) The provider must share the Nursing Service Plan with the parent or guardian.

(7) The Department must be notified by the provider or the primary caregiver within one working day of the hospitalization or death of any eligible child.

(8) Providers must maintain documentation of provided services for at least seven years from the date of service. If a provider is a nurse, the nurse must either maintain documentation of provided services for at least five years or send the documentation to the Department.

(9) Providers must furnish requested documentation immediately upon the written request from the Department, the Oregon Department of Justice Medicaid Fraud Unit, Centers for Medicare and Medicaid Services, or their authorized representatives, and within the time frame specified in the written request. Failure to comply with the request may be considered by the Department as reason to deny or recover payments.

(10) Access to records by the Department, including but not limited to, medical, nursing, behavior, psychiatric, or financial records, to include providers and vendors providing goods and services, does not require authorization or release by the child or the parent or guardian of the child.

Stat. Auth.: ORS 409.050, 417.345

Stats. Implemented: ORS 417.345, 427.007, 430.215

Hist.: SPD 5-2008(Temp), f. & cert. ef. 4-15-08 thru 10-12-08; SPD 14-2008, f. & cert. ef. 10-9-08; SPD 56-2013, f. 12-27-13, cert. ef. 12-28-13; APD 16-2015(Temp), f. 7-30-15, cert. ef. 8-1-15 thru 1-27-16

## 411-355-0090

### Payment for MICP Services

(1) Payment is made after MICP services are delivered as authorized.

(2) Effective July 28, 2009, MICP funds may not be used to support, in whole or in part, a provider in any capacity who has been convicted of any of the disqualifying crimes listed in OAR 407-007-0275.

(3) Section (2) of this rule does not apply to an employee of a parent or guardian or a provider who was hired prior to July 28, 2009 that remains in the current position for which the employee was hired.

(4) Payment for MICP services is made in accordance with the Expenditure Guidelines.

(5) Service levels are based on the individual needs of a child as identified by a functional needs assessment and medically involved criteria and authorized in the ISP for the child.

(6) Authorization must be obtained prior to the delivery of any MICP services for the services to be eligible for payment.

(7) A providers must request payment authorization for MICP services provided during an unforeseeable emergency on the first business day following the emergency service. A services coordinator must determine if the service is eligible for payment.

(8) The Department makes payment to the employee of a parent or guardian on behalf of the parent or guardian. The Department pays the employer's share of the Federal Insurance Contributions Act tax (FICA) and withholds FICA as a service to the parent or guardian, who is the employer.

(9) The delivery of authorized MICP services must occur so that any individual employee of the parent or guardian does not exceed 40 hours per work week. The Department does not authorize services that require the payment of overtime without prior written authorization by the supervisor of children's intensive in-home services.

(10) Holidays are paid at the same rate as non-holidays.

(11) Travel time to reach the job site is not reimbursable.

(12) Payment by the Department for MICP services is considered full payment for the services rendered under Medicaid. A provider may not

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demand or receive additional payment for MICP services from the parent, guardian, or any other source, under any circumstances.

(13) Medicaid funds are the payor of last resort. A provider must bill all third party resources until all third party resources are exhausted.

(14) The Department reserves the right to make a claim against any third party payer before or after making payment to the provider.

(15) The Department may void without cause prior authorizations that have been issued in the event of any of the following:

(a) Change in the status of the child, such as hospitalization, improvement in health status, or death of the child;

(b) Decision of the parent or guardian to change providers;

(c) Inadequate services, inadequate documentation, or failure to perform other expected duties;

(d) Documentation of a person who is subject to background checks on or after July 28, 2009, as required by administrative rule, has been convicted of any of the disqualifying crimes listed in OAR 407-007-0275; or

(e) Any situation, as determined by the services coordinator that puts the health or safety of the child at risk.

(16) Section (15)(d) of this rule does not apply to employees of parents or guardians or billing providers who were hired prior to July 28, 2009 that remain in the current position for which the employee was hired.

(17) Upon submission of the billing form for payment, a provider must comply with:

(a) All rules in OAR chapter 407 and OAR chapter 411;

(b) 45 CFR Part 84 that implements Title V, Section 504 of the Rehabilitation Act of 1973 as amended;

(c) Title II and Title III of the Americans with Disabilities Act of 1991; and

(d) Title VI of the Civil Rights Act of 1964.

(18) All billings must be for MICP services provided within the licensure and certification of the provider.

(19) The provider must submit true and accurate information on the billing form. Use of a provider organization does not replace the responsibility of the provider for the truth and accuracy of submitted information.

(20) A person may not submit the following to the Department:

(a) A false billing form for payment;

(b) A billing form for payment that has been, or is expected to be, paid by another source; or

(c) Any billing form for MICP services that have not been provided.

(21) The Department only makes payment to an enrolled provider who actually performs the MICP services or the enrolled provider organization. Federal regulations prohibit the Department from making payment to a collection agency.

(22) Payment is denied if any provisions of these rules are not complied with.

(23) The Department recoups all overpayments.

(a) The amount to be recovered:

(A) Is the entire amount determined or agreed to by the Department;

(B) Is not limited to the amount determined by criminal or civil proceedings; and

(C) Includes interest to be charged at allowable state rates.

(b) A request for repayment of the overpayment or notification of recoupment of future payments is delivered to the provider by registered or certified mail or in person.

(c) Payment schedules with interest may be negotiated at the discretion of the Department.

(d) If recoupment is sought from a parent or guardian, the parent or guardian has the right to request a hearing as provided in ORS chapter 183.

(24) The Department makes payment for MICP services after services are delivered as authorized in the ISP for the child and required documentation is received by the services coordinator.

(25) In order to be eligible for payment, requests for payments must be submitted to the Department within 12 months of the delivery of MICP services.

Stat. Auth.: ORS 409.050 & 417.345

Stats. Implemented: ORS 417.345, 427.007 & 430.215

Hist.: SPD 5-2008(Temp), f. & cert. ef. 4-15-08 thru 10-12-08; SPD 14-2008, f. & cert. ef. 10-9-08; SPD 25-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 2-2010(Temp), f. & cert. ef. 3-18-10 thru 6-30-10; SPD 5-2010, f. 6-29-10, cert. ef. 7-1-10; SPD 56-2013, f. 12-27-13, cert. ef. 12-28-13; APD 16-2015(Temp), f. 7-30-15, cert. ef. 8-1-15 thru 1-27-16

## 411-355-0100

### Rights, Complaints, Notification of Planned Action, and Hearings

(1) RIGHTS OF A CHILD.

(a) The rights of a child are described in OAR 411-318-0010.

(b) Upon entry and request and annually thereafter, the individual rights described in OAR 411-318-0010 must be provided to the parent or guardian and the child.

(2) COMPLAINTS.

(a) Complaints must be addressed in accordance with OAR 411-318-0015.

(b) Upon entry and request and annually thereafter, the policy and procedures for complaints as described in OAR 411-318-0015 must be explained and provided to the parent or guardian of each child.

(3) NOTIFICATION OF PLANNED ACTION. In the event MICP services are denied, reduced, suspended, or terminated, a written advance Notification of Planned Action (form SDS 0947) must be provided as described in OAR 411-318-0020.

(4) HEARINGS.

(a) Hearings must be addressed in accordance with ORS chapter 183 and OAR 411-318-0025.

(b) The parent or guardian may request a hearing as provided in ORS chapter 183 and OAR 411-318-0025.

(c) Upon entry and request and annually thereafter, a notice of hearing rights and the policy and procedures for hearings as described in OAR chapter 411, division 318 must be explained and provided to the parent or guardian of each child.

Stat. Auth.: ORS 409.050 & 417.345

Stats. Implemented: ORS 417.345, 427.007 & 430.215

Hist.: SPD 5-2008(Temp), f. & cert. ef. 4-15-08 thru 10-12-08; SPD 14-2008, f. & cert. ef. 10-9-08; SPD 56-2013, f. 12-27-13, cert. ef. 12-28-13; APD 16-2015(Temp), f. 7-30-15, cert. ef. 8-1-15 thru 1-27-16

## 411-355-0110

### Denial, Termination, Suspension, Reduction or Eligibility for MICP Services for Individual Medicaid Recipients

(1) MEDICAID FAIR HEARING RIGHTS. Each time the Department takes an action to deny, terminate, suspend, or reduce a child's access to services covered under Medicaid, the Department shall notify the child's parent of the right to a hearing and the method to request a hearing. The Department shall mail the notice by certified mail, or personally serve it to the child's parent 10 days or more prior to the effective date of an action.

(a) The Department shall use, Notice of Hearing Rights, or a comparable Department-approved form for such notification. This notification requirement does not apply if an action is part of, or fully consistent with, the ISP, or the child's parent has agreed with the action by signature to the ISP. The notice shall be given directly to the parent when the ISP is signed.

(b) The parent may appeal a denial of a request for additional or different services only if the request has been made in writing and submitted to the address on the notice to expedite the process.

(c) A notice required by section (1) of this rule must include:

(A) The action the Department intends to take;

(B) The reasons for the intended action;

(C) The specific Oregon Administrative Rules that supports, or the change in federal or state law that requires, the action;

(D) The appealing party's right to request a hearing in accordance with OAR chapter 137, Oregon Attorney General's Model Rules, ORS chapter 183, and 42 CFR Part 431, Subpart E;

(E) A statement that the Department files on the subject of the hearing automatically becoming part of the hearing record upon default for the purpose of making a prima facie case;

(F) A statement that the actions specified in the notice shall take effect by default if the Department representative does not receive a request for hearing from the party within 45 days from the date that the Department mails the notice of action;

(G) In cases of an action based upon a change in law, the circumstances under which a hearing shall be granted; and

(H) An explanation of the circumstances under which MICP services shall be continued if a hearing is requested.

(d) If the parent disagrees with the decision or proposed action of the Department to deny, terminate, suspend, or reduce a child's access to services covered under Medicaid, the parent may request a hearing as provided in ORS chapter 183. The request for a hearing must be in writing on Form DHS 443 and signed by the parent. The signed form (DHS 443) must be received by the Department within 45 days from the date of the Department's notice of denial.

(e) The parent may request an expedited hearing if the parent feels that there is immediate, serious threat to the child's life or health should the normal timing of the hearing process be followed.

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(f) If the parent requests a hearing before the effective date of the proposed actions and requests that the existing services be continued, the Department shall continue the services.

(A) The Department must continue the services until whichever of the following occurs first:

- (i) The current authorization expires;
- (ii) The administrative law judge issues a proposed order and the Department issues a final order; or
- (iii) The child is no longer eligible for Medicaid benefits.

(B) The Department must notify the child's parent that the Department is continuing the service. The notice must inform the parent that, if the hearing is resolved against the child, the Department may recover the cost of any services continued after the effective date of the continuation notice.

(g) The Department may reinstate services if:

(A) The Department takes an action without providing the required notice and the parent requests a hearing;

(B) The Department fails to provide the notice in the time required in this rule and the parent requests a hearing within 10 days of the mailing of the notice of action; or

(C) The post office returns mail directed to the parent, but the location of the parent becomes known during the time that the child is still eligible for services.

(h) The Department must promptly correct the action taken up to the limit of the original authorization, retroactive to the date the action was taken, if the hearing decision is favorable to the child, or the Department decides in the child's favor before the hearing.

(i) The Department representative and the parent may have an informal conference, without the presence of the administrative law judge, to discuss any of the matters listed in OAR 137-003-0575. The informal conference may also be used to:

(A) Provide an opportunity for the Department and the parent to settle the matter;

(B) Ensure the child's parent understands the reason for the action that is the subject of the hearing request;

(C) Give the parent an opportunity to review the information that is the basis for that action;

(D) Inform the parent of the rules that serve as the basis for the contested action;

(E) Give the parent and the Department the chance to correct any misunderstanding of the facts;

(F) Determine if the parent wishes to have any witness subpoenas issued; and

(G) Give the Department an opportunity to review its action.

(j) The child's parent may, at any time prior to the hearing date, request an additional conference with the Department representative. At the Department representative's discretion, the Department representative may grant an additional conference if it facilitates the hearing process.

(k) The Department may provide the parent the relief sought at any time before the final order is issued.

(l) A parent may withdraw a hearing request at any time prior to the issuance of a final order. The withdrawal shall be effective on the date the Department or the Office of Administrative Hearings receives it. The Department must issue a final order confirming the withdrawal to the last known address of the child's parent. The child's parent may cancel the withdrawal up to 10 working days following the date the final order is issued.

## (2) PROPOSED AND FINAL ORDERS.

(a) In a contested case, the administrative law judge must serve a proposed order on the child and the Department.

(b) If the administrative law judge issues a proposed order that is adverse to the child, the child's parent may file exceptions to the proposed order to be considered by the Department. The exceptions must be in writing and must be received by the Department no later than 10 days after service of the proposed order. The child's parent may not submit additional evidence after this period unless the Department grants prior approval.

(c) After receiving the exceptions, if any, the Department may adopt the proposed order as the final order or may prepare a new order. Prior to issuing the final order, the Department may issue an amended proposed order.

(3) The performing or billing provider must submit relevant documentation to the Department within five working days at the request of the Department when a hearing has been requested.

Stat. Auth.: ORS 409.050 & 417.345

Stats. Implemented: ORS 417.345, 427.007 & 430.215

Hist.: SPD 5-2008(Temp), f. & cert. ef. 4-15-08 thru 10-12-08; SPD 14-2008, f. & cert. ef. 10-9-08; SPD 56-2013, f. 12-27-13, cert. ef. 12-28-13; Suspended by APD 16-2015(Temp), f. 7-30-15, cert. ef. 8-1-15 thru 1-27-16

## 411-355-0120

### Sanctions for MICP Providers

(1) Sanctions may be imposed on a provider when any of the following conditions is determined by the Department to have occurred:

(a) The provider has been convicted of any crime that would have resulted in an unacceptable background check upon hiring or issuance of a provider number;

(b) The provider has been convicted of unlawfully manufacturing, distributing, prescribing, or dispensing a controlled substance;

(c) The provider's license has been suspended, revoked, otherwise limited, or surrendered;

(d) The provider has failed to safely and adequately provide the MICP services authorized as determined by the parent or the services coordinator;

(e) The provider has had a founded report of child abuse or substantiated abuse;

(f) The provider has failed to cooperate with any investigation or grant access to or furnish, as requested, records or documentation;

(g) The provider has billed excessive or fraudulent charges or has been convicted of fraud;

(h) The provider has made a false statement concerning conviction of crime or substantiation of abuse;

(i) The provider has falsified required documentation;

(j) The provider has not adhered to the provisions of these rules; or

(k) The provider has been suspended or terminated as a provider by the Department or the Oregon Health Authority.

(2) The Department may impose the following sanctions on a provider:

(a) Termination from participation in the MICP;

(b) Suspension from participation in the MICP for a specified length of time or until specified conditions for reinstatement are met and approved by the Department; or

(c) Payments to the provider may be withheld.

(3) If the Department makes a decision to sanction a provider, the provider must be notified by mail of the intent to sanction.

(a) The provider may appeal a sanction by requesting an administrative review by the Department's director.

(b) For an appeal to be valid, written notice of the appeal must be received by the Department within 45 days of the date the sanction notice was mailed to the provider.

(c) The provider must appeal a sanction separately from any appeal of audit findings and overpayments.

(4) At the discretion of the Department, providers who have previously been terminated or suspended by the Department or the Oregon Health Authority may not be re-enrolled as providers of Medicaid services.

Stat. Auth.: ORS 409.050 & 417.345

Stats. Implemented: ORS 417.345, 427.007 & 430.215

Hist.: SPD 5-2008(Temp), f. & cert. ef. 4-15-08 thru 10-12-08; SPD 14-2008, f. & cert. ef. 10-9-08; SPD 25-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 5-2010, f. 6-29-10, cert. ef. 7-1-10; SPD 56-2013, f. 12-27-13, cert. ef. 12-28-13; Suspended by APD 16-2015(Temp), f. 7-30-15, cert. ef. 8-1-15 thru 1-27-16

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**Rule Caption:** Nursing Facilities/Licensing - Transfers

**Adm. Order No.:** APD 17-2015

**Filed with Sec. of State:** 7-31-2015

**Certified to be Effective:** 8-10-15

**Notice Publication Date:** 7-1-2015

**Rules Amended:** 411-088-0050, 411-088-0060

**Rules Repealed:** 411-088-0050(T), 411-088-0060(T)

**Subject:** The Department of Human Services (Department) is permanently updating 411-088-0050 and 411-088-0060 to make permanent, temporary changes that were implemented March 2, 2015 to meet the requirements of 411-088-0070. The amendments provide the correct citation for a form that is named in both rules, and delete the outdated form that was included as an exhibit at the end of the rule division. Minor wording, grammar, formatting, and punctuation changes will be made to the rules as well to improve clarity.

**Rules Coordinator:** Kimberly Colkitt-Hallman — (503) 945-6398

## 411-088-0050

### Right to Return from Hospital

(1) If a resident is transferred to a hospital, the facility may not fill the resident's bed with another person if the resident or the resident's legal rep-

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representative offers payment, or reimbursement is available from the Department, for the period of the hospital stay. If payment or reimbursement is offered or available, from or on behalf of the resident, the Department, or a combination thereof, or if the facility has not complied in full with section (2) of this rule, the resident shall have the right of return to his or her bed immediately after the period of hospital stay.

(2) The Administrator, or his or her designee, is responsible for notifying the resident or legal representative and any agency responsible for the welfare or support of the resident of the option to offer payment to hold the bed prior to filling the bed with another person. This notification shall be documented in the resident's record by either the resident's or legal representative's written agreement to pay or rejection of the option to pay.

(3) If the resident is unable, due to physical or mental incapacity, to enter such agreement and there is no legal representative known to the facility, this fact shall be documented in the resident's record and the resident's bed may thereafter be filled upon issuance of the notice (SDS 0510).

(4) If the resident's bed has been given to another person because payment was not offered, the resident shall have priority for readmission over all other persons with a right to readmission and over any waiting list.

(5) If a former resident or his or her legal representative requests right of return and the facility denies right of return, then the facility shall give written notice (SDS 0510).

(6) Persons with right of return have priority over all persons with right of readmission.

(7) Residents with a right of return are entitled to return to the facility immediately upon discharge from the hospital unless the resident's bed has been filled in compliance with this rule and there is no available bed in the facility.

Stat. Auth.: ORS 410 & 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 5-2015(Temp), f. 2-27-15, cert. ef. 3-2-15 thru 8-28-15; APD 17-2015, f. 7-31-15, cert. ef. 8-10-15

### 411-088-0060

#### Right to Readmission

(1) Any person transferred from a facility voluntarily or involuntarily shall have the right of readmission to the facility from which the person was transferred, provided that:

(a) A request for readmission is made within 180 days of the date of transfer;

(b) The person is eligible by means of payment and requires nursing facility care; and

(c) No determination was made at informal conference or hearing that the person does not have the right of readmission.

(2) Section (1) of this rule does not require a facility to accept a person in a bed located in a room which is occupied by a resident of the opposite sex at the time of the request.

**EXCEPTION:** A facility is required to accept a person to a room occupied by a resident of the opposite sex if the respective resident previously shared a room in the facility and if neither resident objects to the admission.

(3) Section (1) of this rule does not require a facility to accept a person who voluntarily transferred from the facility directly to another nursing facility.

(4) If a person or his or her legal representative request readmission, and the facility denies readmission, then the facility shall give written notice (SDS 0510).

(5) A former resident who receives Medicaid does not have the right to be readmitted to a facility which is not Medicaid certified unless reimbursement is available pursuant to OAR 411-070-0010.

(6) If more than one person has a right of readmission, priority in allocation of vacancies shall be determined by the earliest date of application for readmission.

(7) A person whose stay in the facility totals 30 or fewer days and was transferred pursuant to OAR 411-088-0070(1)(d) (post-hospital extended care services or specialized services) may not have a right of readmission.

Stat. Auth.: ORS 441.055 & 441.605

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; SSD 2-1995, f. & cert. ef. 2-15-95; APD 5-2015(Temp), f. 2-27-15, cert. ef. 3-2-15 thru 8-28-15; APD 17-2015, f. 7-31-15, cert. ef. 8-10-15

**Rule Caption:** Amending rules relating to child welfare

**Adm. Order No.:** CWP 12-2015

**Filed with Sec. of State:** 7-17-2015

**Certified to be Effective:** 7-17-15

**Notice Publication Date:** 6-1-2015

**Rules Amended:** 413-070-0000, 413-070-0010, 413-070-0015, 413-070-0020, 413-070-0022, 413-070-0027, 413-070-0030, 413-070-0060, 413-070-0069, 413-070-0072, 413-070-0075, 413-070-0078, 413-070-0081, 413-070-0087, 413-070-0130, 413-070-0140, 413-070-0150, 413-070-0160, 413-070-0170, 413-070-0180, 413-070-0190, 413-070-0200, 413-070-0210, 413-070-0220, 413-070-0230, 413-070-0240, 413-070-0300, 413-070-0320, 413-070-0350, 413-070-0360, 413-070-0370, 413-070-0400, 413-070-0430, 413-070-0500, 413-070-0512, 413-070-0514, 413-070-0516, 413-070-0518, 413-070-0519, 413-070-0570, 413-070-0574, 413-070-0600, 413-070-0651, 413-070-0655, 413-070-0665, 413-070-0670, 413-070-0860, 413-070-0900, 413-070-0905, 413-070-0909, 413-070-0917, 413-070-0919, 413-070-0925, 413-070-0934, 413-070-0939, 413-070-0949, 413-070-0959, 413-070-0969, 413-070-0970, 413-070-0974

**Rules Repealed:** 413-070-0063, 413-070-0066, 413-070-0120, 413-070-0310, 413-070-0410, 413-070-0505, 413-070-0524, 413-070-0572, 413-070-0655(T), 413-070-0810, 413-070-0905(T), 413-070-0069(T), 413-070-0072(T), 413-070-0620, 413-070-0917(T), 413-070-0949(T)

**Subject:** The Office of Child Welfare Programs is amending rules in division 70 of OAR chapter 413 governing children and young adults in substitute care. The amendments implement provisions of the Preventing Sex Trafficking and Strengthening Families Act of 2014. Specifically:

- OAR 413-070-0000 about definitions in division 70 is being amended to add a definition for "incapacity" and "successor legal guardian" and clarify that a "sibling" includes an individual who would be considered a sibling, but for the disruption or dissolution of parental rights;

- OAR 413-070-0069 about the responsibilities to identify relatives and persons with a caregiver relationship is being amended to make permanent a temporary rule adopted on January 21, 2015, to state that the Department may use a parent who has custody of a sibling of a child in Department custody as a resource to identify or locate a child or young adult's relatives;

- OAR 413-070-0072 about contact with relatives or persons with a caregiver relationship is being amended to make permanent a temporary rule adopted on January 21, 2015, to state that the Department must provide notice to a parent who has custody of a sibling of a child taken into Department custody. The notice must include: whether the child or young adult was removed from the custody of a parent or guardian to manage child safety or through a voluntary placement agreement or voluntary custody agreement; whether the child is currently residing with a relative; the opportunities and requirements to be assessed as a safe and appropriate safety service provider or relative caregiver; and the rights of relatives under Department rules and state law;

- OAR 413-070-0917 about eligibility and extension of guardianship assistance is being amended to make permanent a temporary rule adopted on January 21, 2015, to state that a child eligible for guardianship assistance remains eligible in the event of the incapacity or death of the guardian if a successor legal guardian is named in the guardianship agreement prior to the death or incapacity of the guardian; and

- OAR 413-070-0949 about guardianship assistance requirements is being amended to make permanent a temporary rule adopted on January 21, 2015, to state the requirement that a successor legal guardian must negotiate and enter into a guardianship assistance

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agreement with the Department prior to receiving guardianship assistance.

Additionally, non-substantive edits were made to rules throughout division 70 to:

- Consolidate the 12 separate definition rules in the division into one overarching definitions rule, OAR 413-070-0000;
- Change the order of rules, without substantive amendments, to improve flow and organization;
- Remove unnecessary language and provisions;
- Repeal unnecessary or duplicative rules;
- Update terminology;
- Update statutory and rule references;
- Correct formatting and punctuation;
- Improve overall clarity and readability; and
- Clarify Department rules and processes consistent with current Department policies and practices.

**Rules Coordinator:** Kris Skaro—(503) 945-6067

## 413-070-0000

### Definitions

The following definitions apply to OAR chapter 413, division 70.

(1) “Adoption” means a legal or administrative process that establishes a permanent legal parent-child relationship between a child and an adult who is not already the child’s legal parent and terminates the legal parent-child relationship between the adopted child and any former parent.

(2) “Adoptive resource” means an individual or individuals selected by the Department, another public child welfare agency, or a licensed adoption agency as the adoptive family for a child where no administrative review was requested within the timeframe allowed for such a request, or if a review was requested, the selection has been sustained by that review and the review is complete.

(3) “Affected family members” means biological and legal parents, extended family members, and any person within the fifth degree of consanguinity to the child.

(4) “Antipsychotic medication” means a medication, specified in class 28:16:08 by the American Hospital Formulary Service, used to treat psychosis and other conditions.

(5) “APPLA” means Another Planned Permanent Living Arrangement, a permanency plan for a stable secure living arrangement for a child who has reached the age of 16 or young adult that includes building relationships with significant people in the child’s life that may continue after substitute care. APPLA is the least preferred permanency plan of the five permanency plans for a child or young adult and is appropriate only after the permanency plans of reunification, adoption, guardianship, and placement with a fit and willing relative have been determined not in the best interest of a child or young adult.

(a) “Planned” means the arrangement is intended, designed, and deliberate.

(b) “Permanent” means enduring and stable.

(6) “Assessment” means the determination of a child or young adult’s need for mental health services through interviewing the child or young adult and obtaining all pertinent medical and psychosocial history information from the individual, family, and collateral sources. The “assessment” -

(a) Addresses the current complaint or condition presented by the child or young adult;

(b) Determines a diagnosis; and

(c) Provides treatment direction and individualized services and supports.

(7) “Base rate payment” means a payment to the foster parent or relative caregiver for the costs of providing the child or young adult with the following:

(a) Food, including the special or unique nutritional needs of the child or young adult;

(b) Clothing, including purchase and replacement;

(c) Housing, including maintenance of household utilities, furnishings, and equipment;

(d) Daily supervision, including teaching and directing to ensure safety and well-being at a level appropriate for the age of the child or young adult;

(e) Personal incidentals, including personal care items, entertainment, reading materials, and miscellaneous items; and

(f) Transportation, including gas, oil, and vehicle maintenance and repair costs for local travel associated with providing the items listed above,

and transportation to and from extracurricular, child care, recreational, and cultural activities.

(8) “CANS screening” means Child and Adolescent Needs and Strengths screening, a process of gathering information on the needs and strengths of a child or young adult for one or more of the following purposes:

(a) To identify case planning, service planning, and supervision needs of the child or young adult in substitute care with a certified family;

(b) To determine the level of care payment while in substitute care with a certified family; and

(c) To determine the level of care payment included in an adoption assistance agreement or guardianship assistance agreement.

(9) “Caregiver relationship” means a relationship between a person and a child or young adult that meets all of the following requirements:

(a) The relationship has existed for the 12 months immediately preceding the initiation of a dependency proceeding, for at least six months during a dependency proceeding, or for half of the child’s life if the child is less than six months of age. A “caregiver relationship” does not include a relationship between a child or young adult and a person who is an unrelated foster parent of the child or young adult unless the relationship continued for a period of at least twelve consecutive months.

(b) The person had physical custody of the child or young adult or resided in the same household as the child or young adult and provided the child or young adult on a daily basis with the love, nurturing, and other necessities required to meet the psychological and physical needs of the child or young adult.

(c) The child or young adult depended on the relationship to meet the needs of the child or young adult.

(10) “CASA” means a court appointed special advocate: a volunteer who is appointed by the court, is a party to the juvenile proceeding, and advocates for the child pursuant to ORS 419B.112.

(11) “Certificate of approval” means a document that the Department issues to approve the operation of a child-specific relative caregiver home, child-specific foster home, pre-adoptive home, or a regular foster home.

(12) “Child” means a person under 18 years of age.

(13) “Child-family contact” means communication between the child or young adult and family and includes, but is not limited to, visitation with the child or young adult, participation in the child or young adult’s activities, and appointments, phone calls, e-mail, and written correspondence.

(14) “Child’s home” means the home from which the child is removed under the provisions of ORS 419B.150.

(15) “Committee facilitator” means a Department staff member appointed as a member of the committee to facilitate a permanency or adoption committee meeting.

(16) “Concurrent permanent plan” means the alternate permanency plan whenever the child has been placed in substitute care when the goal of the permanency plan is to return the child to the parents. The “concurrent permanent plan” is developed simultaneously with the plan to return the child to the parents or legal guardians.

(17) “Conditions for return” means a written statement of the specific behaviors, conditions, or circumstances that must exist within a child’s home before a child can safely return and remain in the home with an in-home ongoing safety plan.

(18) “Cultural heritage” means the language, customary beliefs, social norms, and material traits including, but not limited to, the dress, food, music, and dance of a racial, religious, or social group that are transmitted from one generation to another.

(19) “Current caretaker” means a foster parent who:

(a) Is currently caring for a child in the care and custody of the Department who has a permanency plan or concurrent permanent plan of adoption; and

(b) Has cared for the child or at least one sibling of the child for at least the past 12 consecutive months or for one-half of the child’s or sibling’s life if the child or sibling is younger than two years of age.

(20) “Department” means the Department of Human Services, Child Welfare.

(21) “Designee” means a person who the designator directly and immediately supervises or a person with equal or greater management responsibility than the designator.

(22) “Diligent search” means that, at a minimum, there will be contact with the child’s tribal social service program, a search of all county or state listings of available Indian homes, and contact with local, regional, and national Indian programs that have placement resources available for Indian children.

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(23) “Enhanced supervision” means the additional support, direction, observation, and guidance necessary to promote and ensure the safety and well-being of the child or young adult when the child or young adult qualifies for a level of care payment.

(24) “Entity” means any organization or agency including, but not limited to a private child placing agency, that is separate and independent of the Department, performs functions pursuant to a contract or subcontract with the Department, and receives federal funds.

(25) “Extended family” has the meaning given by the law or custom of the Indian child’s tribe. In the absence of law or custom, “extended family” means a person 18 or over who is the Indian child’s grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent.

(26) “Extended family member” means a person ordinarily recognized as the refugee child’s parent by the custom of the child’s culture, or a person 18 years of age or older who is the child’s grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent.

(27) “Family member” means any person related to the child or young adult by blood, marriage, or adoption, including, but not limited to the parents, grandparents, stepparents, aunts, uncles, sisters, brothers, cousins, and great-grandparents. “Family member” also includes the registered domestic partner of a person related to the child, a child 12 years of age or older, and when appropriate, a child younger than 12 years of age. Under the Indian Child Welfare Act (ICWA), “family member” has the meaning given by the law or custom of the child’s tribe.

(28) “Foster care agency” means a private child-caring agency that offers to place children by taking physical custody of and then placing the children in a home certified by the agency.

(29) “Foster care placement” means any action removing, or which could result in the removal of, a child from his or her parent or Indian custodian, such as court-ordered supervision in the home, for placement in foster care, with a guardian, or in an institution where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated.

(30) “Foster parent” means an individual who operates a home that has been approved by the Department to provide care for an unrelated child or young adult placed in the home by the Department.

(31) “General applicant” means an individual who:

- (a) Is neither a relative or current caretaker; and
- (b) Has submitted a completed application to adopt a child.

(32) “Grandparent” for purposes of visitation, contact, or communication ordered by the court under ORS 419B.876 means the legal parent of the child or young adult’s legal parent, as defined in ORS 109.119.

(33) “Guardian” means an individual who has been granted guardianship of a child through a judgment of the court.

(34) “Guardianship assistance” means assistance provided by the Department to the guardian on behalf of an eligible child or young adult to offset costs associated with meeting the ongoing needs of the child or young adult. “Guardianship assistance” may be in the form of a payment, medical coverage, or reimbursement of guardianship expenses.

(35) “Guardianship assistance agreement” means a written agreement, binding on the parties to the agreement, between the Department and the potential guardian or guardian setting forth the assistance the Department is to provide on behalf of the child or young adult, the responsibilities of the guardian and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.

(36) “Guardianship assistance agreement only” means a written agreement, binding on the parties to the agreement, between the Department and the potential guardian or guardian of an eligible child or young adult, when the potential guardian or guardian is not receiving a guardianship assistance payment or medical coverage at the time of the agreement but may request it at a later date.

(37) “Guardianship assistance base rate” means the portion of the guardianship assistance payment that is negotiated with the potential guardian or guardian and cannot exceed the amount of the Oregon foster care base rate payment for the child or young adult’s age.

(38) “Guardianship assistance payment” means a monthly payment made by the Department to the guardian on behalf of the eligible child or young adult.

(39) “Guardianship Assistance Review Committee” means a committee composed of local and central office Department staff with expertise in the area of guardianship.

(40) “ICWA” means the Indian Child Welfare Act.

(41) “Impending danger safety threat” means a family behavior, condition, or circumstance that meets all five safety threshold criteria. A threat to a child that is not immediate, obvious, or occurring at the onset of the CPS intervention. This threat is identified and understood more fully by evaluating and understanding individual and family function.

(42) “Incapacity” means a physical or mental illness, or impairment that reduces substantially or eliminates the individual’s ability to support, care for, or meet the needs of the child and is expected to be permanent.

(43) “Independent living housing subsidy” means a payment to assist in covering the cost of room, board, or other monthly expenses made to an eligible individual who is at least 16 years of age and is in the care and custody of the Department and living independently.

(44) “Indian” means any person who is a member of or eligible for membership in an Indian tribe or who is an Alaskan native and a member of a Regional Corporation as defined in 43 USC section 1606.

(45) “Indian child” means an unmarried person under 18 years of age who is either a member of an Indian tribe or is eligible for membership in an Indian tribe and who is the biological child of a member of an Indian tribe.

(46) “Indian Child Welfare Act Manager” (“ICWA Manager”) means staff who monitors Department policy and procedures towards compliance with the Indian Child Welfare Act; investigates complaints of non-compliance from tribes; provides consultation to caseworkers relating to law and administrative rules; and provides ICWA materials and training.

(47) “Indian child’s tribe” means the Indian tribe in which an Indian child is a member or eligible for membership. In the case of an Indian child who is a member or eligible for membership in more than one Indian tribe, it is the Indian tribe with which the Indian child has the most significant contacts.

(48) “Indian custodian” means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control has been transferred by the parent of such child.

(49) “Indian organization” means any group, association, partnership, corporation, or legal entity owned or controlled by Indians or a majority of whose members are Indians, such as an Indian Child Welfare Committee.

(50) “Indian tribe” means any “Indian tribe”, band, nation, or organized group or community of Indians who are recognized as eligible for services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaska native village as defined in 43 USC section 1606, and any tribe whose federal relationship has been terminated by congressional action.

(51) “Interethnic Adoption Provisions of the Small Business Job Protection Act of 1996” (“IEPA”) means section 1808 of the act which is entitled “Removal of Barriers to Interethnic Adoption”, and affirms and strengthens the prohibition against discrimination in adoption or foster care placements, and is codified in 42 USC section 671(a)18.

(52) “Involuntary proceeding” means any action removing a child from a parent or Indian custodian and such parent or Indian custodian cannot have the child returned upon demand.

(53) “Judicial hours” means the number of hours a court is available to hold a hearing. Legal holidays and weekends do not count as “judicial hours”.

(54) “Legal assistance specialist” means an Adoption Program staff member who provides consultation on the technical and legal processes to achieve a permanency plan for a child in the legal custody of the Department.

(55) “Level of care payment” means the payment provided to an approved or certified family, a guardian, a pre-adoptive family, or an adoptive family based on the need for enhanced supervision of a child or young adults determined by applying the CANS algorithm to the results of the CANS screening.

(56) “Licensed medical professional” means an individual who meets the criteria of both of the following subsections:

(a) The individual holds at least one of the following valid licensures or certifications:

- (A) Physician licensed to practice in the State of Oregon;
- (B) Nurse practitioner certified by the Oregon State Board of Nursing under ORS 678.375; or
- (C) Physician assistant licensed to practice in the State of Oregon.

(b) The individual’s training, experience, and competence demonstrate expertise in children’s mental health, the ability to conduct a mental health assessment, and the ability to provide psychotropic medication management for children and young adults.

## ADMINISTRATIVE RULES

(57) "Medically accepted indication," defined in ORS 418.517, means any use for a covered outpatient drug that is approved under the Federal Food, Drug and Cosmetic Act, or recommended by the Pharmacy and Therapeutics Committee, or the use of which is supported by one or more citations included or approved for inclusion in any of the following compendia:

- (a) American Hospital Formulary Services drug information;
- (b) United States Pharmacopoeia drug information or any successor publication;
- (c) The DRUGDEX Information System; or
- (d) Peer-reviewed medical literature.

(58) "Multiethnic Placement Act of 1994" means federal statutes which prohibit discrimination based on race, color, or national origin as considerations in adoption and foster placements.

(59) "Nonrecurring guardianship assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the potential guardian of an eligible child for a one-time payment to reimburse the guardian for the reasonable and necessary expenses incurred in legally finalizing the guardianship.

(60) "Nonrecurring guardianship expenses" means a one-time payment of up to \$2,000 per child that the Department will make to a guardian to assist with the reasonable and necessary expenses associated with obtaining legal guardianship of an eligible child.

(61) "Parent" means the biological or adoptive mother or the legal father of the child. A legal father is a man who has adopted the child or whose paternity has been established or declared under ORS 109.070, ORS 416.400 to 416.465, or by a juvenile court. In cases involving an Indian child under the Indian Child Welfare Act (ICWA), a legal father includes a man who is a father under applicable tribal law. "Parent" also includes a putative father who has demonstrated a direct and significant commitment to the child by assuming or attempting to assume responsibilities normally associated with parenthood, unless a court finds that the putative father is not the legal father.

(62) "Participating tribe" means a federally recognized Indian tribe in Oregon with a Title IV-E agreement with the Department.

(63) "Permanency committee" means a group of individuals who are responsible for making a recommendation regarding a permanency plan or a potential permanency resource when the child or young adult likely is not returning to his or her parent.

(64) "Permanency plan" means a written course of action for achieving safe and lasting family resources for the child or young adult. Although the plan may change as more information becomes available, the goal is to develop safe and permanent family resources with the parents, relatives, or other people who will assume responsibility for the child or young adult during the remaining years of dependency and be accessible and supportive to the child in adulthood.

(65) "Permanent foster care" means the out of home placement of a child or young adult in which there is a long-term foster care agreement between each substitute caregiver and the Department approved by the juvenile court under which the substitute caregiver commits to raise a child in substitute care until the age of majority and be accessible to and supportive of the child into adulthood, until the court determines that APPLA - permanent foster care is no longer the appropriate permanency plan for the child or young adult.

(66) "Potential guardian" means an individual who:

- (a) Has been approved by the Department or participating tribe to be the guardian of a child; and
- (b) Is in the process of legalizing the relationship to the child through the judgment of the court.

(67) "Provider" means an individual approved by a licensed private child-caring agency to provide care for a child or young adult, or an employee of a licensed private child-caring agency approved to provide care for a child or young adult.

(68) "Psychotropic medication," defined in ORS 418.517, means medication, the prescribed intent of which is to affect or alter thought processes, mood, or behavior, including, but not limited to antipsychotic, antidepressant, and anxiolytic medication and behavior medications. The classification of a medication depends upon its stated, intended effect when prescribed because it may have many different effects.

(69) "Qualified mental health professional" means an individual who meets the requirements of both of the following subsections:

- (a) Holds at least one of the following educational degrees:
  - (A) Graduate degree in psychology;
  - (B) Bachelor's degree in nursing and is licensed by the state of Oregon;

- (C) Graduate degree in social work;
- (D) Graduate degree in a behavioral science field;
- (E) Graduate degree in recreational, art, or music therapy; or
- (F) Bachelor's degree in occupational therapy and is licensed by the State of Oregon.

(b) Whose education and experience demonstrates the competencies to:

- (A) Identify precipitating events;
- (B) Gather histories of mental and physical disabilities, alcohol and drug use, past mental health services, and criminal justice contacts;
- (C) Assess family, social, and work relationships;
- (D) Conduct a mental status examination;
- (E) Document a multiaxial DSM diagnosis;
- (F) Develop and supervise a treatment plan;
- (G) Conduct a mental health assessment; and
- (H) Provide individual, family, or group therapy within the scope of his or her practice.

(70) "Race" means American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, White.

(71) "RCWAC" means the Refugee Child Welfare Advisory Committee.

(72) "Refugee child" means a person under 18 years of age who has entered the United States and is unwilling or unable to return to the person's country because of persecution or a well-founded fear of persecution on account of race, religion, sex, sexual orientation, nationality, membership in a particular group, or political opinion, or whose parents entered the United States within the preceding 10 years and are or were unwilling or unable to return to their country because of persecution or a well-founded fear of persecution on account of race, religion, sex, sexual orientation, nationality, membership in a particular group, or political opinion.

(a) As used in this section, "persecution" means that harm or suffering will be inflicted upon the person in order to punish the person for possessing a particular belief or characteristic. "Persecution" does not include harm and suffering that is inflicted on persons generally by reason of civil or military strife in a country.

(b) As used in this section, "fear of persecution" means an apprehension or awareness, based on external objective facts, that the person will suffer persecution upon return to the person's country.

(73) "Registered domestic partner" means an individual joined in a domestic partnership that is registered by a county clerk in accordance with ORS 106.300 to 106.340.

(74) "Relative" means any of the following:

(a) An individual with one of the following relationships to the child or young adult through the parent of the child or young adult unless the relationship has been dissolved by adoption of the child, young adult, or parent:

(A) Any blood relative of preceding generations denoted by the prefixes of grand, great, or great-great.

(B) Any half-blood relative of preceding generations denoted by the prefixes of grand, great, or great-great. Individuals with one common biological parent are half-blood relatives.

(C) An aunt, uncle, nephew, niece, first cousin, and first cousin once removed.

(D) A spouse of anyone listed in paragraphs (A) to (C) of this subsection, even if a petition for annulment, dissolution, or separation has been filed or the marriage is terminated by divorce or death. To be considered a "relative" under this paragraph, the child or young adult must have had a relationship with the spouse prior to the most recent episode of Department custody.

(b) An individual with one of the following relationships to the child or young adult:

(A) A sibling, also to include an individual with a sibling relationship to the child or young adult through a putative father.

(B) An individual defined as a relative by the law or custom of the tribe of the child or young adult if the child or young adult is an Indian child under the Indian Child Welfare Act or in the legal custody of a tribe.

(C) An individual defined as a relative of a refugee child or young adult under OAR 413-070-0300 to 413-070-0380.

(D) A stepparent or former stepparent if the child or young adult had a relationship with the former stepparent prior to the most recent episode of Department custody; a stepbrother; or a stepsister.

(E) A registered domestic partner of the parent of the child or young adult or a former registered domestic partner of the parent of the child or young adult if the child or young adult had a relationship with the former domestic partner prior to the most recent episode of Department custody.

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(F) The designated adoptive resource of a sibling of the child or young adult.

(G) An unrelated legal or biological father or mother of a half-sibling of the child or young adult when the half-sibling of the child or young adult is living with the unrelated legal or biological father or mother.

(c) An individual identified by the child or young adult or the family of the child or young adult, or an individual who self-identifies, as being related to the child or young adult through the parent of the child or young adult by blood, adoption, or marriage to a degree other than an individual specified as a "relative" in paragraphs (A) to (C) of subsection (a) of this section unless the relationship has been dissolved by adoption of the child, young adult, or parent.

(d) An individual meeting the requirements of at least one of the following:

(A) An individual not related to the child, young adult, or parent by blood, adoption, or marriage:

(i) Who is identified as a member of the family by the child or young adult or by the family of the child or young adult; and

(ii) Who had an emotionally significant relationship with the child or young adult or the family of the child or young adult prior to the most recent episode of Department custody.

(B) An individual who has a blood relationship to the child or young adult as described in paragraphs (A) to (C) of subsection (a) of this section through the birth parent of the child or young adult, but the prior legal relationship has been dissolved by adoption of the child, young adult, or birth parent, and who is identified as a member of the family by the child or young adult or who self-identifies as a member of the family.

(e) For eligibility for the guardianship assistance program:

(A) A stepparent is considered a parent and is not a "relative" for the purpose of eligibility for guardianship assistance unless a petition for annulment, dissolution, or separation has been filed, or the marriage to the adoptive or biological parent of the child has been terminated by divorce or death.

(B) A foster parent may only be considered a "relative" for the purpose of eligibility for guardianship assistance when:

(i) There is a compelling reason why adoption is not an achievable permanency plan;

(ii) The foster parent is currently caring for a child, in the care or custody of the Department or a participating tribe, who has a permanency plan or concurrent permanent plan of guardianship;

(iii) The foster parent has cared for the child for at least 12 of the past 24 months; and

(iv) The Department or tribe has approved the foster parent for consideration as a guardian.

(75) "Relative caregiver" means an individual who operates a home that has been approved by the Department to provide care for a related child or young adult placed in the home by the Department.

(76) "Relative search" means the efforts of the Department to identify, locate, and document the contact with a child or young adult's relatives.

(77) "Reservation" means Indian country as defined in 18 USC section 1151, and any lands not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation.

(78) "Safety service provider" means a participant in a protective action plan, initial safety plan, or ongoing safety plan whose actions, assistance, or supervision help a family in managing a child's safety.

(79) "Secretary" means the Secretary of the Interior.

(80) "Sibling" means one of two or more children or young adults who are related, or would be related but for a termination or other disruption of parental rights, in one of the following ways:

(a) By blood or adoption through a common parent;

(b) Through the marriage of the legal or biological parents of the children or young adults; or

(c) Through a legal or biological parent who is the registered domestic partner of the legal or biological parent of the children or young adults.

(81) "Special immigrant juvenile status" means a legal process to obtain lawful permanent resident status for a child who does not have lawful permanent resident status because he or she entered the United States without inspection and who meets the other criteria required by federal law.

(82) "Substitute care" means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

(83) "Substitute caregiver" means a relative caregiver, foster parent, or provider authorized to provide care to a child or young adult in the legal or physical custody of the Department.

(84) "Successor legal guardian" means an individual who has been named in the guardianship assistance agreement, including any amendments to the agreement, as a replacement legal guardian in the event of the death or incapacity of the guardian.

(85) "Supervised visit" means a child-family contact that includes a designated third party to protect the emotional and physical safety of a child or young adult.

(86) "Termination of parental rights" means an action which results in the termination of the parent-child relationship.

(87) "Title VI of Civil Rights Act of 1964" prohibits discrimination on the basis of race, color or national origin under programs receiving federal assistance through the United States Department of Health and Human Services.

(88) "Tribal court" means the court which holds jurisdiction over Indian child custody proceedings and is either a Court of Indian Offenses, a court established and operated under code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings.

(89) "Urgent medical need" means the onset of psychiatric symptoms requiring professional attention within 48 hours to prevent a serious deterioration in a child or young adult's mental or physical condition.

(90) "Visit" means planned, in-person contact between the child or young adult and one or more family members.

(91) "Voluntary proceeding" means any action in which a parent or Indian custodian has voluntarily given custody of his or her child to another and such voluntary action does not prohibit the parent or Indian custodian from regaining custody of the child at any time.

(92) "Young adult" means a person aged 18 through 20 years.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419A.004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 13-2000, f. & cert. ef. 7-7-00; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0010

### Purpose and Applicability

(1) OAR 413-070-0010 to 413-070-0033 implement the Multiethnic Placement Act of 1994, which applies to all activities of the Department and to all private child placement and adoption agencies who directly or indirectly receive federal funds.

(2) The purpose of OAR 413-070-0010 to 413-070-0033 is to:

(a) Decrease the length of time a child waits to be adopted;

(b) Prevent discrimination in foster care and adoption; and

(c) Promote the recruitment of ethnic and minority families that reflect the children in the child welfare system. These rules establish a policy of non-discrimination in the practice of foster and adoptive placement of children, and in the recruitment and selection of family resources.

(3) OAR 413-070-0010 to 413-070-0033 do not apply to the placement of children pursuant to the Indian Child Welfare Act. In the case of an Indian child, the Department and entity follow the Indian Child Welfare Act and OAR 413-070-0100 to 413-070-0260.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 13-2000, f. & cert. ef. 7-7-00; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0015

### Denials or Delays of Placement Based on Race, Color or National Origin Prohibited

(1) In making placement decisions, the Department and entity must be guided by the best interest of the child. Placements must be made in the context of an individualized assessment of the needs of the child, and an assessment of the ability of a potential foster or adoptive family to meet those needs.

(2) Except as provided in section (3) of this rule the Department and entity may not delay or deny the placement of a child for adoption or into foster care on the basis of the race, color, or national origin of the adoptive or foster parent or the child involved or consider the race, color, or national origin of a child or of a prospective adoptive or foster parent as factors in making adoptive or foster placement decisions.

(3) The Department and entity may only consider the race, color, or national origin when an individualized assessment of the child identifies compelling special circumstances, such as an older child's statement of preference, and consideration of race, color, or national origin in the placement decision is the only way to achieve the best interest of that child.

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(4) The Department and entity may consider the needs of a child related to cultural heritage, such as specific language needs, when making individualized placement decisions. However, the Department and entity may not use routine cultural heritage assessments as a substitute for considering race, color, or national origin or otherwise considering the cultural heritage needs of a child in a manner that would circumvent the general prohibition against considering the race, color, or national origin of a child when making placement decisions.

(5) The Department and entity may not honor the request of birth parents to place their child who was either voluntarily or involuntarily removed, with adoptive or foster parents of a specific racial, ethnic, or cultural group, except as provided in section (2) of this rule.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 13-2000, f. & cert. ef. 7-7-00; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0020

### Denial of Opportunity to Be an Adoptive or Foster Parent Based on Race, Color, or National Origin Prohibited

(1) Except as provided in section (2) of this rule, the Department and entity may not deny to any individual the opportunity to become an adoptive or foster parent on the basis of the race, color, or national origin of the individual or the child involved, nor may the Department and entity use race, color, or national origin to screen or assess prospective foster or adoptive applicants.

(2) The Department and entity may consider the willingness and ability of the prospective foster or adoptive parent to care for a child of a different race, color, or national origin as a factor when placing a child.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 13-2000, f. & cert. ef. 7-7-00; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0022

### Denials or Delays of Placement Based on Race, Color or National Origin Prohibited

This topic is addressed in OAR 413-070-0015.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 13-2000, f. & cert. ef. 7-7-00; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0027

### Denial of Opportunity to Be an Adoptive or Foster Parent Based on Race, Color, or National Origin Prohibited

This topic is addressed in OAR 413-070-0020.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 13-2000, f. & cert. ef. 7-7-00; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0030

### Recruitment and Staff Training

(1) The Department and entity must have an active recruitment program to recruit and retain foster and adoptive parents who reflect the ethnic and racial diversity of children for whom foster and adoptive homes are needed, and who can meet the needs of children awaiting placement.

(2) The Department must train staff to assure compliance with the Multiethnic Placement Act of 1994, and Title VI of the Civil Rights Act of 1964.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 13-2000, f. & cert. ef. 7-7-00; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0060

### Purpose

OAR 413-070-0060 to 413-070-0087 describe the Department's responsibility to search for and engage a child or young adult's relatives and persons with a caregiver relationship for one or more of the following purposes:

- (1) To manage the safety of the child or young adult;
- (2) To provide a substitute care resource;
- (3) To provide a permanent placement resource;
- (4) To develop and maintain family relationships and cultural connections with the child or young adult in substitute care; and
- (5) To gather family information and family history to plan for meeting the needs of the child or young adult.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.119, 418.005, 419A.004, 419B.192

Hist.: SOSCF 19-1998(Temp), f. & cert. ef. 10-30-98 thru 4-28-99; SOSCF 6-1999, f. & cert. ef. 4-29-99; SOSCF 3-2001(Temp) f. & cert. ef. 1-24-01 thru 7-22-01; SOSCF 34-2001 f. 6-

29-01 cert. ef. 7-1-01; CWP 10-2010, f. & cert. ef. 7-1-10; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0069

### Identification of Relatives and Persons with a Caregiver Relationship

(1) The Department must begin the search for relatives or persons with a caregiver relationship:

(a) During a CPS assessment when the Department has determined that a child is unsafe and an individual other than the parent or guardian is required to manage a child's safety; or

(b) When a parent or guardian:

(A) Is requesting the voluntary placement of the child; or

(B) Is voluntarily giving custody of the child to the Department.

(2) The Department may use, but is not limited to using, the following resources to identify or locate a child or young adult's relatives, the parents of a sibling of a child where the parent has custody of the sibling, and persons with a caregiver relationship:

(a) An individual identified as a relative by the child or young adult or the family of the child or young adult;

(b) An individual thought or known by the Department to be a relative of the child or young adult;

(c) Oregon data information systems available to the Department;

(d) The Internet;

(e) Collateral contacts; and

(f) Other community resources available to search for the identity and contact information of relatives or persons with a caregiver relationship.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.119, 418.005, 419A.004, 419B.192

Hist.: SOSCF 19-1998(Temp), f. & cert. ef. 10-30-98 thru 4-28-99; SOSCF 6-1999, f. & cert. ef. 4-29-99; SOSCF 3-2001(Temp) f. & cert. ef. 1-24-01 thru 7-22-01; SOSCF 34-2001, f. 6-29-01 cert. ef. 7-1-01; CWP 10-2010, f. & cert. ef. 7-1-10; CWP 5-2015(Temp), f. & cert. ef. 1-21-15 thru 7-19-15; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0072

### Contact with Relatives or Persons with a Caregiver Relationship

(1) Unless a child welfare program manager or designee approves no contact, or a court orders no contact, with an identified individual because contact may compromise the safety of a child or young adult or another individual, the Department must make diligent efforts to contact the following individuals as soon as reasonably possible and no later than 30 calendar days after a child's initial removal from the custody of a parent or guardian, or placement in substitute care through a voluntary placement agreement or voluntary custody agreement:

(a) The child or young adult's parents or legal guardians, grandparents, parents of a sibling of a child where the parent has custody of the sibling, adult relatives, and persons with a caregiver relationship;

(b) When the child or young adult is a refugee, other individuals identified in OAR 413-070-0300 to 413-070-0380; and

(c) When the child or young adult is an Indian child, the tribe, pursuant to OAR 413-070-0100 to 413-070-0260.

(2) During the contact required under section (1) of this rule, the Department must:

(a) Provide notice in the individual's primary language that specifies:

(A) Whether the child or young adult has been removed from the custody of a parent or guardian to manage child safety or has been placed in substitute care through a voluntary placement agreement or voluntary custody agreement;

(B) Whether the child or young adult is currently residing with a relative;

(C) The opportunities and requirements associated with being assessed as a safety service provider;

(D) The opportunities and requirements associated with being assessed to become a relative caregiver; and

(E) The rights of relatives set forth in OAR 413-010-0300 to 413-010-0340, and the statutes governing intervention, limited participation, and post-adoption communication agreements.

(b) Request the names of other relatives not previously identified.

(3) The Department must document in the Department's information system:

(a) The approval not to contact an individual under section (1) of this rule;

(b) The name of each individual with whom the Department attempted or made contact;

(c) The individual's relationship to the child or young adult;

(d) The type of contact;

(e) Each individual's response to the notice required in subsection (2)(a) of this rule when a response is received; and

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(f) The individual's contact information.

(4) The Department must respond to inquiries from a relative in person or by telephone as soon as reasonably possible and no later than within 15 business days. When a telephone number or opportunity to meet in person has not been provided, the Department must contact the individual by other means, including by mail or electronic mail.

(5) The caseworker may utilize any meeting or other contact with the family to identify and communicate with relatives for the purposes set forth in OAR 413-070-0060.

(6) Whenever the Department is provided the name of a relative or person with a caregiver relationship previously unknown to the Department, the Department must:

(a) Document the name and contact information in the Department's information system;

(b) Attempt to contact the individual as soon as reasonably possible and no later than within 15 business days; and

(c) Provide notice as required by sections (1) and (2) of this rule.

(7) When the Department is unable to locate contact information for an identified relative or person with a caregiver relationship, the Department must document the efforts to obtain contact information in the Department's information system.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.119, 418.005, 419A.004, 419B.192

Hist.: SOSCF 19-1998(Temp), f. & cert. ef. 10-30-98 thru 4-28-99; SOSCF 6-1999, f. & cert. ef. 4-29-99; SOSCF 3-2001(Temp) f. & cert. ef. 1-24-01 thru 7-22-01; SOSCF 34-2001, f. 6-29-01 cert. ef. 7-1-01; CWP 10-2010, f. & cert. ef. 7-1-10; CWP 5-2015(Temp), f. & cert. ef. 1-21-15 thru 7-19-15; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0075

### Assessment of a Relative or Person with a Caregiver Relationship for Involvement in Safety Management

(1) The Department must assess an individual identified as a child or young adult's relative or person with a caregiver relationship prior to engaging the individual to assist in safety management as a safety service provider under OAR 413-015-1200 to 413-015-1230.

(2) The Department must document each decision regarding the involvement of a relative or person with a caregiver relationship as a safety service provider in the Department's information system.

(3) The Department may make a decision to engage an individual as a safety service provider prior to contacting all known relatives.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.119, 418.005, 419A.004, 419B.192

Hist.: SOSCF 19-1998(Temp), f. & cert. ef. 10-30-98 thru 4-28-99; SOSCF 6-1999, f. & cert. ef. 4-29-99; SOSCF 3-2001(Temp) f. & cert. ef. 1-24-01 thru 7-22-01; SOSCF 34-2001, f. 6-29-01 cert. ef. 7-1-01; CWP 10-2010, f. & cert. ef. 7-1-10; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0078

### Consideration of a Relative or Person with a Caregiver Relationship as a Substitute Caregiver

(1) The Department is responsible for the selection of and placement with a substitute caregiver who best meets the safety, permanency, and well-being needs of the child or young adult.

(2) The Department considers as a substitute care resource an individual described in OAR 413-070-0000(74)(a) - (c) prior to considering an individual described in OAR 413-070-0000(74)(d).

(3) Whenever possible, the Department must seek the input of the child or young adult and the parents or guardians of the child or young adult regarding their preferences of which relatives to assess for the purposes of placement.

(4) When a relative or person with a caregiver relationship has been identified for consideration as a substitute caregiver, the Department must consider:

(a) The individual's ability to provide safety for the child or young adult, including the individual's willingness to cooperate with restrictions on contact between the child or young adult and others and to prevent anyone from influencing the child or young adult on the allegations of the case;

(b) The individual's ability to meet the child or young adult's physical, emotional, and educational needs, including the need to continue in the same school or educational placement;

(c) The individual's ability to support the Department's implementation of the permanent plan;

(d) When more than one individual requests to have the child or young adult placed with them, which individual has the closest existing relationship with the child or young adult; and

(e) When a child or young adult's siblings are also in need of substitute care or continuation in substitute care, the individual's ability to provide substitute care for the child or young adult's siblings.

(5) The Department must continue efforts to contact other individuals identified in the search efforts described in OAR 413-070-0069 for the purposes of assessment as a substitute caregiver when the initial efforts described in this rule did not result in the identification and certification of a relative caregiver for the child or young adult.

(6) The Department may place a child in substitute care with a relative prior to contacting all known relatives.

(7) When a child or young adult must be placed in substitute care and the Department is unable to place the child or young adult with a relative at the time of initial placement, the Department must determine the substitute care placement in the order of preference in OAR 413-070-0625.

(8) When the Department is considering placement with an individual who lives in a state other than Oregon, OAR 413-040-0200 to 413-040-0330 apply.

(9) At each court hearing, the Department must report to the court the diligent efforts the Department has made to place a child or young adult with relatives and to place siblings together.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.119, 418.005, 419A.004, 419B.192

Hist.: SOSCF 19-1998(Temp), f. & cert. ef. 10-30-98 thru 4-28-99; SOSCF 6-1999, f. & cert. ef. 4-29-99; SOSCF 3-2001(Temp) f. & cert. ef. 1-24-01 thru 7-22-01; SOSCF 34-2001, f. 6-29-01 cert. ef. 7-1-01; CWP 10-2010, f. & cert. ef. 7-1-10; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0081

### Review of a Child or Young Adult's Substitute Care Placement

(1) The Department must review the efforts to place a child or young adult with a relative or person with a caregiver relationship:

(a) No more than 30 calendar days from the date of the child or young adult's initial placement in substitute care;

(b) When the family of a child or young adult, through a family meeting, has recommended substitute care, permanency, or concurrent permanency with a relative who is not the current substitute care resource and has not yet been assessed;

(c) When it appears a child or young adult is likely to experience or experiences a change in substitute caregiver;

(d) When the child or young adult's substitute caregiver does not meet the safety, permanency, and well-being needs of the child or young adult;

(e) During every regular case review described in OAR 413-040-0000 to 413-040-0032; and

(f) No more than 30 calendar days prior to a court or administrative review hearing.

(2) As part of the review in section (1) of this rule, the Department must determine:

(a) Whether the child or young adult and his or her siblings, if the siblings are also in substitute care, have been placed with a relative or person with a caregiver relationship;

(b) If placement has not occurred, the current efforts to identify a relative or person with a caregiver relationship able and willing to provide substitute care;

(c) The additional contact with and assessment of identified relatives necessary to achieve placement with a relative; and

(d) When a child or young adult is placed with a relative or person with a caregiver relationship, whether the substitute caregiver is able to best meet the safety and well-being needs of the child or young adult as described in OAR 413-070-0600 to 413-070-0645.

(3) The caseworker must document in the Department's information system:

(a) The date of the review required under section (1) of this rule;

(b) The names of each individual who participated in the review;

(c) Whether and how the placement of a child or young adult with a relative or person with a caregiver relationship has been met and whether siblings have been placed together; and

(d) Recommended actions, including any additional actions the Department will take to place a child or young adult, and his or her siblings, if the siblings are also in substitute care, with a relative or person with a caregiver relationship in a placement resource that meets the safety, permanency, and well-being needs of the child or young adult.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.119, 418.005, 419A.004, 419B.192

Hist.: SOSCF 19-1998(Temp), f. & cert. ef. 10-30-98 thru 4-28-99; SOSCF 6-1999, f. & cert. ef. 4-29-99; SOSCF 3-2001(Temp) f. & cert. ef. 1-24-01 thru 7-22-01; SOSCF 34-2001, f. 6-29-01 cert. ef. 7-1-01; CWP 10-2010, f. & cert. ef. 7-1-10; CWP 12-2015, f. & cert. ef. 7-17-15

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## 413-070-0087

### Opportunity for Ongoing Connection and Support

(1) The caseworker must assess a relative's interest and appropriateness in maintaining family relationships and cultural connections with a child or young adult when the relative is not a placement resource, based on the relative's ability to:

(a) Meet the safety, permanency, and well-being needs of the child or young adult; and

(b) Provide appropriate ongoing support.

(2) When a relative or person with a caregiver relationship meets the criteria described in section (1) of this rule, the caseworker must provide the child or young adult's relative, including a relative who resides outside the state of Oregon, with ongoing opportunities to develop and maintain family relationships and cultural connections with the child or young adult that support the safety and well-being needs of the child or young adult while the child or young adult remains in substitute care.

(3) The parameters of a relative's contact with and support of the child or young adult are documented in the Department's information system.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.119, 418.005, 419A.004, 419B.192

Hist.: SOSCF 19-1998(Temp), f. & cert. ef. 10-30-98 thru 4-28-99; SOSCF 6-1999, f. & cert. ef. 4-29-99; SOSCF 3-2001(Temp), f. & cert. ef. 1-24-01 thru 7-22-01; SOSCF 34-2001, f. 6-29-01 cert. ef. 7-1-01; CWP 10-2010, f. & cert. ef. 7-1-10; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0130

### Applicability

(1) General:

(a) The Indian Child Welfare Act affects all placements of Indian children taking place after May 8, 1979, and also applies to changes or possible changes in placement of Indian children already under DHS authority as a result of a proceeding prior to May 8, 1979.

(b) The Act does not cover the full range of procedures involved in a juvenile court proceeding; where it is silent, the usual state court procedure should be followed. Under constitutional law, the federal Act takes precedence where it conflicts with state law. When the state law affords a higher standard of protection of the rights of the parents or Indian custodian, it applies.

(2) Exceptions. Child custody proceedings not covered by the Act are:

(a) An award of custody to one of the parents in a divorce proceeding; and

(b) A placement based upon an act which, if committed by an adult, would be a crime (unless the juvenile delinquency proceeding results in the termination of a parental relationship).

(3) Although initial placements of an Indian child based upon a law violation may not be covered by the Act, subsequent placements resulting from petitions alleging dependency, or status offenses that can only be committed by a minor, such as runaway or beyond control, are covered by the Act.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 41-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0140

### Department Authority

Once it is found that an Indian child is involved, and the tribe or tribes who have an interest have been determined, the authority of the Department must be established. In some instances, the Department will have no authority to become involved in the case:

(1) Exclusive Tribal Jurisdiction. Indian tribes have exclusive jurisdiction over child custody proceedings involving children who reside or have a permanent home on an Indian reservation. The only exception is where Congress has transferred jurisdiction over family welfare matters to a state and the tribe in that state has not completed an administrative process to reassume exclusive jurisdiction.

(2) Tribal Court Ward. The Department has no authority in cases involving an Indian child who is a ward of a tribal court. Department staff must ask the child's parents or Indian custodian if the child is a ward of the tribal court. If there is reason to believe that the child has previously resided or been domiciled on the reservation, the caseworker must contact the tribal court to determine whether the child is a ward of that court. If so, except as follows, the Department has no authority over the child.

(3) Emergency Removal-Limited Authority. Notwithstanding sections (1) and (2) of this rule, if an Indian child who resides or has a permanent home on any Indian reservation is off the reservation and is in danger of suffering imminent physical damage or harm, the Department has authority to take custody regardless of whether the child is a ward of the

tribal court or the tribe has exclusive jurisdiction. This authority is subject to the requirements set forth in OAR 413-070-0150.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0150

### Emergency Removals

(1) The Department may take emergency protective custody of any Indian child who resides or is domiciled on a reservation, but who is temporarily located off the reservation, regardless of the jurisdictional status of his or her tribe as long as the following criteria are met:

(a) The child is not located on a reservation where the tribe has exclusive jurisdiction over child custody matters; and

(b) The child is in danger of imminent physical damage or harm.

(2) Whenever a child is taken into protective custody, Department staff must inquire as to the child's racial or ethnic background, unless circumstances do not permit such routine inquiry. In such cases, Department staff must determine racial or ethnic background as described in OAR 413-070-0170(1).

(3) If there is reason to believe the child may be Indian, and in order to determine if the tribe has exclusive jurisdiction, Department staff must immediately inquire as to the child's residence or domicile (since the child may be a resident of or domiciled on a reservation but is temporarily off the reservation). If the child is believed to be an Indian child, efforts must be made to place the child during emergency custody in a setting which follows the placement priorities established by the Indian Child Welfare Act or the tribe and set forth in OAR 413-070-0220.

(4) Emergency custody must be terminated when:

(a) Emergency removal or placement is no longer necessary to prevent imminent physical damage or harm to the child; or

(b) The appropriate tribe exercises jurisdiction over the case.

(5) In order to terminate an emergency removal or placement, the Department must return the child to his or her parent, or the caseworker must initiate an expeditious transfer of jurisdiction to the appropriate Indian tribe. If termination of an emergency removal or placement is not possible, the Department must obtain a court order authorizing continued protective custody within 24 judicial hours of the removal or placement. The petition filed in such proceeding must contain the following, in addition to that information required by state law:

(a) The name, age, tribal affiliations and last known address of the Indian child;

(b) The name and address of the child's parents and Indian custodians, if any, and tribe. If unknown, the Department must provide a detailed explanation of efforts made to locate them;

(c) If known, whether the residence or domicile of the parents, Indian custodians, or child is on or near a reservation, and which reservation;

(d) A specific and detailed account of the circumstances which led the Department to conclude that the child would suffer imminent physical damage or harm;

(e) A specific plan of action the Department is following, including services provided, to restore the child to the child's parent or Indian custodian, or to transfer the child to the jurisdiction of the appropriate Indian tribe.

(6) Where the danger to the Indian child persists and the child's tribe does not have exclusive jurisdiction and will not request transfer of the case to its court, the caseworker must, in consultation with the child's parents and tribe, if known, explore available placement resources which meet the placement requirements in OAR 413-070-0220.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0160

### Remedial Services

(1) Subsequent to an investigation and prior to a determination of the need for out-of-home placement services, the caseworker must offer the provision of services of a remedial nature designed to rehabilitate and prevent the breakup of Indian families to the same extent that they are available to non-Indian families when eligible.

(2) To reduce the potential for cultural bias when evaluating home and family conditions and making decisions affecting Indian children and families, the Department must involve Indian tribes and organizations at the earliest possible point in intervention. Services in the community specifically designed for Indian families are to be used where available, including resources of the extended family, the tribe, urban Indian organizations, tribal family service programs and individual Indian caregivers. Individual

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Indian caregivers may include medicine men and other individual tribal members who may have developed special skills that can be used to help the child's family succeed.

(3) Prior to initiating a petition before a state court for foster care placement or termination of parental rights, the caseworker must undertake active efforts to provide remedial services and rehabilitative programs to the family designed to prevent its breakup.

(4) In order to demonstrate that active efforts have been made, the caseworker must:

(a) Assure that due consideration has been given to the cultural needs and values of the family and that resources have been diligently sought to provide family services. Such assurances may be demonstrated by the following:

(A) Making direct contacts with the family, including the parent or Indian custodian, the child and members of the extended family, if known or available;

(B) Making an evaluation of the circumstances of the family taking into account the prevailing social and cultural conditions and way of life of the child's tribe and the Indian community;

(C) Intervening in the parent-child or Indian custodian-child relationship only when intervention is supported by relevant prevailing Indian social and cultural standards regarding intervention into familial relationships by nonfamily members;

(D) Providing a plan formulated with direct collaboration of the parent or Indian custodian, taking into account prevailing social and cultural conditions, designed to effectively address and eliminate problems destructive to the family involving:

(i) Extended family members;

(ii) Tribal social service programs;

(iii) Tribal organization programs aimed at preventing family breakup;

(iv) Traditional tribal community therapy practices, administered by Indian practitioners, where available and applicable. This includes spiritual leaders, medicine men, and other individual tribal members who have developed special skills that can be used to help the child's family succeed.

(E) Providing time and resources in prevention of family breakup in equal measure to time and resources devoted by the Department to all families;

(F) Assuring that while efforts at prevention of family breakup are proceeding, the parent or Indian custodian and the child are encouraged to maintain an ongoing familial relationship in ways that are socially and culturally compatible with the values of the child's Indian community;

(G) Having a plan that encourages maintenance of the Indian child in the familial residence of the Indian child except when to do so would result in serious physical or emotional harm; and

(H) Providing that where the Indian child is of sufficient age, the Indian child is involved in the design and implementation of the plan to prevent family breakup.

(b) Demonstrate to the court that such efforts were made prior to the filing of the petition, including an account of the efforts made and why they failed.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0170

### ICWA Procedures at Initial Contact

This section presents the initial steps to follow in providing services and taking legal action for child custody proceedings covered by the ICWA.

(1) Determination of Indian Status:

(a) Oral inquiry must be made in every case which involves or could involve changes in custody to determine whether the case involves an Indian child. Department staff must routinely request racial or ethnic data of parents or guardian by reading aloud from the intake form the racial and ethnic categories for the client's self-identification. If the child's parents are unavailable or unable to provide a reliable answer regarding the Indian heritage of their child, Department staff must consider:

(A) All documentation in the file, including contact with previous caseworkers, if any;

(B) Close observation of the physical characteristics of the child, parents, and other siblings or relatives accompanying the child;

(C) Consultation with relatives and collateral contacts providing information which suggests the child or parent may be Indian; and

(D) Examination of any other information bearing on the determination of the child's Indian heritage, such as communication from other sources including Indian tribes and organizations.

(b) If, in following the above steps, information obtained suggests the child may be of Indian heritage but the tribe cannot be determined, staff must contact the Department ICWA Manager to determine if:

(A) The birth place of the child or parent, or the current or former residence of the child or parent is known to be a common residence of Indian families; and

(B) The surname of the child or parent is one which is known to be common among members of Indian tribes.

(2) Determination of Indian Tribe. If it appears the child is of Indian heritage, the caseworker must determine the tribe in which the child is a member or eligible for membership. Department staff must ask the parent or custodian of the child about the tribe with which the child may be affiliated. If this inquiry does not provide the necessary information, Department staff must, at a minimum, contact the following:

(a) Relatives and extended family members.

(b) Indian tribes and organizations in Oregon, such as the Commission on Indian Services.

(c) The appropriate Bureau of Indian Affairs (BIA) Office.

(3) ICWA Eligibility. For a child to be considered an Indian under ICWA, the child must be:

(a) An unmarried person under the age of eighteen; and

(b) A person who is either a member of an Indian tribe or eligible for membership in an Indian tribe and the biological child of a member of an Indian tribe;

(c) In order for the worker to determine if the child is a tribal member or eligible for membership, the tribe or possible tribes identified must be contacted.

(4) Tribal Membership:

(a) A tribal determination of membership is conclusive because each tribe defines the criteria for membership in the tribe and determines who meets those criteria. Inquiries to the tribe must be sent "Return Receipt Requested" to a membership committee, an enrollment clerk, or individual who is accustomed to responding to questions about tribal membership.

(A) If the tribe does not respond, Department staff must contact the tribe by telephone. If the tribe cannot be reached by phone, the caseworker must contact the local Bureau of Indian Affairs Area Office and the ICWA Manager for assistance.

(B) The caseworker must request that all information given be treated confidentially.

(b) If the child is a member of one tribe and eligible for membership in others, the tribe of actual membership is the child's tribe. If the child is not now a member of a tribe, the caseworker must ascertain whether the child is eligible for membership and is the biological child of a member of an Indian tribe. To do this, the caseworker asks:

(A) The child, when the child is old enough to respond;

(B) The parents or relatives, including in-laws, as appropriate; and

(C) The tribe.

(5) Out-of-State Tribes. When an Indian child is a member of or eligible for membership in a tribe located in another state, the Act applies and all applicable provisions, including provisions governing notification of the tribe, must be followed.

(6) Multi-Tribal Membership:

(a) The child may be eligible for membership in more than one tribe.

In that case the Indian child's tribe is the tribe with which the child has the most significant contacts. In considering with which tribe the child has the most significant contacts, the caseworker shall investigate:

(A) The length of residence on or near the reservation of each tribe and the frequency of contacts with each tribe;

(B) The child's participation in activities of each tribe;

(C) The child's fluency in the language of each tribe;

(D) Whether there has been a previous adjudication with respect to the child by a court of one of the tribes;

(E) Residence on or near one of the tribes' reservation of the child's relatives;

(F) Tribal membership of custodial parent or Indian custodian; and

(G) Interest asserted by each tribe in response to the notice specified in OAR 413-070-0210.

(b) Documentation of such investigation shall be submitted to the court so that it can consider the comparative interests of each tribe in the child's welfare in making its decision on the matter.

(7) Enrollment of Indian Clients. If the child is not a member of the child's tribe, but is applying to become a member, the caseworker must proceed as though the child is a member and follow the requirements of the Act. Department staff must assist the family in filling out and returning required paperwork to the appropriate tribe and, as necessary, counsel par-

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ents hesitant to enroll a child by emphasizing the positive benefits of tribal enrollment and membership.

(8) ICWA Not Applicable. Once determined, tribal status must be clearly documented in the case record, along with the date and source of documentation. An Indian child who is officially determined by the tribe not to be a member of nor eligible for membership is not subject to the requirements of the Indian Child Welfare Act. In such cases, Department staff must:

(a) Document in the case record steps taken to determine the child's Indian or tribal ancestry and the tribe's written statement declaring the child ineligible for membership; and

(b) Incorporate in any court hearing the tribe's written statement declaring the child ineligible for membership.

(9) Cultural Heritage Protection. In instances where the ICWA does not apply, but the child is biologically an Indian or considered an Indian by the Indian community, the Department must respect the child's right to participate in the culture of origin in case planning, particularly if the child is identifiably Indian by physical features or social relationship.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 41-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0180

### Tribal-State Agreement

These rules may be superseded by an agreement signed between the state and a particular tribe. Such agreement must be available in the Assistant Director's Office of Child Welfare Programs.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 41-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0190

### Documentation of Serious Emotional or Physical Damage to Child Prior to Removal

(1) Prior to removal of the child from a parent or Indian custodian and initiation of court proceedings, Department records must contain documentation demonstrating that:

(a) It is likely that the conduct or condition of the parents will result in serious physical or emotional harm to the child; and

(b) If it is likely that such harm will occur, efforts have been made to counsel and change the behavior of the parent or Indian custodian and have not worked.

(2) In making such a determination, Department staff must relate indications of the likelihood of serious emotional or physical damage to particular conditions in the home, showing a causal relationship between the conditions and the serious damage which is likely to result to the child. For example, it is not adequate to show that the parent abuses alcohol. It is necessary to show how, because of alcohol abuse, the parent may cause emotional or physical damage to the child.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0200

### Element of Proof

(1) Foster Care Placement. In order to ask the court to authorize the placement of the child in foster care, the Department must demonstrate to the court by clear and convincing evidence, including the testimony of one or more qualified expert witnesses as defined in section (3) of this rule, that continued custody of the child with the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(2) Termination of Parental Rights. In order to ask the court to terminate parental rights, the Department as petitioner must show the court by evidence beyond a reasonable doubt, including the testimony of one or more qualified expert witnesses as defined in section (3) of this rule, that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(3) Qualified Expert Witnesses. The following individuals are most likely to meet the requirements of a qualified expert witness for purposes of Indian child custody proceedings:

(a) A member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to family organization and child rearing practices;

(b) A lay person having substantial experience in the delivery of child and family services to Indians, and extensive knowledge of prevailing

social and cultural standards and child rearing practices within the Indian child's tribe; or

(c) A professional person having substantial education and experience in the area of his or her specialty along with substantial knowledge of prevailing social and cultural standards and child rearing practices within the Indian community.

(d) This list is not meant to be exhaustive or limited in any fashion. The caseworker should enlist the assistance of the Indian child's tribe or the ICWA Manager in locating persons qualified to serve as expert witnesses. The BIA is also required to provide this assistance.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 41-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0210

### Involuntary Proceedings

(1) Notice. Except for emergency placements made pursuant to OAR 413-070-0150, Department staff must not request a court proceeding to authorize foster care placement of an Indian child until the following time frames have been met:

(a) Not less than ten days after receipt of notice by the parent or Indian custodian, or thirty days after receipt of notice by the parent or Indian custodian if an additional twenty days has been requested by the parent or Indian custodian to prepare for the proceeding;

(b) Not less than ten days after the Indian child's tribe has received notice, or thirty days after the Indian child's tribe has received notice if an additional twenty days has been requested to prepare for the proceeding; and

(c) Not less than fifteen days after the receipt of the notice by the Secretary of the Interior.

(2) The caseworker is responsible for providing notice to the parties listed below, notifying the court of Department requirements, and requesting a hearing not be scheduled until the time limits in section (1) of this rule have been met:

(a) Notice to Parent or Indian Custodian. The parent of an Indian child must always receive notice. An Indian custodian, if any is involved, should also receive notice;

(b) Notice to Tribe. When an Indian child's parent or Indian custodian are entitled to notice, the tribe is also entitled to notice. The tribe entitled to notice is the tribe in which the child is a member or eligible for membership. If the child is affiliated with or eligible for membership in more than one tribe, notice must be sent to all potential tribes since the court may permit intervention by more than one tribe; and

(c) Notice to BIA. If the identity or location of a potentially interested Indian party to the proceeding cannot be determined, Department staff must notify the local Bureau of Indian Affairs Office which has fifteen days to locate and notify that party.

(3) Service of Notice. Notice may be given by personal service by handing it directly to the person, if possible, but must always be given by registered mail, return receipt requested.

(4) Form of Notice:

(a) If a tribe has declined jurisdiction, it still retains the right to participate as an interested party or to intervene at any point in the proceeding. If the tribe intervenes, it is a party to the proceeding and has the same rights to notice of every proceeding affecting the tribe's member, including, but not limited to, hearings and motions the right to participate fully in such hearings and assert its interest, the right of access to court records, the right to retain counsel if it chooses, and the right to appeal. Therefore, even if a tribe has declined jurisdiction, notice to the tribe's designated agent or, if no agent has been designated, to the tribal court, of every proceeding affecting the tribe's member must be given. Notice must contain, at a minimum:

(A) The name of the Indian child and his or her tribal affiliation;

(B) A copy of the petition, complaint, or other document by which the proceeding was initiated;

(C) The name of the petitioner and the name and address of the petitioner's attorney, if any;

(D) A statement of the right of the biological parents or Indian custodians to participate and the Indian child's tribe right to intervene in the proceeding;

(E) A statement that if the parents or Indian custodians are unable to afford counsel, counsel may be appointed by the court to represent them;

(F) A statement of the right of the biological parent or Indian custodian and the Indian child's tribe to have, on request, twenty days to prepare for the proceedings;

(G) The location, mailing address, and telephone number of the court;

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(H) A statement of the right of the parents or Indian custodians or the Indian child's tribe to petition the court to transfer the proceeding to the Indian child's tribal court;

(I) The potential legal consequences of an adjudication on future custodial rights of the parent or Indian custodian; and

(J) A statement that tribal officials must keep the information contained in the notice concerning the particular proceeding confidential and may only reveal it to individuals who need the information in order to exercise the tribe's rights under the Act.

(b) Department staff must file with the court a copy of each notice sent pursuant to this section together with any return receipts or other proofs of service.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0220

### Placement of Indian Children

(1) General. Department staff must make a diligent attempt to find a suitable placement within priorities described in this rule before considering a non-preference placement. A diligent search for an appropriate placement includes, at a minimum, contact with the child's tribal social services department, a search of Oregon state and county listings of available Indian homes, and contact with other Indian tribes and Indian organizations with available placement resources.

(2) Tribal Placement Priorities. In determining the appropriate placement for an Indian child, the caseworker must contact the child's tribe to see if the tribe has established by resolution an order of placement preference or has placement resources different from those described in this rule.

(3) Foster or Pre-adoptive Placements:

(a) In any foster care or pre-adoptive placement of an Indian child, the child must be placed in the least restrictive setting which most approximates a family and in which the child's special needs, if any, can be met. The child shall also be placed in reasonable proximity to his or her home, except as provided in subsection (7)(b) of this rule;

(b) In considering foster placement for a child, Department staff must follow the placement priorities in this subsection unless the Indian child's tribe changes the order of preference by resolution; or, in absence of such tribal resolution, the court modifies the order of preference by a showing of good cause:

(A) A member of the Indian child's extended family.

(B) A foster home licensed, approved, or specified by the Indian child's tribe.

(C) An Indian foster home licensed or approved by an authorized non-Indian licensing authority.

(D) An institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.

(4) Adoptive Placements. Where no different order of preference has been established by the child's tribe for adoptive placement, the Department must, in the absence of the court's determination that good cause to the contrary exists, give preference to placing the child with:

(a) A member of the child's extended family;

(b) Other members of the Indian child's tribe; or

(c) Other Indian families.

(5) Change of Placement. If an Indian child in a foster or pre-adoptive placement is to be moved from one placement setting to another; or, if the foster family moves and requires a change in placement, the placement preferences outlined in this rule must be followed, unless the child is returned to the parent or Indian custodian from whose custody the child was originally removed. The caseworker must notify the parent, Indian custodian, and the child's tribe in writing prior to a change in placement or before the foster family moves.

(6) Disrupted Adoptive Placements. If a final decree of adoption is vacated or set aside or the adoptive parents voluntarily consent to the termination of parental rights, a biological parent or prior Indian custodian may petition for a return of custody. In voluntary relinquishments, the caseworker must notify the parent and Indian custodian by registered mail at their last known address of the disruption in the adoption and the right to petition for a return of custody. The notification to the parent or Indian custodian of the right to petition must include a statement that the petition will be granted unless it is established by a court of law that return of custody is not in the best interest of the child. In the event that custody is not returned to the parent or Indian custodian or prior to such return of custody, any subsequent placements follow the placement priorities outlined in sections (3) or (4) of this rule, as appropriate. In instances where parental rights have

been terminated and the adoption has been disrupted, the Department may elect to notify the parent and Indian custodian of their right to petition the court for a return of custody.

(7) Records of Placement:

(a) The Department must maintain a written record of each placement of each Indian child and of efforts to comply with the preferences listed above. This record must be maintained on forms separate from the court report and must contain, at a minimum, the petition or complaint, all substantive orders entered during the proceeding, and the complete record of the placement determination; and

(b) Where the placement does not meet the preference priorities set out above, the efforts to find suitable placement within those priorities must be recorded and documented in detail. Documentation must also be provided showing that the placement chosen is in the least restrictive setting possible, meets the child's special needs, and as much as possible, in cases of foster care placement, is close to the child's own home.

(c) At any time, upon the request of the Indian child's tribe or the Department of the Interior, the Department must make available records of every foster care, pre-adoptive, and adoptive placement of each Indian child maintained by the Department.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0230

### Adult Adoptees

(1) An adopted Indian person who is age eighteen or older may apply to the court that entered the final adoption decree for information on the tribal affiliation of the biological parents of the person and any other information necessary to protect any rights flowing from the tribal relationship.

(2) An adopted Indian person may also request from the Secretary of the Department of Interior any information necessary for enrollment in the person's tribe or for information determining any rights or benefits associated with tribal membership. Where the Secretary has an affidavit requesting anonymity from the biological parents of the Indian person, the Secretary certifies whether the person is entitled to enrollment under criteria established by the tribe.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0240

### Voluntary Proceedings

(1) Department May Accept Voluntary Placements. The Department may accept voluntary custody of any Indian child based upon consent of the Indian parent or Indian custodian, but may not accept such consent unless:

(a) The child is more than ten days old;

(b) The voluntary consent is given in writing and recorded before a judge in the appropriate jurisdiction;

(c) The consent is accompanied by a judge's certificate which meets the requirements listed in section (2) of this rule; and

(d) The Department files a petition with the juvenile court pursuant to ORS 419B.100.

(2) Court Hearing on Consent. The caseworker must request a hearing in circuit court to obtain a voluntary consent. The caseworker must assure before the proceeding occurs that the court hearing will be recorded and that the written consent of the parent or Indian custodian is accompanied by a certificate signed by the judge ensuring that the terms and consequences of the consent were:

(a) Fully explained in detail and fully understood by the parent or Indian custodian; and

(b) Fully explained in English, or interpreted into a language understood by the parent or Indian custodian.

(3) Content of Consent Form. The consent form signed by a parent or Indian custodian who voluntarily agrees to placement must, at a minimum, contain:

(a) The name and birthdate of the Indian child;

(b) The name of the child's tribe;

(c) The child's enrollment number or other indication of the child's membership in the tribe;

(d) The name and address of the consenting parent or Indian custodian;

(e) The name and address of the prospective parents, if known, for substitute care placements; and

(f) The name and address of the person or Department through which placement was arranged, if any, for adoptive placement.

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(4) Request for Anonymity. If a parent who has voluntarily given custody of his or her child to the Department requests anonymity, the caseworker must discuss the situation with the parent and describe the advantages of working cooperatively with the tribe. If the parent still evidences a desire for anonymity, the caseworker must contact the ICWA Manager who must:

(a) Contact the tribe to determine if a tribal system exists for keeping child custody matters confidential;

(b) Meet with the parent and caseworker to document the parent's reasons for requesting anonymity and to explain the Act's requirement for contacting the tribe in order to learn if there are tribal placement preferences and resources; and

(c) If a parent still request anonymity, the ICWA Manager or caseworker must tell the parent that the Department may not be able to guarantee that the request will be followed, but that it will be taken into consideration. The caseworker must then document the parent's request for anonymity and advise the court that such request must be provided when the child's adoption records are mailed to the Secretary of the Interior.

(5) Voluntary Foster Care:

(a) Placement Preferences to Follow. Indian children who have voluntarily come into substitute care must be placed according to the preference priorities outlined in OAR 413-070-0220.

(b) Withdrawal of Consent. The parent or Indian custodian may withdraw consent either orally or in writing at any time. If consent is withdrawn no reason needs to be stated, no evidence needs to be produced, and no hearing needs to be conducted. The caseworker must:

(A) Except as provided in subsection (c) of this rule, immediately return the child to the parent or Indian custodian; and

(B) Notify the court that consent has been withdrawn and the child has been returned to parental custody.

(c) Initiation of Protective Service Custody. If the caseworker believes that returning custody of the child to the parent or Indian custodian would place the child in imminent danger or harm, the following must occur:

(A) The caseworker immediately initiates further proceedings before the juvenile court and secures an order from the court authorizing the Department to retain custody of the child;

(B) Where court proceedings for protective custody are initiated and the child is not returned to a parent or Indian custodian upon withdrawal of consent, the caseworker notifies the child's tribe of this decision; and

(C) All rules regarding involuntary proceedings are followed.

(d) Changes in Placement Must Follow ICWA. Whenever an Indian child is removed from a foster care home or institution for the purpose of further foster care, pre-adoptive, or adoptive placement, such placement must be in accordance with the ICWA unless the child is being returned to the parent or Indian custodian from whose custody the child was originally removed.

(6) Voluntary Adoptive Placement:

(a) Voluntary Termination of Parental Rights or Relinquishment. If the parent of an Indian child wants to consent to the termination of parental rights, and free the child for adoption, the caseworker must:

(A) Arrange to have relinquishment documents signed which meet the requirements of sections (1), (2), and (3) of this rule; and

(B) Ensure that the relinquishment is fully understood by the parent and that it is not taken when the parent is under duress since the relinquishment and the adoption may be set aside if the court finds the relinquishment was obtained through fraud or duress.

(b) Placement Preferences to Follow. Placement preferences outlined in OAR 413-070-0220 must be followed in the voluntary adoptive placement of an Indian child.

(c) Withdrawal of Consent. A voluntary consent to termination of parental rights or to the adoption of an Indian child may be withdrawn for any reason at any time prior to the entry of the final decree of termination or adoption, as the case may be. No reason or evidence is needed. The placing agency, when notified, must return the child to the parent or Indian custodian as soon as practicable. Where no placing agency is involved, the court is responsible for notifying the family with whom the child has been placed that consent was withdrawn and the child must be returned to the parent or Indian custodian.

(d) Protective Service Custody. If the parent voluntarily withdraws consent to termination of parental rights, and the Department believes the child should not be returned to parental custody, the caseworker may initiate a protective service custody proceeding with the court in order for the Department to retain custody of the child.

(e) Disruption of Foster Care Placement. When a foster care placement is changed prior to a termination or relinquishment, the Department must notify the parent or Indian custodian and the tribe.

(f) Adoption Vacated or Set Aside. When a final decree of adoption has been vacated or set aside, or the adoptive parent has voluntarily consented to the termination or relinquishment of parental rights, Department staff must send a registered letter to the parent or Indian custodian stating the parent or Indian custodian may petition the court for return of the child. The tribe shall also be notified of such changes or disruptions in adoptive placements.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.100

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 41-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0300

### Purpose

The purpose of OAR 413-070-0300 to 413-070-0380 is to prescribe conditions that must be met for the Department to remove a refugee child from home. These rules also establish the Refugee Child Welfare Advisory Committee (RCWAC) and set the criteria for its operations and duties.

Stat. Auth.: ORS 418.005, 418.945

Stats. Implemented: ORS 418.005, 418.925 - 418.945

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 9-2007, f. & cert. ef. 5-1-07; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0320

### Placement of Refugee Children

(1) When it appears that a child who may be taken into custody under ORS 419B.150 or ORS 419C.080 by the Department is a refugee child, the Department will make oral inquiry of the child or the parent concerning national origin and ethnic and cultural information relative to the child's status as a refugee child. For purposes of determining the child's status as a refugee child, the Department may consider information, including, but not limited to, information from the following sources:

(a) Any extended family member;

(b) Refugee community resources including, but not limited to, any group, association, partnership, corporation, or legal entity whose purpose is to represent the interests of a particular group or groups of refugees who have the same ethnic or minority heritage;

(c) The RCWAC;

(d) Federal immigration agencies;

(e) Refugee agencies; and

(f) Department records.

(2) As required by ORS 418.937, the Department may not remove a refugee child pursuant to ORS 419B.150, 419C.080, or 419C.088 unless:

(a) The Department has determined there is a safety threat and removal is necessary to prevent imminent serious emotional or physical harm to the child; and

(b) The provision of remedial or preventive services cannot manage the child's safety in the home.

(3) The Department must follow ORS 418.937 in making placement decisions for refugee children:

(a) The Department will consider the child's culture and tradition.

(b) Unless shown to be inappropriate and inconsistent with the best interests of the child, the Department will place the child with one or more of the following persons, listed in order of preference:

(A) Biological and legal parents.

(B) Extended family members who are 18 years of age or older.

(C) Members of the same cultural heritage.

(D) Persons with knowledge and appreciation of the cultural heritage of the child.

(4) The determination that one of the preferred placements is inappropriate and inconsistent with the best interests of the child must be based on one or both of the following reasons:

(a) The informed request of the child's parent, if the request is consistent with the stability, security, and individual needs of the refugee child.

(b) The safety, medical, physical, or psychological needs of the child.

(5) When the Department has taken a refugee child into custody under ORS 419B.150, the Department will make diligent efforts to locate the child's affected family members for the purposes of placing the child, if possible, in one of the preferred placements.

Stat. Auth.: ORS 418.005, 418.945

Stats. Implemented: ORS 418.005, 418.925 - 418.945

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 9-2007, f. & cert. ef. 5-1-07; CWP 12-2015, f. & cert. ef. 7-17-15

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## 413-070-0350

### Judicial Determination

As required by ORS 418.933(1), a refugee child may not remain out of the child's home for longer than five days unless there has been a judicial determination supported by clear and convincing evidence that:

- (1) Preventive or remedial services provided by the Department have failed to alleviate the need for removal; and
- (2) Return to the home will likely result in psychological or physical harm to the child.

Stat. Auth.: ORS 418.005, 418.945

Stats. Implemented: ORS 418.005, 418.925 - 418.945

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 9-2007, f. & cert. ef. 5-1-07; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0360

### Record of Care

The Department must maintain a case record for each refugee child in its care containing:

- (1) The name, age, residence from which the child was removed, legal status, sex, and race of the child, and the accumulated length of time the child has spent in substitute care;
- (2) The child's health and education records;
- (3) The name, former residence, and health history of each parent and other information relating to the ability of the parent to care for the child in the parent's home;
- (4) The date of the child's intake and placement in substitute care and the name, race, occupation, and residence of the person with whom the child is placed;
- (5) If applicable, the date of the child's adoption and the name, race, occupation, and residence of each adoptive parent;
- (6) The date of the removal of the child to another home and the reason for removal;
- (7) The date of termination of guardianship, if applicable;
- (8) The history of the child, based on information that is known to the Department, until the child reaches 18 years of age, is legally adopted, or is discharged from the legal custody of the Department according to law;
- (9) Documentation of the reasonable efforts made by the Department to reunite the child with his or her family, to comply with the placement preferences of ORS 418.937, to place the child in the least restrictive setting possible, and to place the child close to the child's home and school;
- (10) Documentation of the child's status as a refugee child, including the source of information concerning the child's refugee status and the date the information was received by the Department;
- (11) Any required demographic information; and
- (12) Other documentation as required by Child Welfare Policy I-1.2, "Narrative Recording".

Stat. Auth.: ORS 418.005, 418.945

Stats. Implemented: ORS 418.005, 418.925 to 418.945

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 9-2007, f. & cert. ef. 5-1-07; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0370

### Annual Report of Care

(1) As required by ORS 418.943, the Department will publish annually a report on refugee children in its care. The report must include statewide and county information on legal status, living arrangement, age, sex, race, accumulated length of time in foster care, and other demographic information deemed appropriate. The report will also state the extent to which the Department has complied with ORS 418.925 to 418.945 and descriptions of the methods of compliance.

(2) The annual report must be sent to all members of the RCWAC no later than March 1 of each year.

Stat. Auth.: ORS 418.005, 418.945

Stats. Implemented: ORS 418.005, 418.925 - 418.945

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 9-2007, f. & cert. ef. 5-1-07; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0400

### Purpose

The purpose of OAR 413-070-0400 to 413-070-0490 is to describe the responsibilities of the substitute caregiver and the Department when a child or young adult placed in substitute care by the Department is prescribed or administered psychotropic medication.

Stat. Auth.: ORS 418.005 & 418.517

Stats. Implemented: ORS 109.640, 109.675, 418.005, 418.517

Hist.: SCF 3-1995, f. & cert. ef. 9-15-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 8-2007, f. & cert. ef. 5-1-07; CWP 7-2010, f. & cert. ef. 6-30-10; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0430

### Department Records, Medication Review, and Consent and Authorization Requirements

(1) The Department must keep the medical and mental health records of any child or young adult in substitute care. As used in this section, "medical and mental health care records" includes a child or young adult's records of medical and mental health care, including, but not limited to, the names of former and current health providers, medical services and diagnoses, evaluations, immunizations, and prescribed medications.

(2) The caseworker must support timely exchange of medical and mental health care information for a child or young adult in substitute care unless:

(a) A child or young adult has the authority to consent to his or her own health and mental health care; or

(b) The parent or legal guardian of the child or young adult retains authority to consent to health care decisions through a Voluntary Custody Agreement or Voluntary Placement Agreement.

(3) The caseworker must:

(a) Provide records of previous mental health assessments and assessment updates, including multiaxial DSM diagnosis and treatment recommendations, and progress records from mental health treatment services to the licensed medical professional prior to the medical appointment or no later than the time at which the licensed medical professional examines the child or young adult when a child or young adult may be receiving a prescription for a psychotropic medication.

(b) Document and timely inform the substitute caregiver of the child or young adult's known health information, including information regarding any prescribed and administered psychotropic medication:

(A) At the time of placement; and

(B) When new or updated health information becomes known to the Department.

(4) To keep accurate medical records and documentation for a child or young adult's medical and mental health history record, the caseworker must:

(a) Retain copies of all medical and mental health records received by the Department in the medical section of the case file of the child or young adult in substitute care.

(b) Document and update records of known health conditions, services, and supports of the child or young adult in substitute care when developing the case plan and at each case plan review.

(c) Receive and review monthly the medication log of the child or young adult in substitute care and retain a copy in the medical section of the case file of the child or young adult and the Department's electronic information system.

(d) Document the medical information of the child or young adult in the Department's electronic information system.

(5) The Department must inform the substitute caregiver of the child or young adult that written authorization, as set forth in subsections (a)-(c) of this section, is required prior to filling a prescription for a new psychotropic medication unless there is an urgent medical need, in which case prior written authorization is not required.

(a) Unless an exception in subsection (d) of this section applies, the Child Welfare Program Manager or designee must provide written authorization prior to the administration of any new prescription of psychotropic medication to a child or young adult in substitute care when the requirements of at least one of the following paragraphs applies:

(A) The Department is the legal guardian of the child or young adult;

(B) Parental rights have been terminated and the court has ordered permanent commitment of the child or young adult and placed the child or young adult in the legal custody and guardianship of the Department; or

(C) A child or young adult's parents have signed a Release or Surrender Agreement giving the Department guardianship and control over the child or young adult.

(b) When the authority to provide authorization for psychotropic medication is not given to the Department in the Voluntary Placement Agreement or Voluntary Custody Agreement, the Department must obtain the written consent of a child or young adult's parent or legal guardian for the administration of psychotropic medication.

(c) A child, 15 years of age or older, or a young adult may provide written consent for psychotropic medication under ORS 109.640.

(d) Written authorization of the Child Welfare Program Manager or designee is not required prior to the administration of any new prescription of psychotropic medication to a child or young adult in substitute care when the requirements of at least one of the following paragraphs applies:

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(A) A change in the delivery system of a previously prescribed medication;

(B) A change in the dosage of a previously prescribed medication;

(C) A change in medication within the same drug classification;

(D) A one-time medication given prior to a medical procedure; or

(E) An anti-epileptic medication prescribed for a seizure disorder.

(6) After the caseworker has obtained the written authorization for psychotropic medication required under section (5) of this rule, the caseworker must do all of the following:

(a) Complete the notifications required under OAR 413-070-0480 and 413-070-0490.

(b) Ensure a report has been made to the prescribing licensed medical professional when the condition of the child or young adult in substitute care is not improving, is deteriorating, or when the child or young adult, caseworker, substitute caregiver, or other individual has observed suspected side effects of the medication.

(c) Request and receive updated health information about the child or young adult in substitute care and the effects of the prescribed psychotropic medication therapy from the substitute caregiver during the monthly contact with the substitute caregiver required under OAR 413-080-0054.

(7) Prior to authorization and administration of a new prescription for more than one psychotropic medication or any antipsychotic medication, the Department must ensure a child or young adult in substitute care has received an assessment from a qualified mental health professional or licensed medical professional unless:

(a) A medication was prescribed for an urgent medical need; or

(b) The prescription is described in paragraphs (5)(d)(A) to (E) of this rule.

(8) The assessment required under section (7) of this rule either must:

(a) Have been completed within the three months prior to the prescription for psychotropic medication; or

(b) Be an update of a prior assessment, which focuses on a new or acute problem, and information from the assessment must be communicated to the licensed medical professional prior to the issuance of a prescription for psychotropic medication.

(9) The Department must ensure the requirements of both of the following subsections are met:

(a) An annual review of psychotropic medications, by an individual other than the prescriber when:

(A) A child or young adult has more than two prescriptions for psychotropic medications; or

(B) A child under six years of age has a prescription for psychotropic medication.

(b) The annual review required under subsection (a) of this section must be conducted by one of the following:

(A) A licensed medical professional;

(B) A qualified mental health professional with the authority to prescribe drugs; or

(C) A licensed pharmacist with the Drug Use Review Program under the Oregon Health Authority, Division of Medical Assistance Programs OAR 410-121-0100.

Stat. Auth.: ORS 418.005 & 418.517

Stats. Implemented: ORS 109.640, 109.675, 418.005 & 418.517

Hist.: SCF 5-1995, f. & cert. ef. 9-15-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 8-2007, f. & cert. ef. 5-1-07; CWP 7-2010, f. & cert. ef. 6-30-10; CWP 3-2015, f. & cert. ef. 1-1-15; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0500

### Purpose

The purpose of OAR 413-070-0500 to 413-070-0519 is to describe the Department's responsibility to seek legal permanency for a child or young adult in the legal custody of the Department and the use of a permanency committee.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 10-2000, f. & cert. ef. 4-28-00; SOSCF 42-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 43-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 27-2010, f. & cert. ef. 12-29-10; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0512

### Development and Review of the Concurrent Permanent Plan

(1) When developing the permanency plan and concurrent permanent plan, the Department must:

(a) Describe the purpose of permanency and concurrent planning to the family;

(b) Involve the child's or young adult's parents, identified relatives, the CASA, attorneys, the tribe when the child or young adult is an Indian

child, the RCWAC when the child or young adult is a refugee child, and other service providers, as appropriate;

(c) Provide full disclosure of the timelines under which the Department pursues permanency pursuant to federal and state law; and

(d) Describe the resources which may be available to relatives when adoption or guardianship is a permanency plan.

(2) The caseworker must:

(a) Develop a permanency plan and a concurrent permanent plan for each child in the Department's custody within 60 days of the placement of the child or young adult into substitute care; and

(b) Review the plan every 90 days, pursuant to OAR 413-040-0000 to 413-040-0032.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

Hist.: SOSCF 10-2000, f. & cert. ef. 4-28-00; SOSCF 42-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 43-2003, f. 12-31-03, cert. ef. 1-1-04; Renumbered from 413-070-0515 by CWP 27-2010, f. & cert. ef. 12-29-10; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0514

### Working with a Child's Team Regarding a Permanency Plan and Concurrent Permanent Plan

(1) The caseworker must consult with a team of individuals, knowledgeable about the needs of the child or young adult, including the ongoing assessment of the most appropriate permanency plan and concurrent permanent plan for the child or young adult, throughout the course of the case.

(a) The team must include the following individuals to the extent required in each of the following paragraphs:

(A) The parents, unless a supervisor approves not including a specified parent because the contact may compromise the safety of a child, young adult, or another individual; parental rights have been terminated; or the parent has signed a release and surrender agreement;

(B) The parent's attorney, unless parental rights have been terminated or the parent has signed a release and surrender agreement;

(C) The child or young adult, whenever developmentally appropriate;

(D) The CASA;

(E) A child or young adult's attorney;

(F) A tribal representative if the child or young adult is an Indian child; and

(G) A member of the RCWAC, if the child is a refugee child.

(b) The team may include:

(A) The child or young adult's substitute caregiver;

(B) The substitute caregiver's certifier;

(C) The child's or young adult's relatives;

(D) Persons with a caregiver relationship;

(E) Other individuals with involvement in the child or young adult's life; and

(F) Individuals with expertise in permanency.

(2) The caseworker utilizes the ongoing contact with these individuals to:

(a) Monitor the progress toward achieving the permanency plan;

(b) Provide the child or young adult, and the parents of the child or young adult, the opportunity to identify available permanency resources should reunification not be achievable;

(c) Review the efforts to identify and place the child or young adult with a relative and to place siblings together;

(d) Consider the parents' acceptance of a plan other than reunification and their desire for continued contact with the child or young adult;

(e) Identify and consider which concurrent permanent plan best meets the current and lifelong safety, permanency, and well-being needs of the child or young adult in the following preferential order:

(A) Adoption;

(B) Guardianship, which may be considered only when there are compelling reasons why adoption cannot be achieved; or

(C) Another Planned Permanency Living Arrangement, which may be considered only when there are compelling reasons why adoption or guardianship cannot be achieved.

(3) After the caseworker has complied with section (2) of this rule and prior to considering a change in permanency plan, the caseworker must determine that the Department has taken action on the potential permanency resources identified by the Department, the child or young adult, the family of child or young adult, or a member of the team of the child or young adult; and the caseworker must review with the team of the child or young adult:

(a) The outcome of the assessment of potential permanency resources; and

(b) The Department's efforts to develop and maintain the relationship of the child or young adult with potential permanency resources.

# ADMINISTRATIVE RULES

(4) When the caseworker determines a change in permanency plan should be considered, the caseworker must determine which permanency plan best:

(a) Meets the safety, permanency, and well-being needs of the child or young adult;

(b) Provides the child or young adult with support and connections in adulthood.

(c) The caseworker documents the basis for the determination.

(5) The legal assistance specialist must approve changing the permanency plan to adoption prior to the caseworker recommending adoption to the court.

(6) The permanency committee must make recommendations; and

(a) A Child Welfare Program Manager or designee must make the decision on behalf of the Department:

(A) To approve changing the permanency plan to guardianship prior to the caseworker recommending the plan to the court; and

(B) To identify the substitute caregiver as the appropriate permanency placement resource for the plan of guardianship.

(b) A Child Welfare Program Manager must make the decision on behalf of the Department:

(A) To approve changing the permanency plan to APPLA prior to the caseworker recommending the plan to the court; and

(B) To identify the substitute caregiver as the appropriate permanency placement resource for the plan of APPLA.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

Hist.: CWP 27-2010, f. & cert. ef. 12-29-10; CWP 3-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 23-2011, f. & cert. ef. 9-19-11; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0516

### Use of Permanency Committee

A permanency committee must be scheduled when any of the following sections applies:

(1) The caseworker is recommending a change in permanency plan to guardianship. The permanency committee provides a recommendation based upon the considerations in OAR 413-070-0660 and OAR 413-070-0665.

(2) The caseworker is recommending a change in permanency plan to APPLA. The permanency committee provides a recommendation based upon the considerations in OAR 413-070-0550(1).

(3) A foster parent's request to be considered an adoptive resource as a current caretaker pursuant to OAR 413-120-0500 to 413-120-0595. The permanency committee provides a recommendation based upon the considerations in OAR 413-120-0570.

(4) A caseworker is considering the separation of siblings in adoption under OAR 413-110-0132. The permanency committee provides a recommendation based upon the considerations in OAR 413-110-0132(2).

(5) The caseworker requests that a permanency committee review the relationship between a general applicant and a child whose permanency plan is adoption. The permanency committee provides a recommendation based upon the considerations in OAR 413-120-0750(5)(b).

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

Hist.: CWP 27-2010, f. & cert. ef. 12-29-10; CWP 3-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 23-2011, f. & cert. ef. 9-19-11; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0518

### Composition, Scheduling, Responsibilities and Recommendations of the Permanency Committee

(1) Composition. A permanency committee includes the following individuals.

(a) Two individuals who have been appointed by a Child Welfare Program Manager to attend a permanency committee.

(A) A committee facilitator, who must be a Department staff member and who must ensure all of the following:

(i) The meeting is held according to the requirements of OAR chapter 413.

(ii) Individuals are informed of the responsibilities of the committee and the confidentiality of information presented during the meeting.

(iii) Committee recommendations are thoroughly and accurately documented.

(B) A second individual who may be either a community partner or another Department staff member.

(C) The individuals in this section must meet the requirements of all of the following paragraphs:

(i) Be knowledgeable about permanency issues.

(ii) Be knowledgeable of the importance of lifelong family attachment and cultural connections.

(iii) Have no current personal or professional relationship to the child or a potential placement resource or potential adoptive resource being considered.

(b) The following members of the child's team:

(A) The caseworker of the child or young adult;

(B) The attorney of the child or young adult;

(C) The CASA of the child or young adult;

(D) A tribal representative, if the child or young adult is an Indian child; and

(E) A member of the RCWAC, if the child or young adult is a refugee child.

(2) The substitute caregiver of the child or young adult, or any other individual from the child's team who a caseworker, in consultation with the supervisor, believes can provide important input into the issue before the permanency committee, may be invited to come and present information to the permanency committee, but is excused after presenting information and responding to questions.

(3) The Child Welfare Program Manager or designee responsible for making the decision on behalf of the Department attends the permanency committee and may ask clarifying questions, but does not participate in the deliberation and recommendation.

(4) Scheduling. The Department is responsible for scheduling and notifying the following individuals of the date, time, and location of the permanency committee.

(a) Appointed permanency committee members;

(b) The Child Welfare Program Manager or designee making a decision on the issue before the permanency committee;

(c) Each member of the child's or young adult's team identified in subsection (1)(b) of this rule; and

(d) Any other individual invited to present specific information to the permanency committee.

(5) Confidentiality. Each individual attending a permanency committee is bound by Oregon statutes regarding confidentiality and OAR 413-010-0000 to 413-010-0075.

(6) Consideration, review, and recommendation.

(a) The permanency committee must consider and review the information presented by any individual invited to the permanency committee, whether the information is presented in person, by phone, through other electronic communication, or in writing.

(b) The permanency committee may seek clarifying and request additional information during the presentations.

(c) The permanency committee must consider the safety, permanency, and well-being needs of the child or young adult and when there are siblings; the safety, permanency, and well-being needs of each sibling; and make a recommendation regarding the issue brought before the committee to the Child Welfare Program Manager or designee.

(d) When members of the permanency committee have not come to consensus on a recommendation, the committee facilitator must document all recommendations and the basis provided by the permanency committee member for that recommendation.

(e) The committee facilitator must provide the written documentation of the permanency committee's recommendation or recommendations to the Child Welfare Program Manager or designee within three business days of the date on which the permanency committee was held.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

Hist.: CWP 27-2010, f. & cert. ef. 12-29-10; CWP 3-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 23-2011, f. & cert. ef. 9-19-11; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0519

### Decision and Notice

(1) Except to the extent that section (2) of this rule indicates otherwise, the Child Welfare Program Manager or designee must:

(a) Consider the recommendations of the permanency committee;

(b) Make a decision within one business day following the receipt of the written recommendations of the permanency committee; and

(c) Provide written notification of the decision and the basis of the decision to the caseworker on a form approved by the Department.

(2) When the decision of the permanency committee applies to changing a permanency plan to APPLA, the Child Welfare Program Manager must make the decision and may not appoint a designee.

(3) The caseworker must notify the following individuals of the decision under section (1) of this rule:

# ADMINISTRATIVE RULES

- (a) Each child or young adult, when required by law and developmentally appropriate;
  - (b) Each child's or young adult's attorney, if one has been appointed;
  - (c) Each child's or young adult's CASA, if one has been appointed;
  - (d) Each child's or young adult's tribal representative, when a child or young adult is an Indian child;
  - (e) The member of the RCWAC when a child or young adult is a refugee child; and
  - (f) Each child's or young adult's substitute caregiver.
- Stat. Auth.: ORS 418.005  
Stats. Implemented: ORS 418.005  
Hist.: CWP 27-2010, f. & cert. ef. 12-29-10; CWP 3-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 23-2011, f. & cert. ef. 9-19-11; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0570

### Purpose

The purpose of OAR 413-070-0570 to 413-070-0574 is to describe when the Department will consider and pursue special immigrant juvenile status for a child or young adult who was brought to the United States by a parent or legal guardian not for the purpose of adoption, does not have lawful permanent resident status, cannot be returned safely to a parent or placed in the country of origin of the child or young adult, and should remain in the United States pending finalization of a permanent plan other than return to parent.

Stat. Auth.: ORS 418.005  
Stats. Implemented: ORS 418.005  
Hist.: CWP 22-2010, f. & cert. ef. 12-28-10; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0574

### Special Immigrant Juvenile Status

(1) The Department may apply for special immigrant juvenile status for a child or young adult in the legal and physical custody and guardianship of the Department if all of the following requirements are met:

- (a) The juvenile court has determined that:
  - (A) The child or young adult is a dependent ward;
  - (B) The child or young adult cannot be returned to a parent due to abuse, neglect, abandonment, or similar circumstance; and
  - (C) It is not in the best interests of the child or young adult to return to the child's, young adult's, or parent's country of nationality or country of last habitual residence.

(b) The permanency plan for the child or young adult has been changed by the court from return to parent to another permanent plan.

(c) The child or young adult is not a United States citizen and does not have lawful permanent resident status.

(d) The child or young adult is unmarried and under 21 years of age.

(2) Department staff must consult with and obtain approval from the Department of Human Services Diversity and International Affairs Program Manager or designee before applying for special immigrant juvenile status for a child or young adult in the legal and physical custody and guardianship of the Department.

(3) To apply for special immigrant juvenile status, before the 21st of the child or young adult the Department must:

(a) Obtain a court order from the juvenile court that makes the necessary findings to support an application for special immigrant juvenile status; and

(b) Complete and submit all necessary U.S. Citizenship and Immigration Service forms and applications for special immigrant juvenile status.

Stat. Auth.: ORS 418.005  
Stats. Implemented: ORS 418.005  
Hist.: CWP 22-2010, f. & cert. ef. 12-28-10; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0600

### Purpose

The purpose of OAR 413-070-0600 to 413-070-0645 is to:

(1) Describe the requirements for assessing the needs of the child or young adult when the Department places the child or young adult in substitute care to assure the child's safety;

(2) Identify the most appropriate available substitute caregiver who can meet the needs of the child or young adult; and

(3) Describe the requirements for assessing and matching a potential caregiver's ability to meet the current and lifelong needs of the child or young adult for safety, permanency, and well-being.

Stat. Auth.: ORS 418.005  
Stats. Implemented: ORS 418.005 & 419B.192  
Hist.: SOSCF 13-1999, f. 7-8-99, cert. ef. 7-12-99; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 26-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 8-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 29-2010, f. & cert. ef. 12-29-10; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0651

### Purpose

This topic is addressed in OAR 413-070-0655.  
Stat. Auth.: ORS 418.005 & 419B.369  
Stats. Implemented: ORS 418.005, 419B.192 & 419B.369  
Hist.: CWP 36-2010(Temp), f. & cert. ef. 12-29-10 thru 6-27-11; CWP 7-2011, f. & cert. ef. 6-28-11; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0655

### Purpose

The purpose of OAR 413-070-0651 to 413-070-0670 is to describe the responsibilities of the Department to determine the appropriate use of guardianship, as established by the court under ORS chapter 419B, as a permanency plan for a child in the care or custody of the Department..

Stat. Auth.: ORS 418.005  
Stats. Implemented: ORS 418.005  
Hist.: CWP 36-2010(Temp), f. & cert. ef. 12-29-10 thru 6-27-11; CWP 7-2011, f. & cert. ef. 6-28-11; CWP 11-2014, f. & cert. ef. 6-3-14; CWP 16-2014(Temp), f. & cert. ef. 8-4-14 thru 1-31-15; CWP 6-2015, f. 1-29-15, cert. ef. 2-1-15; CWP 11-2015(Temp), f. & cert. ef. 5-22-15 thru 11-17-15; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0665

### Consideration of a Substitute Caregiver as a Potential Guardian

(1) Prior to considering a substitute caregiver as a potential guardian, the caseworker and the caseworker's supervisor must comply with the requirements of both of the following subsections:

(a) Review the Department's diligent efforts to identify, contact, and place a child with relatives and to place siblings together as required under OAR 413-070-0060 to 413-070-0087.

(b) Confirm there are no current Department actions to:

(A) Identify a child's relative as defined in OAR 413-070-0000(74)(a)-(d);

(B) Assess an identified relative as defined in OAR 413-070-0000(74)(a)-(d) who has either expressed an interest in and needs to be or currently is being assessed as a permanency resource.

(2) In order to be considered as a potential guardian, the substitute caregiver must:

(a) Have a current Certificate of approval from one of the following entities:

(A) The Department under OAR 413-200-0301 to 413-200-0396.

(B) Aging and People with Disabilities, OAR 411-346-0100 to 411-346-0230.

(C) A foster care agency under OAR 413-215-0301 to 413-215-0396.

(D) A participating tribe when the potential guardian is currently certified as a foster home by the participating tribe as meeting the tribe's certification and licensing standards.

(E) Another state when the potential guardian is currently certified or otherwise approved by the state in which the potential guardian resides and approved as a placement for the child under the Interstate Compact on Placement of Children (ICPC).

(b) Agree with the Department that the child and any sibling under consideration, and the substitute caregiver can maintain a stable relationship and function effectively without Department supervision.

(c) Have an updated home study describing how the substitute caregiver's skills and abilities meet the best interests and needs for safety and permanency for the child and any sibling under consideration.

(d) Have adequate means of financial support and connections to community resources.

(e) Have a strong commitment to caring permanently for the child and any sibling under consideration for whom the substitute caregiver has provided care.

(3) The caseworker must complete all of the following requirements and present the results to a permanency committee, when scheduled:

(a) Assess the ability of the substitute caregiver to provide safety, permanency, and well-being for the child and any sibling under consideration.

(b) Assess with the certifier of the substitute caregiver the extent to which the ongoing needs for safety, permanency, and well-being of the child and any sibling under consideration are being met pursuant to OAR 413-070-0640.

(c) Assess the commitment of the substitute caregiver to raise the child and any sibling under consideration.

(d) Provide the substitute caregiver with information regarding the duties and responsibilities of a guardian.

(e) Agree that the child, any sibling under consideration, and the substitute caregiver can maintain a stable relationship and function effectively without Department supervision.

(f) Consult with the substitute caregiver regarding guardianship assistance under OAR 413-070-0900 to 413-070-0974.

# ADMINISTRATIVE RULES

(A) When guardianship assistance will be requested, inform the substitute caregiver of the eligibility, application, and ongoing requirements of guardianship assistance as described in OAR 413-070-0900 to 413-070-0974.

(B) When guardianship assistance will not be requested or may not be approved due to eligibility restrictions, ensure that the substitute caregiver has sufficient financial support and connections to community resources to meet the needs of the child and any sibling under consideration without this assistance.

Stat. Auth.: ORS 418.005 & 419B.369

Stats. Implemented: ORS 418.005, 419B.192 & 419B.369

Hist.: CWP 36-2010(Temp), f. & cert. ef. 12-29-10 thru 6-27-11; CWP 7-2011, f. & cert. ef. 6-28-11; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0670

### Approval and Implementation of a Guardianship Permanency Plan

(1) When the Department is considering a change in a child's permanency plan, the Department makes the determination pursuant to OAR 413-070-0500 to 413-070-0519, and the child's caseworker schedules a permanency committee.

(2) The permanency committee must review all of the information presented to the committee and make recommendations to the Child Welfare Program Manager or designee regarding:

(a) Whether guardianship is an appropriate permanency plan for the child; and

(b) Whether the substitute caregiver can meet the child's needs as described in subsection (3)(c) of this rule and should be considered as a potential guardian.

(3) The Child Welfare Program Manager or designee must decide whether guardianship is the appropriate permanency plan for the child based upon:

(a) How a permanency plan of guardianship meets the child's needs, and the requirements of OAR 413-070-0660(1) and (2) and OAR 413-070-0665(2) and (3);

(b) Whether the Department has provided the child and the child's parents an opportunity to identify available permanency;

(c) Whether the substitute caregiver being considered as the potential guardian is able to meet the child's needs pursuant to OAR 413-070-0640.

(4) Following the Child Welfare Program Manager or designee decision to approve guardianship as a permanency plan, the caseworker must:

(a) Request a permanency hearing before the court within 30 days of the decision.

(b) Prior to the court hearing, provide the court with supporting written documentation regarding the Department's position that:

(A) Guardianship is in the child's best interest; and

(B) Neither placement with parents nor adoption is an appropriate plan.

(5) At the court hearing, the caseworker must:

(a) Recommend that the court approve changing the child's permanency plan to guardianship;

(b) Inform the court whether or not the potential guardian is applying for guardianship assistance; and

(c) When guardianship assistance is being requested, inform the court that after the Department has negotiated the amount or type of guardianship assistance with the potential guardian, a subsequent court hearing will be requested to allow the order of guardianship to be entered.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

Hist.: CWP 36-2010(Temp), f. & cert. ef. 12-29-10 thru 6-27-11; CWP 7-2011, f. & cert. ef. 6-28-11; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0860

### Types of Visit and Contact Plans

(1) The Temporary Visit and Contact Plan.

(a) The caseworker must jointly develop a written Temporary Visit and Contact Plan with the parents or guardians, and may involve the child, family members, safety service providers and the substitute caregiver to participate in facilitating visitation and supporting the ongoing safety plan when the child first enters substitute care or at the time of the first court hearing required by ORS 419B.183, whichever is first. The visits must be planned to manage child safety.

(b) The court may make an order regarding visitation between the child or young adult's parents, siblings, or grandparents.

(c) The caseworker must arrange a Temporary Visit and Contact Plan that assures child safety.

(d) The plan must include the following:

(A) The names of each person, including the child's siblings, with whom the child may have contact; and

(B) A description of the contact permitted with each person that includes:

(i) The type, time of day, frequency, length, and location of the visits; and

(ii) The reason for supervised visits when supervision is required.

(e) If the first visit with the parent or guardian does not occur within the first week of a child's placement in substitute care, the caseworker must document the reason the visit did not occur in case notes in the Department's electronic information system.

(f) The caseworker must provide a copy of the Temporary Visit and Contact Plan to the parents or guardians and to others participating in the Temporary Visit and Contact Plan.

(2) The Ongoing Visit and Contact Plan.

(a) The caseworker must develop an Ongoing Visit and Contact Plan with the parents or guardians within 30 days from the date that the child enters substitute care. The caseworker may involve the child, family members, safety service or treatment providers, and the substitute caregiver to participate in facilitating visitation in the development of the visit and contact plan. A copy of the written plan is given to each participant. The visits must be in the least restrictive manner in which the child or young adult's safety can be managed.

(b) The caseworker may involve grandparents and other relatives, as identified in OAR 413-070-0060 to 413-070-0087, in the development of the Ongoing Visit and Contact Plan.

(c) The caseworker must arrange an Ongoing Visit and Contact Plan that supports child safety, the ongoing safety plan, the best interests of the child, and any orders of the court regarding visitation with a child or young adult's parents, siblings, or grandparents.

(d) When an Ongoing Visit and Contact Plan is revised, the caseworker completes a revised Ongoing Visit and Contact Plan and provides a copy of the revised plan to each participant.

(e) A plan that prohibits a parent, guardian, or sibling's visit must include the reason for each prohibition and state, if applicable, the conditions under which the Department would begin or resume contact.

(f) The caseworker must document the implementation of the Ongoing Visit and Contact Plan in the case plan.

(g) The caseworker must develop the written Ongoing Visit and Contact Plan which must:

(A) Include the purpose and conditions of visits and contacts including type, time of day, frequency, length, and location;

(B) Describe the reason for supervision when supervision is required;

(C) Identify the individual who will supervise the visit or assist a parent or guardian in meeting the needs of the child or young adult during visitation;

(D) Support the ongoing safety plan; and

(E) Use language that parents or guardians can understand.

(h) In developing an Ongoing Visit and Contact Plan, the caseworker must:

(A) Arrange visits so that the type, time of day, frequency, length, and location of visits maximize contact between the parents or guardians and the child or young adult, support the ongoing safety plan and support the child or young adult's permanency plan as described in OAR 413-070-0855(2) and (3);

(B) Meet the unique needs of the child or young adult, especially the child or young adult's chronological or developmental age and sense of time as they affect the child or young adult's attachment to a parent or guardian and other family members;

(C) Arrange visits that do not disrupt the school schedule of the child or young adult whenever possible;

(D) Arrange additional contact such as telephone calls, e-mail, and letters, and other activities the family and child or young adult may do together that support the ongoing safety plan, such as attendance by parents or guardians at doctor appointments, school events, and church;

(E) Address barriers to visitation that must be overcome in order for the parent, guardian, child or young adult to participate in the visits, including transportation, adaptations for those traveling long distances, health care requirements, and arranging child care for a child's sibling;

(F) Work within each parent's or guardian's employment and treatment obligations;

(G) Ensure that the Ongoing Visit and Contact Plan considers the safety needs of any non-offending parent or guardian in cases involving domestic violence, including but not limited to different visiting schedules or arranging safe drop-off and pick-up locations;

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(H) Explain to a parent or guardian the consequences of failure to attend a visit;

(I) Explain known or anticipated reasons for ending the visit (such as health or safety);

(J) Take the actions necessary to assure culturally relevant and language appropriate visitation services; and

(K) Discuss alternatives when visits are canceled due to circumstances of the parent or guardian, substitute caregiver, or the Department.

(3) The Ongoing Visit and Contact Plan may be reviewed or revised at any time and must be reviewed every 90 days.

(4) An Ongoing Visit and Contact Plan must comply with the Interstate Compact on the Placement of Children (see ORS 417.200 and OAR 413-040-0200 to 413-040-0330).

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.337, 419B.440, 419B.449, 419B.876

Hist.: SOSCF 16-2000, f. & cert. ef. 7-17-00; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 27-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 9-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 14-2013, f. 12-31-13, cert. ef. 1-1-14; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0900

### Purpose

(1) The purpose of OAR 413-070-0900 to 413-070-0974 is to describe Department criteria for eligibility and receipt of guardianship assistance for:

(a) A child in the care or custody of the Department or a participating tribe;

(b) A young adult on whose behalf an initial guardianship assistance agreement was entered into when the young adult was a child of age 16 or 17; or

(c) A young adult who qualifies for disability services and on whose behalf an initial guardianship assistance agreement was entered into when the young adult was a child.

(d) A subsequent legal guardianship of a child in the care of a successor legal guardian as described in OAR 413-070-0925.

(2) Guardianship assistance for a child or young adult placed for guardianship in Oregon by a public child welfare agency other than the Department is not the responsibility of the state of Oregon.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0905

### Funding of Guardianship Assistance

(1) When grandparents or other approved relatives make a permanent commitment to and assume legal guardianship of a child for whom they have cared as a substitute caregiver, the Department provides guardianship assistance as described in OAR 413-070-0900 to 413-070-0974.

(2) Guardianship assistance for Title IV-E children and young adults is funded in part with Title IV-E funds as authorized by the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351).

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.010, 411.141 & 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 11-2014, f. & cert. ef. 6-3-14; CWP 16-2014(Temp), f. & cert. ef. 8-4-14 thru 1-31-15; CWP 4-2015(Temp), f. & cert. ef. 1-21-15 thru 7-19-15; CWP 6-2015, f. 1-29-15, cert. ef. 2-1-15; CWP 7-2015(Temp), f. 1-30-15, cert. ef. 2-1-15 thru 7-19-15; CWP 11-2015(Temp), f. & cert. ef. 5-22-15 thru 11-17-15; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0909

### Funding of Guardianship Assistance

This topic is addressed in OAR 413-070-0905.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: CWP 12-2009, f. & cert. ef. 9-28-09; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0917

### Eligibility and Extension of Guardianship Assistance

(1) Eligibility: Child

(a) Guardianship assistance may only be established for a child placed in the United States or a territory or possession thereof.

(b) A guardianship assistance agreement must be signed by the potential guardian and a Department representative before guardianship has been legally established by a state or participating tribal court.

(c) To be eligible for guardianship assistance, a child must meet all of the following:

(A) Be a United States citizen or qualified non-citizen as described in OAR 413-100-0210 and in 8 USC section 1641(b) or (c).

(B) Be removed from his or her home pursuant to a voluntary placement or as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child.

(C) The Department or participating tribe has determined that neither return home nor adoption is an appropriate permanency option for the child.

(D) Be eligible for Title IV-E foster care maintenance payments during a six consecutive month period during which the child resided in the home of the potential guardian who was fully licensed, certified, or approved by the state or a participating tribe as meeting the licensure or certification requirements for a foster family home in the state where the home is located. The Department determines a child's eligibility for a Title IV-E maintenance payment under OAR 413-100-0000 to 413-100-0345.

(E) Be in the Department's or participating tribe's care or custody for a minimum of:

(i) Six months, if the potential guardian is the child's relative as defined by OAR 413-070-0000(74)(a) through (d); or

(ii) Twelve months, if the potential guardian is a substitute caregiver who meets the definition of a relative under OAR 413-070-0000(74)(e)(B).

(F) Demonstrate a strong attachment to the potential guardian.

(G) Be consulted regarding the guardianship arrangement when the child has attained 14 years of age.

(2) In order for a child to be determined eligible for guardianship assistance, the following must be documented in the child's case plan:

(a) How the child meets the eligibility requirements;

(b) The steps the Department or participating tribe has taken to determine that return to the home or adoption is not appropriate;

(c) The efforts the Department or participating tribe has made to discuss adoption with the child's relative caregiver and the reasons adoption is not an option;

(d) The efforts the Department or participating tribe has made to discuss kinship guardianship with the child's parent or parents or the reasons why efforts were not made;

(e) The reason a permanent placement with a potential relative guardian and receipt of a kinship guardian assistance payment is in the child's best interests; and

(f) The reasons for any separation of siblings during placement. If the child's placement with the potential relative guardian does not include siblings, the case plan must also include a description of the reasons the child is separated from siblings during placement.

(3) Siblings. Each sibling of a child or young adult eligible for guardianship assistance is also eligible for guardianship assistance without meeting the eligibility requirements in paragraphs (1)(c)(B) to (F) of this rule when:

(a) The sibling is placed in a guardianship with the same potential guardian or guardian, whether the siblings are placed at the same time or not; and

(b) The potential guardian or guardian and the Department or participating tribe agree that both of the following are appropriate:

(A) Placing the child's sibling in the home of the potential guardian or guardian; and

(B) Guardianship as a permanency plan for the sibling.

(4) In the event of the death or incapacity of the guardian, a child eligible for Title IV-E guardianship assistance remains eligible if a successor legal guardian is named in the guardianship assistance agreement, including any amendments to the agreement, prior to the death or incapacity of the guardian, and the requirements of OAR 413-070-0925(2) are met.

(5) Extension of Guardianship Assistance for a Young Adult

(a) The Department may approve an extension of a guardianship assistance agreement for an individual under the age of 21 when the individual meets paragraph (A) or (B) of this subsection.

(A) An initial guardianship assistance agreement was entered into on behalf of the child and at the time of the child's 18th birthday, the child:

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(i) Qualifies as an individual with a developmental disability as determined by the Oregon Department of Human Services, Developmental Disabilities Services;

(ii) Qualifies as an individual with a developmental disability as determined by the equivalent developmental disability program if living in a state other than Oregon; or

(iii) Qualifies for Supplemental Security Income (SSI) as determined by the Social Security Administration.

(B) An initial guardianship assistance agreement was entered into on behalf of the child who is age 16 or 17, and upon reaching the age of 18, the child is:

(i) Completing secondary school (or equivalent);

(ii) Enrolled in post-secondary or vocational school;

(iii) Participating in a program or activity that promotes or removes barriers to employment;

(iv) Employed for at least 80 hours a month; or

(v) Determined incapable of any of the above due to a documented medical condition, physical disability, or mental disability.

(b) In order for the extension of guardianship assistance under paragraph (a)(A) of this section to be approved on behalf of a young adult, the guardian must submit to the Department documentation from the agency making the determination described in subparagraphs (a)(A)(i) to (iii) of this section.

(c) In order for the extension of guardianship assistance under paragraph (a)(B) of this section to be approved on behalf of a young adult, the guardian must submit to the Department documentation verifying the circumstances described in subparagraphs (a)(B)(i) through (v) of this section. Documentation of circumstances described in subparagraph (a)(B)(v) of this section must be from a medical or mental health professional.

(d) The Department must receive the request for extension of the guardianship assistance agreement and the documentation described in subsections (b) and (c) of this section:

(A) At least 30 calendar days before the individual's 18th birthday; or

(B) Before a date determined by the Department when the Department approves a request from the guardian to submit the documentation after the individual's 18th birthday. The Department must receive the request before the individual's 18th birthday.

(e) If the Department does not receive the documentation as required by subsections (b) through (d) of this section, the Department may not approve an extension of a guardianship assistance agreement.

(f) When an extension of guardianship assistance has been approved under paragraph (a)(A) of this section, guardianship assistance will continue until the young adult turns 21 years old.

(g) When an extension of guardianship assistance has been approved under paragraph (a)(B) of this section, the Department will review the eligibility of the young adult for continued guardianship assistance:

(A) At least annually; or

(B) When information is received that indicates the young adult may no longer be eligible for guardianship assistance or may be eligible for guardianship assistance in a different amount.

(h) The guardian must notify the Department, orally or in writing, of any changes in circumstances that may make the young adult:

(A) Ineligible for guardianship assistance; or

(B) Eligible for guardianship assistance in a different amount.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 4-2015(Temp), f. & cert. ef. 1-21-15 thru 7-19-15; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0919

### Eligibility and Requirements for a Child or Young Adult in the Care or Custody of a Participating Tribe

(1) In addition to guardianship assistance program criteria in OAR 413-070-0900 to 413-070-0974, the following requirements apply to a child in the care or custody of a participating tribe:

(a) The child must be placed in a foster home approved by the participating tribe that meets the certification and licensing standards of the participating tribe; and

(b) The participating tribe must document how continued placement with the potential guardian is in the best interests of the child and meets the safety and permanency needs of the child.

(2) The participating tribe must:

(a) Conduct and prepare a written home study of the guardian;

(b) Have a current Title IV-E agreement with the Department which includes participation in the guardianship assistance program;

(c) Notify the Adoption Assistance and Guardianship Assistance Unit within 30 calendar days after reestablishing custody of a child or young adult in a guardianship placement established under OAR 413-070-0900 to 413-070-0974; and

(d) Provide the Adoption Assistance and Guardianship Assistance Unit with a copy of the court order terminating the guardianship within 30 calendar days of the termination, when applicable.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0925

### Guardianship Assistance Eligibility for Potential Guardian and Successor Legal Guardian

(1) The Department may approve a potential guardian for guardianship assistance when the potential guardian:

(a) Meets the requirements of OAR 413-070-0665(2); and

(b) Agrees to ensure that, if the child has attained the minimum age for compulsory attendance under the law of the state of residence but has not completed secondary school, the child is:

(A) Enrolled in an elementary or secondary school as determined by the law of the state of residence;

(B) Home schooled in accordance with the law of the state of residence;

(C) Enrolled in an independent study program in accordance with the law of the state of residence; or

(D) Incapable of attending school due to a documented medical condition.

(2) In the event of the death or incapacity of the guardian, before the successor legal guardian may receive a guardianship assistance payment, all of the following requirements must be met:

(a) The successor legal guardian must be named in the guardianship assistance agreement, prior to the death or incapacity of the guardian. A successor legal guardian may be added, removed, or replaced by amending the guardianship assistance agreement any time prior to the death or incapacity of the guardian.

(b) The successor legal guardian and the Department must negotiate and enter into a written guardianship assistance agreement as described in OAR 413-070-0949.

(c) A fingerprint criminal background check and a child abuse and neglect registry check must be completed on each successor legal guardian and other adults living in the home of any successor legal guardian; and provided to the court.

(d) A successor legal guardian must be granted guardianship of the child or young adult through a judgment of the court.

Stat. Auth.: ORS 411.141, 418.005

Stats. Implemented: ORS 411.141, 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0934

### Application Requirements

(1) Except as described in subsections (a) and (b) of this section, the Adoption Assistance and Guardianship Assistance Unit must begin negotiation of the guardianship assistance agreement no later than 60 calendar days after receipt of the completed guardianship assistance application.

(a) The Adoption Assistance and Guardianship Assistance Unit may delay negotiation of the guardianship assistance base rate when the child is due for an updated CANS screening, a new CANS screening is warranted, or a CANS screening is in process or completed but a decision is pending regarding the level of care payment under OAR 413-020-0230. The unit must begin negotiation no later than 30 calendar days from receipt of the final decision regarding the level of care payment.

(b) The Adoption Assistance and Guardianship Assistance Unit may delay negotiation following a request by the caseworker, guardian, or potential guardian when there are extenuating circumstances regarding the

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child or family. The unit must begin negotiation no later than 30 calendar days from notification that the extenuating circumstance causing the delay has been resolved.

(2) A guardianship assistance application is considered complete when the Adoption Assistance and Guardianship Assistance Unit has received a signed application and all supporting documentation.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; Suspended by CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0965, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0939

### Guardianship Assistance Payments, Medical Assistance, and Nonrecurring Guardianship Expenses

(1) When a guardianship assistance payment or medical assistance is not being provided, a potential guardian or guardian may enter into a guardianship assistance agreement only.

(2) The monthly guardianship assistance payment may not exceed the total of:

(a) The guardianship assistance base rate; and

(b) When applicable, the level of care payment determined by the CANS screening conducted under OAR 413-020-0230.

(3) The monthly guardianship assistance base rate:

(a) Is determined through discussion and negotiation between the Department and the potential guardian or guardian.

(b) May not exceed the current foster care base rate payment the child or young adult would be eligible to receive in foster care as determined under OAR 413-090-0010(1)(b).

(c) Is negotiated between the potential guardian of a child or guardian of a child or young adult and the Department, taking into consideration relevant factors which include, but are not limited to:

(A) The ordinary and special needs of the child or young adult.

(B) The services and goods required to meet the needs of the child or young adult.

(C) The cost of the services and goods required to meet the needs of the child or young adult.

(D) The circumstances of the potential guardian or guardian and their ability to provide the required services and goods for the child or young adult.

(E) The resources available to the potential guardian or guardian such as medical coverage, private health insurance, public education, other income sources, and community resources.

(F) A guardianship assistance payment may be reduced when other sources of income are received by the potential guardian or guardian or the child or young adult.

(d) Is intended to combine with the resources of the potential guardian or guardian to provide for the needs of the child or young adult.

(4) When, during negotiation of the guardianship assistance base rate payment, the Adoption Assistance and Guardianship Assistance Coordinator and the potential guardian or the guardian are unable to reach agreement, the Adoption Assistance and Guardianship Assistance Coordinator, the potential guardian, or the guardian may request a review by the Guardianship Assistance Review Committee. When a review is requested:

(a) An Adoption Assistance and Guardianship Assistance Coordinator must:

(A) Prepare documentation for the scheduled Guardianship Assistance Review Committee;

(B) Notify the potential guardian or guardian and the assigned caseworkers of the date of the committee; and

(C) Attend and participate in the Guardianship Assistance Review Committee.

(b) The potential guardian or guardian may provide written documentation to the Adoption Assistance and Guardianship Assistance Coordinator for review and consideration by the Guardianship Assistance Review Committee.

(c) The certification worker for the potential guardian and the caseworker for the child may participate in a Guardianship Assistance Review Committee meeting and may present information and respond to questions. The workers may not participate in the deliberations of the Guardianship Assistance Review Committee.

(d) The Guardianship Assistance Review Committee members must:

(A) Consider written documentation provided by the potential guardian or guardian, caseworkers, and the Adoption Assistance and Guardianship Assistance Coordinator.

(B) Review materials submitted to the Guardianship Assistance Review Committee, deliberate, and make one or more recommendations regarding the guardianship assistance base rate.

(e) At the conclusion of the Guardianship Assistance Review Committee, the Adoption Assistance and Guardianship Assistance Coordinator must:

(A) Document the recommendations of the Guardianship Assistance Review Committee; and

(B) Submit the documentation to the Post Adoption Services Program Manager or designee within one business day of the Guardianship Assistance Review Committee meeting.

(f) The Post Adoption Services Program Manager or designee must complete each of the following actions:

(A) Attend the Guardianship Assistance Review Committee and ask any clarifying questions, but not participate in the deliberation or recommendation of the Guardianship Assistance Review Committee;

(B) Review and consider:

(i) The materials submitted to the Guardianship Assistance Review Committee;

(ii) The recommendations of the committee; and

(iii) The information presented by the potential guardian or guardian under subsection (4)(b) of this rule.

(C) Make a decision within 30 calendar days of the date of the request for review; and

(D) Provide written notification to the potential guardian or guardian and the Adoption Assistance and Guardianship Assistance Coordinator within ten business days of the decision.

(5) The monthly level of care payment:

(a) Is determined based on the results of a CANS screening conducted under OAR 413-020-0230.

(b) Cannot exceed the amount of the level of care payment set forth in OAR 413-090-0010(2)(g).

(c) Is included in the guardianship assistance payment when the child or young adult qualifies for a level of care payment and when requested by the potential guardian or guardian.

(6) When a potential guardian or guardian is not satisfied with the final guardianship assistance offer from the Department, consisting of the guardianship assistance base rate and, when applicable, a level of care payment, the potential guardian or guardian has the right to a contested case hearing under OAR 413-010-0500 to 413-010-0535.

(7) An initial guardianship assistance payment begins on the date the state or tribal court legally establishes the guardianship provided there is a written guardianship assistance agreement signed by all parties.

(8) A guardianship assistance payment to a guardian for the child or young adult is inalienable, not assignable or transferable, and exempt from execution, levy, attachment, garnishment, and other legal process under the laws of Oregon, as long as the payment can be identified as a guardianship assistance payment and is kept separate from other money in the guardian's possession.

(9) The guardian may apply to be the designated payee for any benefit the child or young adult receives if the benefit program allows such application.

(10) Medical assistance and social services.

(a) A child or young adult who is the subject of a guardianship assistance agreement funded by Title IV-E funds as authorized by the Fostering Connection to Success and Increasing Adoptions Act of 2008 (Public Law 110-351) is categorically eligible for medical assistance through Title XIX and social services under Title XX when:

(A) The guardianship is in effect; and

(B) A guardianship assistance payment is being made to the guardian.

(b) A child or young adult who is not eligible for Title XIX medical assistance is eligible for medical assistance under OAR 413-100-0400 to 413-100-0530, when:

(A) The child or young adult resides in Oregon; or

(B) The child or young adult resides outside of Oregon but in the United States or a territory or possession thereof and is not able to obtain medical assistance in his or her place of residence.

(c) Medical assistance is not provided for a child or young adult who resides outside of the United States or a territory or possession thereof.

(11) Nonrecurring guardianship expenses.

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(a) The Department will reimburse a guardian up to \$2,000 per eligible child for approved nonrecurring guardianship expenses, including but not limited to:

- (A) The cost of a home study;
- (B) Court costs;
- (C) Attorney fees;
- (D) Physical and psychological examinations required for the guardianship; and
- (E) Travel to visit with the child prior to placement.

(b) Payment for nonrecurring guardianship expenses may not duplicate expenses covered by ORS 417.200-417.260 or another resource available to the potential guardian.

(c) Documentation of nonrecurring guardianship expenses is required and must be submitted prior to execution of the nonrecurring guardianship assistance agreement. The nonrecurring guardianship assistance agreement, indicating the nature and amount of the nonrecurring guardianship expenses, must be signed by the potential guardian and a Department representative prior to the establishment of the guardianship.

(d) Payment for nonrecurring guardianship expenses is made when the Department receives the court order establishing the guardianship.

## (12) Overpayment.

(a) If the Department issues a guardianship assistance payment on behalf of a child or young adult after the date the guardianship assistance agreement automatically expires, the Department may seek reimbursement of the overpayment and the guardian must repay the Department.

(b) If the guardian fails to comply with any provisions of the guardianship assistance agreement, including failing to notify the Department of any of the events or circumstances described in OAR 413-070-0964 and 413-070-0974(6) and (8), the Department may collect any guardianship assistance payment or medical assistance which the Department would not have provided had the guardian complied with the provisions of the guardianship assistance agreement.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0930, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0949

### Guardianship Assistance Agreement Requirements

(1) Before a guardian may receive guardianship assistance, there must be a negotiated written guardianship assistance agreement between the Department and the potential guardian or guardian signed by all parties prior to the court order establishing the legal guardianship.

(2) The guardianship assistance agreement must include each of the following:

(a) A statement indicating that a guardianship assistance agreement remains in effect without regard to the state of residency of the guardian.

(b) The effective date of the initial guardianship assistance agreement is the date of the court order of guardianship.

(c) That the Department will pay the nonrecurring guardianship expenses associated with obtaining legal guardianship of the child, to the extent the nonrecurring guardianship expenses do not exceed \$2,000 per child.

(d) That the child or young adult for whom the Department is providing a guardianship assistance payment remains eligible for medical assistance provided:

- (A) The guardianship remains in effect;
- (B) A payment is being made; and
- (C) The child or young adult is placed in the United States, a territory or possession thereof.

(e) Information regarding garnishment of guardianship assistance payments as set forth in OAR 413-070-0939(8).

(f) That the guardian agrees to comply with the reporting requirements under OAR 413-070-0964.

(g) That the guardian understands that a guardianship assistance agreement may be reviewed and the guardianship assistance may be adjusted, suspended, or terminated under OAR 413-070-0974.

(h) A statement indicating that the guardian understands that the provisions of ORS 192.558 allow the Oregon Health Plan (OHP) and the OHP managed care plans without the authorization of the guardian, child, or

young adult to exchange the following protected health information for the purpose of treatment activities related to the behavioral or physical health of the child or young adult when the child or young adult is the recipient of OHP services:

(A) The name and Medicaid recipient number of the child or young adult;

(B) The name of the hospital or medical provider of the child or young adult;

(C) The Medicaid number of the hospital or medical provider;

(D) Each diagnosis for the child or young adult;

(E) Each treatment activity's date of service;

(F) Each treatment activity's procedure or revenue code;

(G) The quantity of units or services provided; and

(H) Information about medication prescription and monitoring.

(i) The amount of the guardianship assistance and the manner in which it is to be provided.

(j) The basis and requirements for periodic changes in the guardianship assistance payment, in consultation with the guardian, based on the circumstances of the guardian and the needs of the child or young adult.

(k) The additional services and assistance for which the child or young adult and guardian are eligible under the agreement and the procedure by which the guardian may apply for such services.

(L) When the Department has agreed to include such language, that the Department may continue to provide guardianship assistance for a child or young adult when the child or young adult moves out of the home of the guardian to attend college or live independently.

(3) The guardian may name a successor legal guardian to replace the guardian in the event of the death or incapacity of the guardian.

(4) The Department must provide the guardian with a copy of the guardianship assistance agreement.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 49-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 4-28-04; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0935, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 4-2015(Temp), f. & cert. ef. 1-21-15 thru 7-19-15; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0959

### Court Order of Guardianship

(1) Guardianship assistance may only be provided for a legal guardianship established under ORS 419B.365 or 419B.366, as provided under ORS 419B.367 to 419B.369, or as provided by the statutory code or laws of a participating tribe.

(2) The Department or participating tribe may not pursue a court order establishing an assisted guardianship until a guardianship assistance agreement between the Department and the potential guardian has been signed by all parties.

(3) The Department or participating tribe, through counsel if the child is in the care or custody of the Department, must move the court for an order establishing the guardianship and, when the child is in the care or custody of the Department or participating tribe, directing one of the following:

(a) Termination of Department or participating tribe's care or custody and dismissal of the Department or participating tribe as a party to the case; or

(b) If the child has been committed permanently to the Department, an order setting aside the order of permanent commitment and relieving the Department of responsibility for the care, placement, and supervision of the child.

(4) The Department may not provide guardianship assistance if the court establishes guardianship but orders the Department or participating tribe to continue supervision of the child or guardian.

(5) The guardian is not eligible for payments provided under OAR 413-090-0000 to 413-090-0050 and 413-090-0100 to 413-090-0210 once the guardianship is effective and the Department's or participating tribe's custody of the child is dismissed by court order.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 49-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 4-28-04; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0937, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru

# ADMINISTRATIVE RULES

6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0969

### Renegotiation of a Guardianship Assistance Agreement

(1) A potential guardian or guardian may request that the Department consider renegotiation of the guardianship assistance agreement. The request for renegotiation must:

(a) Be in writing in a format provided by the Department to the potential guardian or guardian;

(b) Document changes in the circumstances of the potential guardian or guardian, when applicable;

(c) Document the needs of the child or young adult;

(d) Provide information about the financial expenses of the potential guardian or guardian in meeting the needs of the child or young adult;

(e) Provide information about the expenses required to meet the needs of the child or young adult; and

(f) Provide additional documentation of the child or young adult's current behaviors when the child or young adult meets the eligibility requirements for consideration of a level of care payment under OAR 413-020-0230, and the potential guardian or guardian is requesting a level of care payment.

(2) Renegotiation of the guardianship assistance base rate will be conducted as described in OAR 413-070-0939.

(3) Referrals for CANS screenings are described in OAR 413-020-0230.

(4) The Department may require a renegotiation of the guardianship assistance agreement when the Department determines that the child or young adult is eligible for guardianship assistance in a different amount, as described in OAR 413-070-0974.

(5) A new guardianship assistance agreement must be signed by all parties each time a new guardianship assistance payment is agreed upon by the potential guardian or guardian and the Department.

(6) Unless section (7) of this rule applies, the Department may authorize a renegotiated guardianship assistance payment increase or decrease beginning on a date no earlier than the first day of the month in which the Department receives the written request for renegotiation.

(7) The Department may approve up to twelve months of retroactive payments unless a contested case hearing was requested and a subsequent decision necessitates a payment of more than twelve months. The decision includes any decision by the Department including:

(a) A final order;

(b) A stipulated final order;

(c) A settlement agreement; or

(d) Any other agreement resulting in withdrawal of the contested case.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0970

### Guardianship Social Support Services

The guardian or child in an assisted guardianship may request family support services from the Department as described in OAR 413-030-0000 to 413-030-0030.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 411.141 & 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; Suspended by CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 12-2015, f. & cert. ef. 7-17-15

## 413-070-0974

### Review, Adjustment, Suspension, Expiration, and Termination of Guardianship Assistance

(1) The Department may review a guardianship assistance agreement when the Department:

(a) Receives information indicating that the child or young adult may no longer be eligible for guardianship assistance or may be eligible for guardianship assistance in a different amount, including when the Department receives information regarding any of the circumstances described in OAR 413-070-0964;

(b) Determines, when the child or young adult is not residing in the home of the guardian, that a periodic review of the guardianship assistance agreement is required;

(c) Receives information that indicates a review is necessary based on a change in the needs of the child or young adult or circumstances of the family;

(d) Receives information that the young adult no longer meets the requirements for continued assistance, if the Department has agreed to extend guardianship assistance under OAR 413-070-0917(4); or

(e) Determines that the guardian has not complied with the requirements of the guardianship assistance agreement.

(2) Department review of a guardianship assistance agreement may result in a renegotiation, suspension, adjustment, or termination of the guardianship assistance agreement or guardianship assistance payments.

(3) Guardianship assistance may be adjusted at any time by mutual agreement between the guardian and the Department.

(4) When there is an across-the-board reduction or increase in the base rate payment or level of care payment that the child or young adult would be eligible to receive if the child or young adult were in foster care, the Department may, after a case-by-case review and without concurrence of the guardian, adjust the monthly guardianship assistance payment to an amount that does not exceed the new foster care payment the child or young adult would be eligible to receive if currently in foster care, as follows:

(a) In the case of a reduction, only those payments that exceed the amount the child or young adult would be eligible for if currently in foster care would be reduced, and the reduction would only be to the amount that the child or young adult would be eligible to receive if currently in foster care.

(b) In the case of an increase, the Department, considering the needs of the child or young adult and the circumstances of the guardian, may increase the guardianship assistance payment to an amount that does not exceed the new foster care payment the child or young adult would receive if currently in foster care.

(5) If, upon review under section (1) of this rule or an adjustment under section (4) of this rule, the Department intends to adjust guardianship assistance without the concurrence of the guardian, the Department will provide the guardian and the child or young adult with written notice as described in OAR 413-010-0500 to 413-010-0535.

(6) Unless terminated under sections (7) or (8) of this rule, the guardianship assistance agreement and the Department's obligation to provide guardianship assistance expires automatically on the date any of the following events occur:

(a) When the child:

(A) Reaches the age of 18 or, when an extension has been granted under OAR 413-070-0917(4), no later than the date identified in the guardianship assistance agreement;

(B) Is emancipated;

(C) Dies;

(D) Marries;

(E) Is adopted; or

(F) No longer meets the requirements for continued guardianship assistance if the Department has agreed to continue guardianship assistance under OAR 413-070-0917(4).

(b) A guardian dies, or if more than one guardian, both die.

(c) The court:

(A) Vacates the guardianship order or otherwise terminates the guardianship;

(B) Terminates wardship over the child or young adult, unless the guardianship is a tribal court guardianship and the guardianship remains in effect under tribal law; or

(C) Appoints another individual as guardian of the child or young adult.

(7) Guardianship assistance may be suspended at any time by mutual agreement between the Department and the guardian.

(8) After a review and on a case-by-case basis, the Department may terminate a guardianship assistance agreement upon ten calendar days written notice to the potential guardian or guardian when the Department determines that:

(a) The potential guardian or guardian is no longer responsible for the child or young adult;

(b) The potential guardian or guardian is no longer providing support to the child or young adult; or

(c) The child or young adult is no longer eligible for guardianship assistance or is eligible for guardianship assistance in a different amount.

# ADMINISTRATIVE RULES

(9) If a child receiving guardianship assistance is subsequently adopted by the guardian, the child may be eligible for adoption assistance under OAR 413-130-0000 to 413-030-0130.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0940, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 12-2015, f. & cert. ef. 7-17-15

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**Rule Caption:** Amending rules relating to child welfare

**Adm. Order No.:** CWP 13-2015

**Filed with Sec. of State:** 8-4-2015

**Certified to be Effective:** 8-4-15

**Notice Publication Date:** 7-1-2015

**Rules Amended:** 413-010-0000, 413-010-0010, 413-010-0175, 413-010-0310, 413-010-0410, 413-010-0501, 413-010-0705, 413-090-0000, 413-090-0005, 413-090-0010, 413-090-0021, 413-090-0040, 413-090-0065, 413-090-0070, 413-090-0080, 413-090-0110, 413-090-0133, 413-090-0150, 413-090-0300, 413-090-0310, 413-090-0340, 413-090-0400, 413-090-0405, 413-090-0410, 413-090-0500, 413-090-0510, 413-090-0530

**Rules Repealed:** 413-010-0081, 413-010-0082, 413-010-0083, 413-010-0085, 413-010-0310(T)

**Subject:** The Department of Human Services, Office of Child Welfare Programs, is amending the Exhibit 1 in OAR 413-090-0133 and 413-090-0150. Exhibit 1 contains the criteria used to determine the level of personal care services for a child or young adult in substitute care. The amendments: add criteria for prescribed therapies performed by a foster parent or caregiver for children and young adults 24 months and older; update rating scale for personal hygiene, dressing, and bathing for infants to 24 months; and make non-substantive edits to update section titles and reorganize categories of care. This makes permanent a temporary rule adopted on February 5, 2015.

Additionally, rules throughout divisions 10 and 90 are being amended or repealed to improve the overall clarity and readability of the rules. The non-substantive changes include: consolidating all definitions into one overarching rule for each division; updating statutory and rule references; correcting formatting and punctuation; and removing redundant language and rules.

**Rules Coordinator:** Kris Skaro—(503) 945-6067

## 413-010-0000

### Definitions

The following definitions apply to OAR 413-010-0000 to 413-010-0750.

(1) "Adoption assistance" means assistance provided on behalf of an eligible child or young adult to offset the costs associated with adopting and meeting the ongoing needs of the child or young adult. "Adoption assistance" may be in the form of payments, medical coverage, reimbursement of nonrecurring expenses, or special payments.

(2) "Adoption records, papers, and files" means all documents, writings, information, exhibits, and other filings retained in the court's record of an adoption case pursuant to ORS 109.319 and includes but is not limited to the Adoption Summary and Segregated Information Statement described in ORS 109.317 and exhibits attached to the statement, the petition and exhibits attached to the petition pursuant to ORS 109.315, and any other motion, judgment, document, writing, information, exhibit, or filing retained in the court's record of the adoption case.

(3) "Adoptive family" means an individual or individuals who have legalized a parental relationship to the child who joined the family through a judgment of the court.

(4) "Adult" means a person 18 years of age or older.

(5) "Base rate payment" means a payment to the foster parent or relative caregiver at a rate established by the Department for the costs of providing the child or young adult with the following:

(a) Food, including the special or unique nutritional needs of the child or young adult;

(b) Clothing, including purchase and replacement;

(c) Housing, including maintenance of household utilities, furnishings, and equipment;

(d) Daily supervision, including teaching and directing to ensure safety and well-being at a level appropriate for the chronological age of the child or young adult;

(e) Personal incidentals, including personal care items, entertainment, reading materials, and miscellaneous items; and

(f) Transportation, including gas, oil, and vehicle maintenance and repair costs for local travel associated with providing the items listed above, and transportation to and from extracurricular, child care, recreational, and cultural activities.

(6) "Case plan" means a written, goal oriented, and time-limited individualized plan for the child and the child's family, developed by the Department and the parents or guardians, to achieve the child's safety, permanency, and well-being.

(7) "Central Office CPS Founded Disposition Review" means a process wherein a Central Office CPS Founded Disposition Review Committee reviews a founded disposition, makes recommendations to the CPS Program Manager or designee, and the CPS Program Manager or designee makes a decision to uphold, overturn, or change the abuse type of the founded disposition.

(8) "Central Office CPS Founded Disposition Review Committee" means a group of two child welfare employees who make a recommendation or recommendations to the Child Protective Services Program Manager or designee regarding the CPS founded disposition. No one may serve on the "Central Office CPS Founded Disposition Review Committee" who participated in or observed the Local Child Welfare Office CPS Founded Disposition Review or had a role in the CPS assessment, including having participated in a staffing, that resulted in the CPS founded disposition under review. Further requirements of the "Central Office CPS Founded Disposition Review Committee" are found in OAR 413-010-0745 and 413-010-0746. The two child welfare staff on the committee must include any two of the following:

(a) Either the Program Manager for CPS or a designee;

(b) A CPS program coordinator;

(c) A CPS consultant; or

(d) A Department supervisor.

(9) "Certificate of Approval" means a document that the Department issues to approve the operation of a child-specific relative caregiver home, child-specific foster home, pre-adoptive home, or a regular foster home.

(10) "Certified family" means an individual or individuals who hold a current Certificate of Approval from the Department to operate a home to provide care, in the home in which they reside, to a child or young adult in the care or custody of the Department.

(11) "Child" means a person under 18 years of age.

(12) "Child Protective Services (CPS)" means a specialized social service program that the Department provides on behalf of children who may be unsafe after a report of child abuse or neglect is received.

(13) "Client" means any individual receiving services from the Department, including the parent or legal guardian of a child or young adult, or the custodian of an unemancipated minor client.

(14) "Client file" means an electronic or paper file that the Department marks with the names of one or more clients, into which the Department places all of the named clients' records. A "client file" may contain confidential information about other clients and persons who are not clients.

(15) "Client information" means confidential information about a client or identified with a client.

(16) "Client record" means any record that includes client information and is created, requested, or held by the Department. A "client record" does not include general information, policy statements, statistical reports, or similar compilations of data which are not identified with an individual child, family or other recipient of services.

(17) "Confidential information" means information that is unavailable to the public by statute, rule, or court order.

(18) "Contract Provider" means any individual or organization that provides services to a Child Welfare client pursuant to a contract or agreement with Child Welfare.

(19) "Court Appointed Special Advocate (CASA)" means a volunteer who is appointed by the court, is a party to the juvenile proceeding, and advocates for the child pursuant to ORS 419A.170.

## ADMINISTRATIVE RULES

(20) "CPS Disposition" means a determination that completes a CPS assessment. Dispositions are discussed in OAR 413-015-1000 and include founded, unfounded, and unable to determine.

(21) "Department" means the Department of Human Services, Child Welfare.

(22) "Discipline" means a training process a family uses to help a child or young adult develop the self-control and self-direction necessary to assume responsibilities, make daily living decisions, and learn to conform to accepted levels of social behavior.

(23) "Disclose" means reveal or provide client information to a person, agency, organization, or other entity outside of the Department of Human Services. Disclosing includes, but is not limited to:

(a) Showing or providing a client record or copy of a client record; and

(b) Orally transmitting client information.

(24) "Foster parent" means an individual who operates a home that has been approved by the Department to provide care for an unrelated child or young adult placed in the home by the Department.

(25) "Guardian" means an individual who has been granted guardianship of a child through a judgment of the court.

(26) "Guardianship assistance" means assistance provided by the Department to the guardian on behalf of an eligible child or young adult to offset costs associated with meeting the ongoing needs of the child or young adult. "Guardianship assistance" may be in the form of a payment, medical coverage, or reimbursement of guardianship expenses.

(27) "Indian child" means an unmarried person who is under 18 years of age and who is either a member of an Indian tribe or is eligible for membership in an Indian tribe and who is the biological child of a member of an Indian tribe.

(28) "Juvenile" means a person younger than the age of 18 years who is identified as a perpetrator. OAR 413-010-0716 provides specific requirements regarding application of these rules to juveniles.

(29) "Legal finding" means a court or administrative finding, judgment, order, stipulation, plea, or verdict that determines who was responsible for the child abuse that is the subject of a CPS founded disposition.

(30) "Legal proceeding" means a court or administrative proceeding that may result in a legal finding.

(31) "Legally emancipated" means a person under 18 years of age who is married or has been emancipated by the court in accordance with the requirements of ORS 419B.558.

(32) "Level of care payment" means the payment provided to an approved or certified family, a guardian, a pre-adoptive family, or an adoptive family based on the need for enhanced supervision of a child or young adult as determined by applying the CANS algorithm to the results of the CANS screening.

(33) "Level of personal care payment" means the payment to a qualified provider for performing the personal care services for an eligible child or young adult based on the child's or young adult's need for personal care services as determined by applying the personal care services algorithm to the results of the personal care services rating scale.

(34) "Licensee" means a private child-caring agency or an organization or school that offers a residential program for children (regulated pursuant to ORS 418.327) and holds a license issued by the Department.

(35) "Local Child Welfare Office CPS Founded Disposition Review" means a process wherein a Local Child Welfare Office CPS Founded Disposition Review Committee reviews a founded disposition, makes recommendations to a Child Welfare program manager or designee, and the Child Welfare program manager or designee makes a decision to uphold, overturn, or change the abuse type of the founded disposition.

(36) "Local Child Welfare Office CPS Founded Disposition Review Committee" means a group of two child welfare employees who make a recommendation or recommendations to a Child Welfare Program Manager or designee regarding a CPS founded disposition. One of the members must be a manager and one must be staff trained in CPS assessment and dispositions. No one may serve on the "Local Child Welfare Office CPS Founded Disposition Review Committee" in the review of an assessment in which he or she had a role in the CPS assessment, including having participated in a staffing, that resulted in the CPS founded disposition under review. Further requirements of the "Local Child Welfare Office CPS Founded Disposition Review Committee" are found in OAR 413-010-0735 and 413-010-0738.

(37) "Parent" means the biological or adoptive mother or the legal father of the child. A legal father is a man who has adopted the child or whose paternity has been established or declared under ORS 109.070, 416.400 to 416.465, or by a juvenile court. In cases involving an Indian

child under the Indian Child Welfare Act (ICWA), a legal father includes a man who is a father under applicable tribal law. "Parent" also includes a putative father who has demonstrated a direct and significant commitment to the child by assuming or attempting to assume responsibilities normally associated with parenthood unless a court finds that the putative father is not the legal father.

(38) "Participating tribe" means a federally recognized Indian tribe in Oregon with a Title IV E agreement with the Department.

(39) "Party" means a person entitled to a contested case hearing under these rules.

(40) "Perpetrator" means the person the Department has reasonable cause to believe is responsible for child abuse in a CPS founded disposition.

(41) "Person Requesting Review" or "Requestor" means a perpetrator, his or her attorney, or, if a juvenile is identified as the perpetrator, the person who may request a review on behalf of the juvenile, who requests a review of the founded disposition.

(42) "Potential guardian" means an individual who:

(a) Has been approved by the Department or participating tribe to be a child's guardian; and

(b) Is in the process of legalizing the relationship to the child through the judgment of the court.

(43) "Pre-adoptive family" means an individual or individuals who:

(a) Has been selected to be a child's adoptive family; and

(b) Is in the process of legalizing the relationship to the child through the judgment of the court.

(44) "Private child-caring agency" is defined by the definitions in ORS 418.205, and means a "child-caring agency" that is not owned, operated, or administered by any governmental agency or unit.

(a) A "child-caring agency" means an agency or organization providing:

(A) Day treatment for children with emotional disturbances;

(B) Adoption placement services;

(C) Residential care, including, but not limited to, foster care or residential treatment for children;

(D) Outdoor youth programs (defined at OAR 413-215-0911); or

(E) Other similar services for children.

(b) A child-caring agency does not include residential facilities or foster care homes certified or licensed by the Department under ORS 443.400 to 443.455, 443.830, and 443.835 for children receiving developmental disability services.

(45) "Record" means a record, file, paper, or communication and includes, but is not limited to, any writing or recording of information including automated records and printouts, handwriting, typewriting, printing, photostating, photographing, magnetic tapes, videotapes, or other documents. "Record" includes records that are in electronic form.

(46) "Registered domestic partner" means an individual joined in a domestic partnership that has been registered by a county clerk in accordance with ORS 106.300 to 106.340.

(47) "Relative" means any of the following:

(a) An individual with one of the following relationships to the child or young adult through the parent of the child or young adult unless the relationship has been dissolved by adoption of the child, young adult, or parent:

(A) Any blood relative of preceding generations denoted by the prefixes of grand, great, or great-great.

(B) Any half-blood relative of preceding generations denoted by the prefixes of grand, great, or great-great. Individuals with one common biological parent are half-blood relatives.

(C) An aunt, uncle, nephew, niece, first cousin, and first cousin once removed.

(D) A spouse of anyone listed in paragraphs (A) to (C) of this subsection, even if a petition for annulment, dissolution, or separation has been filed or the marriage is terminated by divorce or death. To be considered a "relative" under this paragraph, the child or young adult must have had a relationship with the spouse prior to the most recent episode of Department custody.

(b) An individual with one of the following relationships to the child or young adult:

(A) A sibling, also to include an individual with a sibling relationship to the child or young adult through a putative father.

(B) An individual defined as a relative by the law or custom of the tribe of the child or young adult if the child or young adult is an Indian child under the Indian Child Welfare Act or in the legal custody of a tribe.

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(C) An individual defined as a relative of a refugee child or young adult under OAR 413-070-0300 to 413-070-0380.

(D) A stepparent or former stepparent if the child or young adult had a relationship with the former stepparent prior to the most recent episode of Department custody; a stepbrother; or a stepsister.

(E) A registered domestic partner of the parent of the child or young adult or a former registered domestic partner of the parent of the child or young adult if the child or young adult had a relationship with the former domestic partner prior to the most recent episode of Department custody.

(F) An adoptive parent of a sibling of the child or young adult.

(G) An unrelated legal or biological father or mother of a half-sibling of the child or young adult when the half-sibling of the child or young adult is living with the unrelated legal or biological father or mother.

(c) An individual identified by the child or young adult or the family of the child or young adult, or an individual who self-identifies, as being related to the child or young adult through the parent of the child or young adult by blood, adoption, or marriage to a degree other than an individual specified as a "relative" in paragraphs (A) to (C) of subsection (a) of this section unless the relationship has been dissolved by adoption of the child, young adult, or parent.

(d) An individual meeting the requirements of at least one of the following:

(A) An individual not related to the child, young adult, or parent by blood, adoption, or marriage:

(i) Who is identified as a member of the family by the child or young adult or by the family of the child or young adult; and

(ii) Who had an emotionally significant relationship with the child or young adult or the family of the child or young adult prior to the most recent episode of Department custody.

(B) An individual who has a blood relationship to the child or young adult as described in paragraphs (A) to (C) of subsection (a) of this section through the birth parent of the child or young adult, but the prior legal relationship has been dissolved by adoption of the child, young adult, or birth parent, and who is identified as a member of the family by the child or young adult or who self-identifies as a member of the family.

(e) For eligibility for the guardianship assistance program:

(A) A stepparent is considered a parent and is not a "relative" for the purpose of eligibility for guardianship assistance unless a petition for annulment, dissolution, or separation has been filed, or the marriage to the adoptive or biological parent of the child has been terminated by divorce or death.

(B) A foster parent may only be considered a "relative" for the purpose of eligibility for guardianship assistance when:

(i) There is a compelling reason why adoption is not an achievable permanency plan;

(ii) The foster parent is currently caring for a child, in the care or custody of the Department or a participating tribe, who has a permanency plan or concurrent permanent plan of guardianship;

(iii) The foster parent has cared for the child for at least 12 of the past 24 months; and

(iv) The Department or tribe has approved the foster parent for consideration as a guardian.

(48) "Relative caregiver" means an individual who operates a home that has been approved by the Department to provide care for a related child or young adult placed in the home by the Department.

(49) "Request for a Central Office CPS Founded Disposition Review" means a written request for a Central Office CPS Founded Disposition Review from a requestor who has received a Local Child Welfare Office CPS Founded Disposition Review Decision (Form CF 314) to retain a founded disposition. The specific requirements for a request for review by Central Office are described in OAR 413-010-0740.

(50) "Safety service provider" means a participant in a protective action plan, initial safety plan, or ongoing safety plan whose actions, assistance, or supervision help a family in managing a child's safety.

(51) "Service" means assistance that the Department provides clients.

(52) "Sibling" means one of two or more children or young adults who are related, or would be related but for a termination or other disruption of parental rights, in one of the following ways:

(a) By blood or adoption through a common parent;

(b) Through the marriage of the legal or biological parents of the children or young adults; or

(c) Through a legal or biological parent who is the registered domestic partner of the legal or biological parent of the children or young adults.

(53) "Substitute care" means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

(54) "Substitute caregiver" means a relative caregiver, foster parent, or provider authorized to provide care to a child or young adult in the legal or physical custody of the Department.

(55) "Voluntary services" means services that the Department provides at the request of a person or persons and there is no open and related juvenile court proceeding.

(56) "Young adult" means a person 18 through 20 years of age.

Stat Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 409.225, 419A.255

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 9-1999, f. 5-24-99, cert. ef. 6-1-99; CWP 18-2011, f. & cert. ef. 9-2-11; CWP 12-2013, f. 12-31-13, cert. ef. 1-1-14; CWP 13-2015, f. & cert. ef. 8-4-15

## 413-010-0010

### Purpose

The purpose of OAR 413-010-0010 to 413-010-0075 is to describe circumstances in which the Department may and may not disclose client information without a court order.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.225, 419A.170, 419A.255

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 9-1999, f. 5-24-99, cert. ef. 6-1-99; CWP 18-2011, f. & cert. ef. 9-2-11; CWP 12-2013, f. 12-31-13, cert. ef. 1-1-14; CWP 13-2015, f. & cert. ef. 8-4-15

## 413-010-0175

### Definitions

Definitions for OAR 413-010-0170 to 413-010-0185 are in OAR 413-010-0000.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 14-2009, f. & cert. ef. 11-3-09; CWP 13-2013, f. 12-31-13, cert. ef. 1-1-14; CWP 13-2015, f. & cert. ef. 8-4-15

## 413-010-0310

### Definition

Definitions for OAR 413-010-0300 to 413-010-0340 are in OAR 413-010-0000.

Stat. Auth.: ORS 109.119, 418.005, 419A.004

Stats. Implemented: ORS 109.119, 418.005, 419A.004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 9-2010, f. & cert. ef. 7-1-10; CWP 14-2013, f. 12-31-13, cert. ef. 1-1-14; CWP 11-2014, f. & cert. ef. 6-3-14; CWP 16-2014(Temp), f. & cert. ef. 8-4-14 thru 1-31-15; CWP 6-2015, f. 1-29-15, cert. ef. 2-1-15; CWP 11-2015(Temp), f. & cert. ef. 5-22-15 thru 11-17-15; CWP 13-2015, f. & cert. ef. 8-4-15

## 413-010-0410

### Definitions

Definitions for OAR 413-010-0400 to 413-010-0480 are in OAR 413-010-0000.

Stat. Auth.: ORS 409.194, 418.005

Stats. Implemented: ORS 409.192, 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 31-2001, f. 6-29-01 cert. ef. 7-1-01; CWP 21-2007, f. 11-30-07, cert. ef. 12-1-07; CWP 13-2015, f. & cert. ef. 8-4-15

## 413-010-0501

### Definitions

Definitions for OAR 413-010-0500 to 413-010-0535 are in OAR 413-010-0000.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 183.411 - 183.685, 411.095, 418.005

Hist.: CWP 8-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 27-2011, f. 11-3-11, cert. ef. 11-4-11; CWP 13-2015, f. & cert. ef. 8-4-15

## 413-010-0705

### Definitions

Definitions for OAR 413-010-0700 to 413-010-0750 are in OAR 413-010-0000.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; SOSCF 9-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12; CWP 2-2012, f. & cert. ef. 4-4-12; CWP 13-2015, f. & cert. ef. 8-4-15

## 413-090-0000

### Definitions

The following definitions apply to OAR 413-090-0000 to 413-090-0550:

(1) "Absent day" means a calendar day that:

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(a) The BRS client (see OAR 410-170-0020) is enrolled in but not physically present in the program of the BRS provider (see OAR 410-170-0020);

(b) Does not meet the definition of a billable care day (see OAR 410-170-0020);

(c) The Department's placement plan is to return the BRS client to the BRS provider; and

(d) The BRS contractor (see OAR 410-170-0020) or BRS provider obtains authorization from the BRS client's caseworker (see OAR 410-170-0020) and the contract administrator to bill the calendar day as an "absent day".

(2) "Abuse check" means obtaining and reviewing abuse allegations and abuse investigation reports and associated exhibits and documents for the purpose of determining whether a subject individual has a history as a perpetrator of potentially disqualifying abuse (a potentially disqualifying condition) as described in OAR 407-007-0290(11).

(3) "Adoption assistance payment" means a monthly payment made by the Department to the pre-adoptive family or adoptive family on behalf of an eligible child or young adult.

(4) "Babysitting" means the provision of temporary, occasional care for a child or young adult that is:

(a) Ten consecutive hours or less; and

(b) Not overnight care.

(5) "Background Check Unit (BCU)" means the Department of Human Services Background Check Unit.

(6) "Base rate payment" means a payment to the foster parent or relative caregiver for the costs of providing the child or young adult with the following:

(a) Food, including the special or unique nutritional needs of the child or young adult;

(b) Clothing, including purchase and replacement;

(c) Housing, including maintenance of household utilities, furnishings, and equipment;

(d) Daily supervision, including teaching and directing to ensure safety and well-being at a level appropriate for the chronological age of the child or young adult;

(e) Personal incidentals, including personal care items, entertainment, reading materials, and miscellaneous items; and

(f) Transportation, including gas, oil, and vehicle maintenance and repair costs for local travel associated with providing the items listed above, and transportation to and from extracurricular, child care, recreational, and cultural activities.

(7) "CANS screening" means Child and Adolescent Needs and Strengths screening, a process of gathering information on the needs and strengths of a child or young adult for one or more of the following purposes:

(a) To identify case planning, service planning, and supervision needs of the child or young adult in substitute care with a certified family; and

(b) To determine the level of care payment while in substitute care with a certified family; and

(c) To determine the level of care payment included in an adoption assistance agreement or guardianship assistance agreement.

(8) "Certified family" means an individual or individuals who hold a current Certificate of Approval from the Department to operate a home to provide care, in the home in which the individual or individuals reside, to a child or young adult in the care or custody of the Department.

(9) "Chafee housing payment" means a payment to assist in covering the costs of room and board made to an eligible individual between 18 and 20 years of age who was discharged from the care and custody of the Department or one of the federally recognized tribes on or after reaching 18 years of age.

(10) "Child" means a person under 18 years of age.

(11) "Clothing replacement allowance" means an allowance included in the substitute care maintenance payments to a provider to cover the cost of maintaining adequate clothing for each child or young adult in the substitute care maintenance payments to the provider.

(12) "Contract administrator" means the employee or other individual designated in writing by the Department, by name or position description, to conduct the contract administration of a contract or class of contracts.

(13) "Contract registered nurse" means a licensed registered nurse under a contract with the Department who provides nursing assessment, consultation, teaching, delegation, or on-going nursing services to a child or young adult in the care or custody of the Department.

(14) "Criminal records check" means obtaining and reviewing criminal records as required by these rules and includes any or all of the following:

(a) An Oregon criminal records check in which criminal offender information is obtained from the Oregon State Police (OSP) using the Law Enforcement Data System (LEDS). An Oregon criminal records check may also include a review of other criminal records information obtained from other sources.

(b) A national criminal records check in which records are obtained from the Federal Bureau of Investigation (FBI) through the use of fingerprint cards sent to OSP and other identifying information. A national criminal records check may also include a review of other criminal records information.

(c) A state-specific criminal records check where records are obtained from law enforcement agencies, courts, or other criminal records information resources located in, or regarding, a state or jurisdiction outside Oregon.

(15) "Delegated nursing task" means a task, normally requiring the education and license of a registered nurse (RN) and within the RN scope of practice to perform, that an RN authorizes an unlicensed person to perform.

(16) "Department" means the Department of Human Services, Child Welfare.

(17) "Dependent parent" means a child or young adult in the legal custody of the Department who is the parent of a child.

(18) "Enhanced shelter care payment" means a limited term payment provided to a certified family when a child or young adult in the care or custody of the Department moves to a certified family's home from a placement with a BRS provider and there is no current level of care determination applicable to the child or young adult.

(19) "Enhanced supervision" means the additional support, direction, observation, and guidance necessary to promote and ensure the safety and well-being of a child or young adult when the child or young adult qualifies for a level of care payment.

(20) "Foster care payments" means one or more of the following payments to a certified family, authorized at rates established by the Department, for the board and care of a child or young adult for whom the Department has placement and care responsibility:

(a) The base rate payment;

(b) The level of care payment, if any;

(c) Shelter care payment or enhanced shelter care payment;

(d) Mileage reimbursement, paid at the current Department mileage reimbursement rate to child welfare staff, for transportation of a child or young adult remaining in the same school he or she was attending prior to placement in substitute care; and

(e) The board and care of the child of a dependent parent, unless the dependent parent receives cash benefits under a program administered by the Department of Human Services under chapter 461 of the Oregon Administrative Rules.

(21) "Foster parent" means an individual who operates a home that has been approved by the Department to provide care for an unrelated child or young adult placed in the home by the Department.

(22) "Guardian" means an individual who has been granted guardianship of the child through a judgment of the court.

(23) "Guardianship assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the potential guardian or guardian setting forth the assistance the Department is to provide on behalf of the child or young adult, the responsibilities of the guardian and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.

(24) "Independent living housing subsidy" means a payment to assist in covering the cost of room, board, or other monthly expenses made to an eligible individual who is at least 16 years of age and is in the care and custody of the Department and living independently.

(25) "Legally responsible relative" means the parent or stepparent of a child or young adult or a person related to the child or young adult by blood or marriage who has legal custody or legal guardianship of the child or young adult.

(26) "Level of care payment" means the payment provided to an approved or certified family, a guardian, a pre-adoptive family, or an adoptive family based on the need for enhanced supervision of the child or young adult as determined by applying the CANS algorithm to the results of the CANS screening.

(27) "Level of personal care payment" means the payment to a qualified provider for performing the personal care services for an eligible child

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or young adult based on the child's or young adult's need for personal care services as determined by applying the personal care services algorithm to the results of the personal care services rating scale.

(28) "Other criminal records information" means information obtained and used in the criminal records check process that is not criminal offender information from OSP. "Other criminal records information" includes, but is not limited to, police investigations and records, information from local or regional criminal records information systems, justice records, court records, information from the Oregon Judicial Information Network, sexual offender registration records, warrants, Oregon Department of Corrections records, Oregon Department of Transportation Driver and Motor Vehicle Services Division information, information provided on the background check requests, disclosures by a subject individual, and any other information from any jurisdiction obtained by or provided to the Department for the purpose of conducting a fitness determination.

(29) "Personal Care Nurse Coordinator" means a registered nurse (RN) who is a licensed registered nurse employed by the Department to provide oversight of contract registered nurses and personal care services authorized through the Department.

(30) "Personal care services" means the provision of or assistance with those functional activities described in OAR 413-090-0120 consisting of mobility, transfers, repositioning, basic personal hygiene, toileting, bowel and bladder care, nutrition, medication management, and delegated nursing tasks that a child or young adult requires for his or her continued well-being.

(31) "Personal care services assessment" means an evaluation by a registered nurse of a child or young adult's ability to perform the functional activities required to meet the child or young adult's daily needs.

(32) "Personal care services plan" means a written plan to provide personal care services for the child or young adult documenting:

- (a) The determination that the individual is a qualified provider;
- (b) The frequency or intensity of each personal care service to be provided; and
- (c) The date personal care services begin.

(33) "Potential guardian" means an individual who:

- (a) Has been approved by the Department or participating tribe to be the guardian of a child or young adult; and
- (b) Is in the process of legalizing the relationship to the child through the judgment of the court.

(34) "Pre-adoptive family" means an individual or individuals who:

- (a) Has been selected to be a child's adoptive family; and
- (b) Is in the process of legalizing the relationship to the child through the judgment of the court.

(35) "Qualified provider" means an individual who:

- (a) Is authorized by the Department through the contract registered nurse or Personal Care Nurse Coordinator;
- (b) Demonstrates by background, skills, and abilities the capability to safely and adequately provide the authorized personal care services;
- (c) Maintains a drug-free household;
- (d) Has been approved through the background check process described in OAR 413-120-0400 to 413-120-0475 or under OAR 407-007-0200 to 407-007-0370; and
- (e) Is not the parent, step-parent, or legally responsible relative of the child or young adult eligible for personal care services.

(36) "Registered nurse" means an individual licensed and registered to practice nursing.

(37) "Relative caregiver" means an individual who operates a home that has been approved by the Department to provide care for a related child or young adult placed in the home by the Department.

(38) "SAIP" means Secure Adolescent Inpatient Program.

(39) "SCIP" means Secure Adolescent Inpatient Program.

(40) "SDA" means Service Delivery Area (SDA) means a geographic region of one or more counties served by the Department and managed by an SDA Manager.

(41) "Shelter care payment" means a payment provided to a certified family during the first 20 days of substitute care for a child or young adult in the care or custody of the Department.

(42) "Subject individual" means an individual described in OAR 407-007-0030(30)(a).

(a) For the purposes of these rules, a "subject individual" also includes:

(A) An individual who provides respite care (see OAR 410-170-0020) for an approved provider parent (see OAR 410-170-0020);

(B) An individual who volunteers with or is employed by an approved provider parent to assist with the care of a BRS client, other than an indi-

vidual who provides babysitting unless paragraph (D) of this subsection applies;

(C) An individual 18 years of age or older who is living in the home of an approved provider parent;

(D) An individual under 18 years of age who is living in the home of an approved provider parent if there is reason to believe the individual may pose a risk to a BRS client;

(E) An individual who provides babysitting or an individual who frequents the home of an approved provider parent if there is reason to believe the individual may pose a risk to a BRS client; and

(F) An individual who has access to a BRS client in the home of an approved provider parent if the contract administrator has requested a criminal records check on the individual.

(b) The following individuals are not subject individuals:

(A) A child or young adult in the care or custody of the Department who lives in the home of the approved provider parent; and

(B) A BRS client.

(43) "Transitional visit" means an overnight visit by the BRS client to another placement for the purpose of facilitating the BRS client's transition.

(44) "Vendor Attorneys" means qualified attorneys, including Legal Aide Programs who have signed a legal fees agreement with the Department to accept the Department's currently established standard payment, plus reimbursement of any personal costs incurred, for court fees and the filing of mandatory court papers, or for obtaining birth certificates when establishing guardianships for children in the care and custody of the Department, or to process adoptions.

(45) "Young adult" means a person aged 18 through 20 years.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 9-2003, f. & cert. ef. 1-7-03; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 9-2009(Temp), f. & cert. ef. 8-12-09 thru 12-28-09; CWP 10-2009(Temp), f. & cert. ef. 9-1-09 thru 12-28-09; CWP 11-2009(Temp), f. & cert. ef. 9-25-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 12-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 28-2011, f. 11-3-11, cert. ef. 11-4-11; CWP 13-2015, f. & cert. ef. 8-4-15

## 413-090-0005

### Purpose

The purpose of OAR 413-090-0005 to 413-090-0050 is to describe the responsibilities of the Department for payment of the following costs on behalf of a child or young adult.

- (1) A foster care maintenance payment to a certified family;
- (2) An independent living housing subsidy to an eligible child or young adult who is in the legal custody of the Department, living independently; and

(3) A Chafee housing payment to an eligible individual.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 20-1999, f. 9-15-99, cert. ef. 9-20-99; CWP 9-2003, f. & cert. ef. 1-7-03; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 10-2009(Temp), f. & cert. ef. 9-1-09 thru 12-28-09; CWP 11-2009(Temp), f. & cert. ef. 9-25-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 12-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 28-2011, f. 11-3-11, cert. ef. 11-4-11; CWP 13-2015, f. & cert. ef. 8-4-15

## 413-090-0010

### Authorized Payments

(1) Family Foster Care.

(a) Shelter care payment. The Department reimburses a certified family a shelter care payment on behalf of a child or young adult during the first twenty days of substitute care in a certified family home after the Department has obtained physical or legal custody of the child or young adult. The daily shelter care payment is:

- (A) \$24.60 for a child five years or younger;
- (B) \$28.00 for a child 6 through 12 years of age; and
- (C) \$31.60 for a child or young adult 13 through 20 years of age.

(b) Base rate payment. The Department reimburses a certified family a base rate payment on behalf of a child or young adult in the Department's physical or legal custody when a child or young adult is placed in the certified family's home.

(A) Payment is made on a monthly basis, or prorated for a portion of a month, when the base rate payment is for less than all days in the month, and made after the month in which the care has been provided.

(B) The base rate payment starts the twenty-first day of a child's placement in substitute care and includes the day the child or young adult enters the home, but excludes the day the child or young adult leaves the home.

(C) The base rate payment amount.

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(i) Prior to January 1, 2012, the base rate payment is \$639 per month for a child five years or younger. Starting January 1, 2012, the base rate payment is \$575 per month for a child five years or younger.

(ii) Prior to January 1, 2012, the base rate payment is \$728 per month for a child 6 through 12 years of age. Starting January 1, 2012, the base rate payment is \$655 per month for a child 6 through 12 years of age.

(iii) Prior to January 1, 2012, the base rate payment is \$823 per month for a child or young adult 13 through 20 years of age. Starting January 1, 2012, the base rate payment is \$741 for a child or young adult 13 through 20 years of age.

(D) The Department does not reimburse the base rate payment to a certified family when reimbursement for shelter care payment or enhanced shelter care payment applies.

(c) Enhanced shelter care payment. The Department reimburses a certified family an enhanced shelter care payment rate on behalf of a child or young adult during the first 20 days of substitute care with a certified family after a child or young adult has been in placement with a Behavior Rehabilitation Service provider and there is no current level of care payment determination applicable to the child or young adult. The daily enhanced shelter care payment is:

- (A) \$29.40 for a child five years or younger;
- (B) \$33.50 for a child 6 through 12 years of age; and
- (C) \$37.90 for a child or young adult 13 through 20 years of age.

(d) Mileage reimbursement. The Department reimburses a certified family for mileage, paid at the current Department mileage reimbursement rate paid to child welfare staff, when the certified family must provide transportation for a child or young adult in order to remain in the same school the child or young adult was attending prior to placement in substitute care.

(2) Level of care payment.

(a) The Department reimburses a level of care payment to a certified family on behalf of a child or young adult when the CANS screening results indicate the child or young adult has enhanced supervision needs.

(b) The initial level of care payment to a certified family begins:

(A) No earlier than the twenty first day of substitute care; or  
(B) Ninety days prior to the date an initial CANS screening was approved for a child or young adult in substitute care over 111 days.

(c) A level of care payment to a certified family may commence the first day following the end of enhanced shelter care payment.

(d) The Foster Care Program Manager may approve commencing the level of care payment beyond the timeframes in subsections (b) and (c) of this section when a delay in scheduling, completing, scoring or approving the CANS screening results in a potential loss or interruption of a level of care payment.

(e) When the CANS screening results indicate the child or young adult eligible for adoption assistance or guardianship assistance needs enhanced supervision, the Department includes the level of care payment in:

(A) An adoption assistance agreement with a pre-adoptive family or an adoptive family pursuant to OAR 413-130-0000 to 413-130-0130; or

(B) A guardianship assistance agreement with a potential guardian or guardian pursuant to OAR 413-070-0900 to 413-070-0979.

(f) A CANS screener rates each element of a child or young adult's behavior and functioning through the CANS screening on a scale of zero to three and the ratings determine whether a child or young adult meets the criteria for one of three levels of care. These ratings are determined using the following exhibits, which by this reference are incorporated into this rule:

(A) DHS 9601 — Child and Adolescent Needs and Strengths Comprehensive Screening Tool Ages Birth through Five, adopted January 5, 2009 and revised in June 2011.

(B) DHS 9602 — Child and Adolescent Needs and Strengths Comprehensive Screening Tool Ages Six through Twenty, adopted January 5, 2009 and revised in June 2011.

(C) Child and Adolescent Needs and Strengths Algorithm, adopted February 9, 2009.

(D) The Department maintains these documents on the Department's website. Printed copies of all three exhibits may be obtained by contacting the Department of Human Services, Office of Child Welfare Programs, ATTN: Level of Care Manager, 500 Summer Street NE, E93, Salem, OR 97301.

(g) The level of care payment is:

- (A) \$212 per month for Level 1 (moderate needs).
- (B) \$414 per month for Level 2 (intermediate needs).
- (C) \$850 per month for Level 3 (advanced needs).

(3) The Department reimburses a certified family an applicable base rate payment for a child of a dependent parent when both are living with the certified family unless the dependent parent receives a TANF grant under programs administered by the Department of Human Services under chapter 461 of the Oregon Administrative Rules or has other means of financial support.

(4) The Department reimburses a Chafee housing payment or an independent living housing subsidy to an eligible individual up to a maximum of \$600 per month of eligibility pursuant to OAR 413-030-0400 to 413-030-0460.

(5) Payments prohibited. The Department may not authorize payment for the care of a child or young adult to more than one certified family per day.

(6) A payment by the Department under this rule is inalienable by any assignment or transfer and exempt from execution, levy, attachment, and garnishment under the laws of the state of Oregon.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335, 418.340, 418.470, 418.625

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 2-1999, f. & cert. ef. 3-5-99; SOSCF 20-1999, f. 9-15-99, cert. ef. 9-20-99; CWP 9-2003, f. & cert. er. 1-7-03; CWP 20-2003(Temp), f. 1-31-03 thru 7-30-03; CWP 27-2003, f. & cert. ef. 7-31-03; CWP 34-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 4-28-04; CWP 7-2004, f. & cert. ef. 4-1-04; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07; CWP 28-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 10-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 9-2009(Temp), f. & cert. ef. 8-12-09 thru 12-28-09; CWP 10-2009(Temp), f. & cert. ef. 9-1-09 thru 12-28-09; CWP 11-2009(Temp), f. & cert. ef. 9-25-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 12-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 28-2011, f. 11-3-11, cert. ef. 11-4-11; CWP 13-2015, f. & cert. ef. 8-4-15

## 413-090-0021

### Periodic Review of Eligibility for Level of Care Payments

(1) When the Department conducts a CANS screening for a child or young adult in substitute care under subsection (1)(b) of OAR 413-020-0230 and the results indicate the child or young adult's level of care has changed, the Department adjusts the child or young adult's level of care payment as follows:

(a) When a level of care payment increases, change in payment begins the first day of the month in which the increased level of care payment was approved.

(b) When a level of care payment decreases, change in payment begins the first day of the month following the month in which the decreased level of care payment was approved unless continuing benefits have been requested through a request for a contested case hearing.

(2) When the Department determines, denies, adjusts, or terminates a level of care payment to a child or young adult living with a certified family, the Department follows OAR 413-010-0500 to 413-010-0535.

(3) A CANS screening may be conducted for a child or young adult living with a potential guardian, a guardian, a pre-adoptive family, or an adoptive family when a referral is received pursuant to OAR 413-020-0230(3).

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335, 418.340

Hist.: CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 11-2009(Temp), f. & cert. ef. 9-25-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 12-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 28-2011, f. 11-3-11, cert. ef. 11-4-11; CWP 13-2015, f. & cert. ef. 8-4-15

## 413-090-0040

### Payments During Adoptive Supervision

When a child is free for adoption and placed in an approved or certified family's home designated by the Department's Adoption Program Manager as the child's pre-adoptive family, the Department pays base rate payment and any level of care payment to the pre-adoptive family until the adoption assistance payment commences. See OAR 413-130-0000 to 413-130-0130 for the adoption assistance eligibility requirements of the Adoption Assistance Program.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335, 418.340

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-1999, f. 9-15-99, cert. ef. 9-20-99; CWP 9-2003, f. & cert. er. 1-7-03; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 11-2009(Temp), f. & cert. ef. 9-25-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 12-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 28-2011, f. 11-3-11, cert. ef. 11-4-11; CWP 13-2015, f. & cert. ef. 8-4-15

## 413-090-0065

### Definitions

Definitions for OAR 413-090-0055 to 413-090-0090 are in OAR 413-090-0000.

Stat. Auth.: ORS 181.534, 181.537, 409.050, 411.060, 411.070, 411.116, 418.005

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Stats. Implemented: ORS 181.534, 181.537, 409.010, 409.025, 409.027, 411.060, 411.070, 411.116, 411.141, 418.005, 418.015, 418.016, 418.027, 418.285, 418.312, 418.315, 418.490, 418.495  
Hist.: CWP 10-2013, f. 11-14-13, cert. ef. 1-1-14; CWP 13-2015, f. & cert. ef. 8-4-15

## 413-090-0070

### BRS Provider Requirements

In addition to the requirements in OAR 410-170-0030, the BRS contractor (see OAR 410-170-0020) and the BRS provider (see OAR 410-170-0020) providing services (see OAR 410-170-0020) and placement-related activities (see OAR 410-170-0020) to a BRS client (see OAR 410-170-0020) in the care or custody of the Department or one of the federally-recognized tribes in Oregon must comply with all of the following requirements:

(1) Ensure completion of a background check, including a criminal records check and an abuse check, on each subject individual in compliance with OAR 407-007-0210 to 407-007-0380, any applicable background check requirements that apply to public child-caring agencies or private child-caring agencies, and this section.

(a) Each time a criminal records check is required by OAR 407-007-0220, OAR 413-215-0321(3)(c)-(d), OAR 413-215-0331(2)(b)-(d), or OAR 413-215-0061(1) for personnel of public child-caring agencies or private child-caring agencies, a national criminal records check, described in OAR 407-007-0210(13)(b), must be completed, unless one of the following exceptions applies:

(A) The subject individual has previously had a national criminal records check, has not lived outside the state of Oregon for more than 60 consecutive days after the subject individual's most recent criminal records check, and has not been arrested since the subject individual's most recent criminal records check;

(B) The subject individual is a respite care (see OAR 410-170-0020) provider and has not lived outside the state of Oregon for more than 60 consecutive days in the last five years, does not disclose any history of arrests or convictions, and does not have a history of arrests or convictions, based on an Oregon criminal records check under OAR 407-007-0220(1) or information received from any other source;

(C) The subject individual is living in the home of an approved provider parent (see OAR 410-170-0020) and is under the age of 18, a babysitter (see OAR 410-170-0020), or an individual who frequents the home of an approved provider parent but is not an employee or volunteer who assists with the care of a BRS client; or

(D) The subject individual is unable to submit fingerprints due to a physical or mental condition that makes compliance impossible or presents an undue safety risk to the subject individual or Department staff and the contract administrator provides written approval to forego a fingerprint-based check.

(b) Even if one of the circumstances in paragraphs (1)(a)(A) to (1)(a)(D) of this rule applies, the contract administrator may require a national criminal records check on a subject individual if deemed necessary by the Department.

(c) Notwithstanding OAR 407-007-0280, 407-007-0300 and 407-007-0320(1), a subject individual may not be approved to be an approved provider parent or an individual described in 413-090-0000(42)(a) if the subject individual has a conviction described in 413-120-0450(3) or (4). The Department's Background Check Unit must provide written notice of the denial, as required by 407-007-0320(2)-(3).

(d) Notwithstanding OAR 407-007-0280, when a subject individual is seeking to be approved as an approved provider parent or an individual described in 413-090-0000(9)(a), any conviction described in 413-120-0450(5), (6) and (7) or any arrest described in 413-120-0455(1) is a potentially disqualifying condition that requires a weighing test under 407-007-0300.

(A) The Department's Background Check Unit shall make a final fitness determination in accordance with OAR 407-007-0320(1)(a) or (c).

(B) A subject individual subject to a weighing test may not be approved with restrictions under OAR 407-007-0320(1)(b).

(e) OAR 407-007-0330 applies to any decisions to deny a subject individual based on subsection (1)(b) or (1)(c) of this rule.

(f) A subject individual may be approved on a preliminary basis, consistent with OAR 413-120-0440(7), if the subject individual:

(A) Does not have a conviction described in subsection (1)(c) of this rule or OAR 413-120-0450(3) or (4);

(B) Preliminary approval of the subject individual is not prohibited by OAR 407-007-0315(7);

(C) The Department's Background Check Unit conducts a preliminary fitness determination with a weighing test if the subject individual has

any convictions or arrests described in subsection (1)(d) of this rule or potentially disqualifying abuse; and

(D) The Department's Background Check Unit determines that, more likely than not, the subject individual poses no potential threat to BRS clients.

(2) Ensure the following documents are contained in the individual, confidential file of each BRS client:

(a) A face sheet with frequently referenced information;

(b) The BRS client's medical insurance information;

(c) The BRS client's school enrollment, attendance, progress, and discipline information during the BRS client's stay in the program;

(d) Signed consent for the BRS client to participate in the BRS program;

(e) Documentation regarding the individuals authorized to consent to medical or mental health services for the BRS client;

(f) Documentation regarding home or other family visits;

(g) Documentation of recreational, social, and cultural activities;

(h) Documentation of legal custody or voluntary placement status;

(i) Referral information;

(j) All services documentation including, but not limited to the ISP, AER, MSP, MSP updates, Discharge Summary, and Aftercare Summary as required by BRS service planning in OAR 410-170-0070;

(k) Any restrictions on or special permissions for the BRS client's participation in activities or outings and the duration of any restrictions or special permissions; and

(l) All other case related information specific to the BRS client.

(3) The BRS contractor and the BRS provider must maintain in their program records:

(a) Staff schedules for BRS programs utilizing a residential care model (see OAR 410-170-0020);

(b) Certification status for approved provider parents for BRS programs utilizing a therapeutic foster care model (see OAR 410-170-0020); and

(c) Authorization for each absent day billed for a BRS client.

Stat. Auth.: ORS 181.534, 181.537, 409.050, 411.060, 411.070, 411.116, 418.005

Stat. Implemented: ORS 181.534, 181.537, 409.010, 409.025, 409.027, 411.060, 411.070, 411.116, 411.141, 418.005, 418.015, 418.016, 418.027, 418.285, 418.312, 418.315, 418.490, 418.495

Hist.: CWP 10-2013, f. 11-14-13, cert. ef. 1-1-14; CWP 13-2015, f. & cert. ef. 8-4-15

## 413-090-0080

### BRS Placement Related Activities for a Department BRS Contractor and BRS Provider

(1) A BRS contractor (see OAR 410-170-0020) and BRS provider (see OAR 410-170-0020) must coordinate all placement-related activities (see OAR 410-170-0020) for the BRS client (see OAR 410-170-0020) with the BRS client's Department or tribal caseworker (see OAR 410-170-0020) to ensure these activities support the child welfare case plan and the child specific case plan.

(2) A BRS contractor and BRS provider must provide facilities, personnel, materials, equipment, supplies and services, and transportation related to placement-related activities.

(a) Clothing: The Department will place the BRS client with a BRS contractor and BRS provider with sufficient clothing at the time of placement. It is the responsibility of the BRS contractor and BRS provider to maintain the BRS client's clothing at an adequate and appropriate level. A caseworker may request approval from a child welfare supervisor or program manager for payment for additional clothing when necessary.

(b) Transportation: A BRS contractor and BRS provider are responsible to arrange or provide transportation for the BRS client for the following: school, to the extent not provided by the school district; medical, dental, and therapeutic appointments; recreational and community activities; employment; and shopping for incidental items. Notwithstanding this responsibility, the cost of transportation for the BRS client for the purposes of home visits or visits to foster homes or relatives will be equally shared by the Department, the BRS contractor and BRS provider and, in as much as they are able as determined by the Department, the BRS client's parents. The BRS contractor, BRS provider, and the caseworker must jointly plan the transportation method and payment procedures as much in advance as possible.

(3) Non BRS-Related Medical and Mental Health Care.

(a) If there is no record that the BRS client has received a physical examination within the six months immediately prior to the BRS client's placement with the BRS contractor and BRS provider, the BRS contractor and BRS provider must schedule a medical exam with the BRS client's caseworker, consistent with health insurance allowances, within 30 days of the BRS client's placement. The BRS contractor and BRS provider must

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keep documentation of the medical exam in the BRS client's file, and must send a copy to the BRS client's caseworker.

(b) The BRS contractor and BRS provider must coordinate with each BRS client's caseworker to ensure the BRS client's mental health, physical health (including alcohol and drug treatment services), dental, and vision needs are met. This does not include paying the cost of services or medications which are covered by the Oregon Health Plan (OHP) or by the BRS client's third party private insurance coverage. The BRS contractor and BRS provider must work with the BRS client's Department or Tribal caseworker to secure payment for services or medications not covered by OHP or the BRS client's third party private insurance coverage.

(c) The BRS contractor and BRS provider must administer and monitor medications consistent with all applicable Department rules in OAR 413-070-0400 through 413-070-0490, and the BRS provider's medication management policy must comply with Department rules.

(d) The BRS contractor and BRS provider must facilitate the BRS client's access to other medical and mental health providers whenever identified needs cannot be met within the scope of services offered by the BRS provider.

(4) Educational and vocational activities: A BRS contractor and BRS provider must have a system in place for a BRS client to attend school in order to meet the educational needs of a BRS client in its program either on-site or at an off-site location that complies with OAR 413-100-0900 through 413-100-0940.

(5) Language and culture: The BRS contractor and BRS provider must allow a BRS client to speak his or her primary language and must honor his or her culture.

(6) Other placement-related activities (see OAR 410-170-0020):

(a) Recreational, social, and cultural activities:

(A) A BRS contractor and BRS provider must provide recreation time for the BRS client on a daily basis. A BRS contractor and BRS provider must offer activities that are varied in type to allow the BRS client to obtain new experiences.

(B) A BRS contractor and BRS provider must provide each BRS client a minimum of one opportunity per week to participate in recreational activities in the community, unless the BRS client is clearly unable to participate in offsite activities due to safety issues.

(C) The BRS contractor and BRS provider must provide access to or make available social and cultural activities for the BRS client. These activities are to promote the BRS client's normal development and help broaden the BRS client's understanding and appreciation of the community, arts, environment, and other cultural groups.

(D) The BRS contractor and BRS provider must not permit a BRS client to participate in recreational activities that present a higher level of risk to a BRS client without the approval of the Department. This applies to activities that require a moderate to high level of technical expertise to perform safely, present environmental hazards, or where special certification or training is recommended or required such as: whitewater rafting, rock climbing, ropes courses, activities on or in any body of water where a certified lifeguard is not present and on duty, camping, backpacking, mountain climbing, using motorized yard equipment, and horseback riding.

(b) Academic Assistance: If needed, the BRS contractor and BRS provider must provide adequate opportunities for the BRS client to complete homework assignments with assistance from staff, or an approved provider parent (see OAR 410-170-0020), if applicable.

(7) The BRS contractor and BRS provider must comply with OAR 413-010-0170 through 413-010-0185.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.116, 418.005

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.116, 411.141, 418.005, 418.015, 418.027, 418.285, 418.312, 418.315, 418.490, 418.495

Hist.: CWP 10-2013, f. 11-14-13, cert. ef. 1-1-14; CWP 13-2015, f. & cert. ef. 8-4-15

## 413-090-0110

### Definitions

Definitions for OAR 413-090-0100 to 413-090-0210 are in 413-090-0000.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.015

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 19-1999, f. 9-15-99, cert. ef. 9-20-99; SOSCF 6-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 11-2009(Temp), f. & cert. ef. 9-25-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 2-2015, f. & cert. ef. 1-1-15; CWP 13-2015, f. & cert. ef. 8-4-15

## 413-090-0133

### Conducting a Personal Care Services Assessment

(1) When a child or young adult with a diagnosed physical or mental impairment appears to require personal care services and the caseworker becomes aware of the apparent need for personal care services, the caseworker must refer the child or young adult to the contract registered nurse or the Personal Care Nurse Coordinator for an assessment.

(2) When a child or young adult with an approved personal care services assessment or an existing personal care services plan moves to a new foster parent or relative caregiver, the caseworker must refer the child or young adult to the contract registered nurse or the Personal Care Nurse Coordinator for an assessment.

(3) Upon receipt of a referral, the contract registered nurse or the Personal Care Nurse Coordinator must conduct a personal care services assessment.

(4) To conduct the personal care services assessment, the contract registered nurse or the Personal Care Nurse Coordinator must:

(a) Review available medical records of the child or young adult;

(b) Meet with the child or young adult and the foster parent or relative caregiver;

(c) Gather information about the child or young adult's condition and functioning;

(d) Assess the child or young adult's ability to perform functional activities necessary to meet his or her daily needs at a level appropriate for the child or young adult's chronological age;

(e) Document the findings of the personal care services assessment using the Department's Personal Care Services Assessment form that is applicable to the age of the child or young adult; and

(f) Submit the completed personal care services assessment to the Personal Care Nurse Coordinator.

(5) The Personal Care Nurse Coordinator must:

(a) Review the findings of the personal care services assessment;

(b) Apply the rating scale in Exhibit 1 to the personal care services assessment;

(c) Determine whether the child or young adult meets the threshold for a level of personal care payment;

(d) Determine the level of personal care payment; and

(e) When the personal care services assessment scores a child or young adult's level of personal care needs at Level 4 based on the rating scale in Exhibit 1, determine the additional payment and the intensive personal care services required to meet the child or young adult's identified needs, which may involve consulting with the foster parent, relative caregiver, or others involved in the child or young adult's care.

(6) The responsibilities set forth in section (5) of this rule may be conducted by another medical professional employed by or under contract with the Department when the Personal Care Nurse Coordinator is unavailable.

[ED. NOTE: Exhibits & forms referenced are available from the Agency.]

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.015

Hist.: CWP 11-2009(Temp), f. & cert. ef. 9-25-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 2-2015, f. & cert. ef. 1-1-15; CWP 8-2015(Temp), f. & cert. ef. 2-5-15 thru 8-3-15; CWP 13-2015, f. & cert. ef. 8-4-15

## 413-090-0150

### Payment Determination

(1) Payment for the personal care services identified in the personal care services plan is based on the eligible child or young adult's personal care services at a level of personal care payment that corresponds to the needs identified in the personal care services assessment and is determined by the Department. The levels of personal care are set forth in Exhibit 1.

(a) If the eligible child or young adult qualifies as Level 1 (moderate care), the payment is a maximum of \$207 per month based on the days within the month the child or young adult is eligible for and receives personal care services.

(b) If the eligible child or young adult qualifies as Level 2 (intermediate care), the payment is a maximum of \$413 per month based on the days within the month the child or young adult is eligible for and receives personal care services.

(c) If the eligible child or young adult qualifies as Level 3 (advanced care), the payment is a maximum of \$620 per month based on the days within the month the child or young adult is eligible for and receives personal care services.

(d) If the eligible child or young adult qualifies as Level 4 (intensive care), the payment is an amount authorized by the Department, based on the days within the month the child or young adult is eligible for and receives personal care services and on the intensity and frequency of the personal

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care services in conjunction with all other medical services provided for the child or young adult.

(2) Payment for personal care services is calculated based on the number of days personal care services were provided to the eligible child or young adult.

(3) Except as provided in section (4) of this rule, payment for personal care services is authorized by the Department when the personal care services assessment is completed and the contract registered nurse or Personal Care Nurse Coordinator has verified that the provider is a qualified provider.

(4) If the referral for a personal care services assessment was delayed, the Personal Care Nurse Coordinator may authorize payment before the assessment is completed when personal care services were provided by a qualified provider and there is documentation of the child's or young adult's personal care needs.

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

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.015

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 19-1999, f. 9-15-99, cert. ef. 9-20-99; SOSCF 6-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 9-2009(Temp), f. & cert. ef. 8-12-09 thru 12-28-09; CWP 11-2009(Temp), f. & cert. ef. 9-25-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 2-2015, f. & cert. ef. 1-1-15; CWP 8-2015(Temp), f. & cert. ef. 2-5-15 thru 8-3-15; CWP 13-2015, f. & cert. ef. 8-4-15

## 413-090-0300

### Purpose

The purpose of OAR 413-090-0300 to 413-090-0380 is to describe how payments for special and/or extraordinary needs may be used to benefit a child or young adult in the custody of the Department in foster care, family and professional shelter care, residential group care, or non-reimbursed placement such as SAIP and SCIP.

Stat. Authority: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 27-2000 f. & cert. ef. 9-14-00; CWP 10-2003, f. & cert. ef. 1-7-03; CWP 2-2006, f. & cert. ef. 2-1-06; CWP 13-2015, f. & cert. ef. 8-4-15

## 413-090-0310

### Definition

Definitions for OAR 413-090-0300 to 413-090-0380 are in OAR 413-090-0000.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 27-2000 f. & cert. ef. 9-14-00; CWP 10-2003, f. & cert. ef. 1-7-03; CWP 2-2006, f. & cert. ef. 2-1-06; CWP 13-2015, f. & cert. ef. 8-4-15

## 413-090-0340

### Transportation

The agency may pay for non medical transportation not to exceed current Department mileage rates paid to Department staff. Reasonable travel to the child's home for visitation is a Title IV E allowable expense. All other transportation expenses are billed to General Fund:

(1) Visitation: When family visitation is part of the service plan, the foster parent may be reimbursed for providing transportation to and from visits. When the child or young adult is in a residential care and treatment facility and the written treatment plan includes visitation with parents or relatives, the cost of the visits are expected to be shared by the Department, service provider, and child's family. Negotiations with the provider and the child's family to determine Department cost are made in advance of the visits.

(2) School: When the child or young adult is in family foster care and the school district does not provide transportation, the foster parents may be reimbursed for providing transportation or for city bus passes when appropriate.

(3) In state transportation by airline for children is approved only if the cost of the air fare does not exceed all the actual costs of transportation by car.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 27-2000 f. & cert. ef. 9-14-00; CWP 10-2003, f. & cert. ef. 1-7-03; CWP 13-2015, f. & cert. ef. 8-4-15

## 413-090-0400

### Purpose

The purpose of OAR 413-090-0400 to 413-090-0430 is to describe when the Department will pay for funeral and burial or cremation expenses for a child or young adult who dies while in the legal custody of the Department.

Stat. Authority: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 14-1999, f. 7-8-99, cert. ef. 7-12-99; CWP 11-2003, f. & cert. ef. 1-7-03; CWP 13-2015, f. & cert. ef. 8-4-15

## 413-090-0405

### Definitions

Definitions for OAR 413-090-0400 to 413-090-0430 are in OAR 413-090-0000.

Stat. Authority: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 11-2003, f. & cert. ef. 1-7-03; CWP 13-2015, f. & cert. ef. 8-4-15

## 413-090-0410

### Eligibility for Payment

Funeral and burial or cremation expenses are only authorized for a child or young adult who is in the legal custody of the Department at the time of death and all other resources for payment of expenses, including parents, relatives, and guardians, have been explored.

Stat. Authority: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 14-1999, f. 7-8-99, cert. ef. 7-12-99; CWP 11-2003, f. & cert. ef. 1-7-03; CWP 13-2015, f. & cert. ef. 8-4-15; CWP 13-2015, f. & cert. ef. 8-4-15

## 413-090-0500

### Purpose

The purpose of OAR 413-090-0500 to 413-090-0550 is to establish the conditions under which the Department may issue a standard legal fees payment for the cost of providing direct client services in the establishment of court appointed guardianship of children in the care and custody of the Department.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 17-1998, f. & cert. ef. 9-14-98; CWP 13-2015, f. & cert. ef. 8-4-15

## 413-090-0510

### Definitions

Definitions for OAR 413-090-0500 to 413-090-0550 are in OAR 413-090-0000.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 17-1998, f. & cert. ef. 9-14-98; CWP 13-2015, f. & cert. ef. 8-4-15

## 413-090-0530

### Selecting an Attorney

Prospective guardians eligible for client legal services may choose a Department vendor attorney from the branch list or hire a private attorney.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 17-1998, f. & cert. ef. 9-14-98; CWP 13-2015, f. & cert. ef. 8-4-15

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**Department of Human Services,  
Self-Sufficiency Programs  
Chapter 461**

**Rule Caption:** Amending rules relating to start date of benefits in the TANF and REF programs

**Adm. Order No.:** SSP 22-2015(Temp)

**Filed with Sec. of State:** 7-23-2015

**Certified to be Effective:** 7-23-15 thru 1-18-16

**Notice Publication Date:**

**Rules Amended:** 461-115-0030, 461-115-0040, 461-180-0070

**Subject:** OAR 461-115-0030 about the date of request, OAR 461-115-0040 about the filing date, and OAR 461-180-0070 about the effective date of benefits are being amended to correct a recent filing. On June 30, 2015, the Department filed amendments to these rules to change policy in the REF and TANF programs regarding the start date of benefits. Those amendments stated that the benefits start on the filing date, which is the date a signed application is received by the Department as long as all eligibility requirements are met by the 45th day after the filing date. However, the intention was to require that eligibility requirements be met by the 45th day after the date of request, which is the date a client originally requests benefits orally or in writing. The amendments correctly state that benefits begin on the filing date as long as all eligibility requirements are met by the 45th day after the date of request.

**Rules Coordinator:** Kris Skaro—(503) 945-6067

# ADMINISTRATIVE RULES

## 461-115-0030

### Date of Request

(1) For all programs covered by OAR chapter 461, an individual or someone authorized to act on behalf of an individual must contact the Department or use another appropriate method to request benefits (see OAR 461-115-0150). The request may be oral or in writing. The request starts the application process.

(2) The "date of request" is one of the following:

(a) In the EA, ERDC, GA, OSIP, REF, and TANF programs and for support service payments in the JOBS program authorized by OAR 461-190-0211, the "date of request" is the day the request for benefits is received by the Department.

(b) In the SNAP program, this section does not apply. See OAR 461-115-0040.

(c) In the GAM, OSIPM, QMB, and REFM programs, for a new applicant, the "date of request" is determined as follows:

(A) The day the request for medical benefits is received by a Department representative, except as described in paragraph (B) of this subsection.

(B) If the request for medical benefits is received by a Department representative no later than the next business day after medical services are received, the "date of request" is the day these medical services were received.

(d) In the OSIPM, QMB, and REFM programs, for a current recipient, the "date of request" is one of the following:

(A) The date the individual reports a change requiring a redetermination of eligibility (see OAR 461-001-0000).

(B) The date the Department initiates a review.

(C) The date the individual establishes a "date of request" by contacting the Department orally or in writing or by submitting an application.

(e) In the SFPSS program:

(A) Except as provided in paragraph (B) of this subsection, the "date of request" is the day the individual signs the program's Interim Assistance Agreement.

(B) The "date of request" for support service payments is the day the request for benefits is received by the Department.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685, 414.826, 414.839

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 413.085, 414.033, 414.041, 414.685, 414.826, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 5-2000, f. 2-29-00, cert. ef. 3-1-00; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 21-2004, f. & cert. ef. 10-1-04; 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 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 12-2008(Temp), f. & cert. ef. 4-17-08 thru 6-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 22-2009(Temp), f. & cert. ef. 8-28-09 thru 2-21-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 23-2011(Temp), f. & cert. ef. 8-1-11 thru 1-27-12; 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 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 16-2014, f. & cert. ef. 7-1-14; SSP 17-2015, f. & cert. ef. 6-30-15; SSP 22-2015(Temp), f. & cert. ef. 7-23-15 thru 1-18-16

## 461-115-0040

### Filing Date; REF, SNAP, TANF

(1) In the REF and TANF programs, the "filing date" is established when a signed and dated application for benefits is received by the Department.

(2) In the SNAP program:

(a) A filing group (see OAR 461-110-0370) is entitled to establish a "filing date" on the date a member of the group requests benefits. The "filing date" establishes:

(A) The date for starting the application processing time frames.

(B) The date from which some effective dates are determined.

(b) The "filing date" is the date a signed written request for benefits is received by the Department or by the Social Security Administration for filing groups applying in accordance with OAR 461-115-0150(3). The written request may be a Department-approved form or other written material that includes the client's name, address, and signature.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.006, 412.049

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.081, 411.087, 411.816, 411.825, 412.006, 412.049, 412.054, 412.064

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 17-2015, f. & cert. ef. 6-30-15; SSP 22-2015(Temp), f. & cert. ef. 7-23-15 thru 1-18-16

## 461-180-0070

### Effective Dates; Initial Month Benefits

(1) In the EA program, the effective date for opening the case is the day benefits are issued to the benefit group (see OAR 461-110-0750). For a benefit group whose only eligible child is an unborn, the effective date cannot be earlier than the first day of the calendar month preceding the month in which the due date falls.

(2) In the ERDC program, the effective date for starting benefits is one of the following:

(a) The first day of the month in which the request for benefits is made if:

(A) All eligibility (see OAR 461-001-0000) requirements are met in that month; and

(B) Verification is provided within the application processing timeframes.

(b) If all eligibility requirements are not met in the month of request, the effective date is the first day of the month in which they are met, if verification is provided within the application processing timeframes.

(c) For a benefit group that received TANF program benefits within the 30 days before applying for ERDC program benefits, the effective date is the first of the month following closure of their TANF program benefits.

(3) In the GA program, the effective date for the initial month (see OAR 461-001-0000) of benefits is whichever of the following occurs first:

(a) The day all eligibility requirements are met and verified.

(b) The 45th day from the date the client requests benefits, if all eligibility requirements were met, but the Department did not receive documentation until after the 45th day.

(4) In the OSIP program, the effective date for the initial month of benefits is whichever of the following occurs first:

(a) The date an individual requests benefits, if the individual was eligible as of that date.

(b) The date all eligibility requirements are met.

(5) In the REF program, when a filing group (see OAR 461-110-0430) makes an initial application, the effective date for starting benefits is:

(a) If all eligibility requirements, including an interview, are completed by the 45th day from the date of request (see OAR 461-115-0030), the effective date for starting benefits is the filing date (see OAR 461-115-0040).

(b) If all eligibility requirements are not met by the 45th day from the date of request, a new date of request and filing date must be established.

(6) In the TANF program, when a filing group (see OAR 461-110-0330) makes an initial application or applies after the end of the certification period (see OAR 461-001-0000), the effective date for starting benefits is one of the following:

(a) Except as provided in subsections (b) to (d) of this section, if all eligibility requirements, including a TANF interview, are completed by the 45th day from the date of request, the effective date for starting benefits is the filing date. If all eligibility requirements are not met by the 45th day from the date of request, a new date of request and filing date must be established.

(b) If the only eligible child is an unborn, the effective date may not be earlier than the first day of the calendar month preceding the month in which the due date falls.

(c) For an individual in the Pre-TANF program, the effective date for the initial month of benefits is the date the Pre-TANF program ends as provided in OAR 461-135-0475.

(d) For a JOBS support service payment, the effective date is the date the client meets all eligibility requirements in OAR 461-190-0211.

(7) In the SFPSS program, when moving a TANF program recipient to SFPSS, the effective date for the initial month of SFPSS program benefits is:

(a) Except as provided in subsection (b) of this section, the first of the month following the day all eligibility requirements are met and verified.

(b) If the day all eligibility requirements are met and verified falls after the compute deadline, the initial month of SFPSS program benefits will be the first of the month following the month after compute deadline. For purposes of this rule, the "compute deadline" means the Department computer system monthly deadline after which changes will not take effect until the month following the first of the next month.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.878, 412.006, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.081, 411.087, 411.404, 411.706, 411.878, 412.006, 412.014, 412.049, 412.064, 413.085, 414.685

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 3-2000,

# ADMINISTRATIVE RULES

f. 1-31-00, cert. ef. 2-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; SSP 7-2003, f. & cert. ef. 4-1-03; CWP 37-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 4-28-04; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 21-2004, f. & cert. ef. 10-1-04; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 5-2009, f. & cert. ef. 4-1-09; 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 8-2013, f. & cert. ef. 4-1-13; SSP 17-2015, f. & cert. ef. 6-30-15; SSP 22-2015(Temp), f. & cert. ef. 7-23-15 thru 1-18-16

## Department of Public Safety Standards and Training Chapter 259

**Rule Caption:** Adds fire service professionals to criminal history check requirements; clarifies DPSST's fingerprint processes; fee collection.

**Adm. Order No.:** DPSST 15-2015

**Filed with Sec. of State:** 7-23-2015

**Certified to be Effective:** 7-23-15

**Notice Publication Date:** 7-1-2015

**Rules Amended:** 259-013-0220, 259-013-0230, 259-013-0250, 259-013-0270, 259-013-0280, 259-013-0300, 259-025-0000

**Subject:** This rule change adds fire service professionals to the list of scenarios in which a criminal history check may be required. This rule change also clarifies DPSST's fingerprint retention policy and the process for collecting fees for fingerprinting. Additional house-keeping changes have been made throughout for clarity and consistency.

**Rules Coordinator:** Sharon Huck—(503) 378-2432

### 259-013-0220

#### Individuals Subject to Criminal Records Checks

The Department may require the fingerprints of:

- (1) A fire service professional;
- (2) A public safety professional;
- (3) A private security provider;
- (4) A private investigator;
- (5) A polygraph intern or general license applicant;
- (6) A candidate for election to the office of Sheriff.

Stat. Auth.: ORS 181.534, 181.612 & 206.015

Stats. Implemented: ORS 181.612

Hist.: DPSST 17-2008, f. & cert. ef. 10-15-08; DPSST 18-2012, f. & cert. ef. 8-27-12; DPSST 1-2014, f. & cert. ef. 1-2-14; DPSST 15-2015 f. & cert. ef. 7-23-15

### 259-013-0230

#### Criminal Records Check Required

- (1) Who Conducts Check.

(a) The Department may request that the Department of State Police conduct a criminal records check on an individual. If a nationwide criminal records check of an individual is necessary, the Department may request that the Department of State Police conduct the check, including fingerprint identification, through the Federal Bureau of Investigation.

(b) The Department may conduct criminal records checks on individuals through the Law Enforcement Data System maintained by the Department of State Police, in accordance with the adopted rules and established procedures of the Department of State Police.

(2) An individual may be required to have a check in the following circumstances:

(a) When a fire service professional applies for certification, the fire service professional must submit to a criminal records check as required by OAR 259-009-0059.

(b) When a public safety officer applies for or is employed by a public or private safety agency, the public safety officer or applicant must submit to a criminal records check as required by OAR 259-008-0010 and 259-008-0011.

(c) When a certified instructor applies for, or is employed by, a public safety agency or the Department, the certified instructor must submit to a criminal records check as required by OAR 259-008-0080.

(d) When a person applies for a license to conduct polygraphs, the polygrapher or applicant must submit to a criminal records check as required by OAR 259-0020-0010 or 259-0020-0015.

(e) When a person requests to be a candidate for elections or is elected or appointed to the Office of Sheriff, the applicant must submit to a criminal records check as required by OAR 259-008-0075.

(f) When a person applies for a private security certificate or license, the applicant must submit to a criminal records check as required by OAR 259-060-0025.

(g) When a person applies for a private investigator license, the applicant must submit to a criminal records check as required by OAR 259-061-0020.

(h) When a check is required by federal or state laws or regulations, other rules adopted by the Department, or by contract or written agreement with the Department.

Stat. Auth.: ORS 181.534 & 181.612

Stats. Implemented: ORS 181.612

Hist.: DPSST 17-2008, f. & cert. ef. 10-15-08; DPSST 18-2012, f. & cert. ef. 8-27-12; DPSST 1-2014, f. & cert. ef. 1-2-14; DPSST 15-2015 f. & cert. ef. 7-23-15

### 259-013-0250

#### National Criminal Records Check Process

(1) National Criminal Records Check. In addition to an Oregon criminal records check (OAR 259-013-0240), the Department may require a national criminal records check consistent with the requirements for licensure or certification.

(2) Processing. The individual must complete and submit a fingerprint card when requested by the Department.

(3) Additional Information Required. In order to conduct a national check, the Department may require additional information such as, but not limited to, proof of identity, residential history, names used while living at each residence, or additional criminal, judicial, or other background information.

Stat. Auth.: ORS 181.534 & 181.612

Stats. Implemented: ORS 181.612

Hist.: DPSST 17-2008, f. & cert. ef. 10-15-08; DPSST 15-2015 f. & cert. ef. 7-23-15

### 259-013-0270

#### Record Keeping, Confidentiality

- (1) LEDS Reports.

(a) Confidentiality. All LEDS reports are confidential and must be maintained by the authorized designee in accordance with applicable Oregon State Police requirements in ORS Chapter 181 and these rules (NOTE: See OAR chapter 257, division 15).

(A) Authorized Designee Access. LEDS reports are confidential and may only be shared with another authorized designee if there is a need to know consistent with these rules.

(B) The subject individual will be allowed to inspect the LEDS report or state or national criminal offender records the Department used to make their eligibility determination, if requested.

(b) Retention. LEDS reports must be retained and destroyed in accordance with records retention schedules published by Oregon State Archives.

- (2) National Information.

(a) Confidentiality and Dissemination. Notwithstanding section (1)(a)(B), national criminal information provided by the Federal Bureau of Investigation (FBI) is confidential and may not be disseminated by the Department.

(b) Retention. FBI reports must be retained and destroyed in accordance with records retention schedules published by Oregon State Archives and in accordance with federal law.

- (3) Fingerprint Cards.

(a) All fingerprint cards sent to the Department will be forwarded to the Oregon State Police and FBI as dictated by these rules.

(b) Fingerprint cards returned to the Department will be returned to the subject individual or be destroyed.

(c) The Department will not retain any fingerprint cards or copies of any fingerprint cards for any reason.

Stat. Auth.: ORS 181.534 & 181.612

Stats. Implemented: ORS 181.612

Hist.: DPSST 17-2008, f. & cert. ef. 10-15-08; DPSST 15-2015 f. & cert. ef. 7-23-15

### 259-013-0280

#### Immunity from Liability

(1) The Department and its authorized designees have immunity from any civil liability that might otherwise be incurred or imposed for determining, in accordance with ORS 181.612, that a subject individual may not obtain or maintain a license or certificate issued by the Department or be employed.

(2) The Department or its employee, acting within the course and scope of employment, who in good faith complies with ORS 181.534, is not liable for employment-related decisions based on the fitness determination.

(3) No state agency, business, organization, or employee of the state, business or organization, acting within the course and scope of employment, is liable for defamation, invasion of privacy, negligence or any other civil claim in connection with the lawful dissemination of information lawfully obtained under ORS 181.534.

# ADMINISTRATIVE RULES

Stat. Auth.: ORS 181.534 & 181.612  
Stats. Implemented: ORS 181.612  
Hist.: DPSST 17-2008, f. & cert. ef. 10-15-08; DPSST 15-2015 f. & cert. ef. 7-23-15

## 259-013-0300

### Fees

Fees may be charged to the subject individual or employing agency to recover the costs of administering the fingerprint check through the Oregon State Police and Federal Bureau of Investigation pursuant to OAR 259-025-0000.

Stat. Auth.: ORS 181.534 & 181.612  
Stats. Implemented: ORS 181.612  
Hist.: DPSST 17-2008, f. & cert. ef. 10-15-08; DPSST 15-2015 f. & cert. ef. 7-23-15

## 259-025-0000

### Department Fees and Public Records Requests

(1) All information in the custody of the Department of Public Safety Standards and Training (Department) will be disclosed or protected from disclosure in accordance with ORS Chapter 192 and other applicable state and federal laws.

(2) Records Request Procedure. A request for photocopies, facsimile (fax) copies, electronically distributed (e-mail) copies and certifications of public records that are on file with the Department must be made in writing. Submission may be made by mail, fax, e-mail, or in person. The request must include:

(a) The name, address, and telephone number of the person requesting the public record;

(b) The date the request is being made; and

(c) An adequate description of the records being requested including subject matter and approximate creation dates when applicable.

(3) The Department will acknowledge records requests in a reasonable amount of time. In its response, the Department will:

(a) Indicate if they are in possession of the requested records;

(b) Identify the requested records that are exempt from disclosure under current Public Records Law;

(c) Provide an estimate of the expected cost of meeting the request; and

(d) Identify an estimated date by which the information will be provided.

(4) The regular duties of the Department will not be interrupted or interfered with because of time or effort required to respond to records requests.

(5) Records Request Fees. Unless otherwise provided by statute or other administrative rule, the Department may charge fees for recovering actual costs of:

(a) Staff time to research, locate, review, redact, compile and copy records;

(b) All material and media; and

(c) Postage, where applicable.

(6) Basic records requests requiring less than 10 minutes of staff time to compile and provide electronically will be charged a flat rate of \$5.

(7) Records requests that require no redacting and are copied and provided to the requestor in paper form will be charged at the rate of \$5 for the first 1–10 pages and \$.50 for each additional page.

(8) There will be no charge for furnishing normal and necessary records or publications to public safety officers or public safety agencies.

(9) The Department may require payment in advance.

(10) Other Fees: The Department may charge for the use of facilities at the Public Safety Academy.

(11) The Department may charge replacement cost for lost or damaged keys, equipment, or meal cards.

(12) The Department may charge the subject individual or employing agency a fee to recover the costs of administering the fingerprint check through the Oregon State Police and Federal Bureau of Investigation (FBI.)

(a) Fees will not exceed the actual cost of acquiring and furnishing criminal offender information.

(b) An additional fee may be charged upon the rejection of fingerprints by the Oregon State Police or FBI.

(c) Current fee schedules for processing fingerprints may be obtained from the Department.

Stat. Auth.: ORS 181.640 & 703.230  
Stats. Implemented: ORS 181.640 & 703.230  
Hist.: PS 1-1983, f. & ef. 12-15-83; PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 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 19-2002, f. & cert. ef. 11-21-02; DPSST 10-2007, f. & cert. ef. 10-15-07; DPSST 4-2011, f. 5-5-11, cert. ef. 6-1-11; DPSST 15-2015 f. & cert. ef. 7-23-15

**Rule Caption:** Allows managers/supervisors responsible for mandated training to waive the instructor development course/professional experience.

**Adm. Order No.:** DPSST 16-2015

**Filed with Sec. of State:** 7-23-2015

**Certified to be Effective:** 7-23-15

**Notice Publication Date:** 7-1-2015

**Rules Amended:** 259-008-0080

**Subject:** This rule change allows a manager or supervisor who is responsible for mandated training to waive the instructor development course or the professional experience requirements for instructors and applicants. This rule change also defines adult learning principles and presentation skills, as well as housekeeping for clarity.

**Rules Coordinator:** Sharon Huck—(503) 378-2432

## 259-008-0080

### Certification of Instructors

(1) Standards and Certification will certify instructors deemed qualified to teach all mandated training courses.

(2) Minimum Standards for Instructor Certification:

(a) Fingerprints.

(A) Prior to the date of employment, instructors and applicants must be fingerprinted on standard applicant fingerprint cards. The hiring agency is responsible for fingerprinting and must forward a card to the Oregon State Police Identification Services Section for processing and assignment of an identification number.

(B) If any procedural change is made by either the Federal Bureau of Investigation or the Oregon State Police Identification Services Section the Department must comply with the most current requirements.

(b) Criminal Records. No instructor or applicant may have been convicted:

(A) In this state or any other jurisdiction, of a crime designated under the law where the conviction occurred as being punishable as a felony or as a crime for which a maximum term of imprisonment of more than one year may be imposed;

(B) Of violating any law involving the unlawful use, possession, delivery, or manufacture of a controlled substance, narcotic, or dangerous drug;

(C) In this state of violating any law subject to denial or revocation as identified in OAR 259-008-0070 or has been convicted of violating the statutory counterpart of any of those offenses in any other jurisdiction.

(c) Notification of Conviction.

(A) An instructor who is convicted of a crime, as identified in OAR 259-008-0070, while employed by a public or private safety agency or the Department, must notify the agency head within 72 hours of the conviction.

(B) When an agency receives notification of a conviction from its employee or another source, they must notify Standards and Certification within five business days. The notification must be in writing and include the specific charges of the conviction, the county and state where the conviction occurred, the investigating agency and the date of the conviction.

(d) Moral Fitness (Professional Fitness). All instructors and applicants must be of good moral fitness. For purposes of this standard, lack of good moral fitness includes, but is not limited to:

(A) Mandatory disqualifying misconduct as described in OAR 259-008-0070(3); or

(B) Discretionary disqualifying misconduct as described in OAR 259-008-0070(4).

(e) Training Requirements.

(A) Notwithstanding section (3), all instructors and applicants must complete a Department-approved Basic Instructor Development Course or equivalent Department-approved training. The course must include instruction on the theory and application of adult learning principles and presentation skills.

(i) For the purposes of this rule, adult learning principles must include problem-based, practical, collaborative training that builds on the students' life experience and knowledge.

(ii) For the purposes of this rule, presentation skills must include the appropriate knowledge and preparation of materials and training that engage the student through a variety of methods to develop critical thinking, while acquiring job-specific knowledge and skills.

(B) Instructors whose certification has lapsed may be required to satisfactorily complete a Department-approved Basic Instructor Development

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Course or equivalent Department-approved training to qualify for re-certification.

(f) Professional experience. Notwithstanding section (3), instructors and applicants must have:

(A) Three years' experience in a certifiable public safety position; or

(B) Non-certified, professional or educational experience that allows them to possess the requisite knowledge, skills and abilities to instruct mandated courses.

(g) It is the continuing responsibility of the agency utilizing certified instructors to ensure that instructors are assigned only topics which they are qualified to teach and the instruction is evaluated on a regular basis.

(h) All applicants for initial certification must submit an Instructor Certification Application (DPSST Form F-9) with any required documentation to Standards and Certification.

(3) The requirements in sections (2)(e) and (2)(f) may be waived if a Training Supervisor or Training Manager responsible for mandated training delivery can attest to the instructor or applicant's knowledge and skills to instruct mandated courses.

(4) Instructor certification is not required for instructors who instruct non-mandated courses.

(5) Review of instructor certification will be the responsibility of Standards and Certification. Reviews may be initiated upon the request of a department head, staff, or other reliable source.

[ED. NOTE: Form referenced is available from the agency.]

Stat. Auth.: ORS 181.640 & 181.650

Stats. Implemented: ORS 181.640 & 181.650

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1983, f. & ef. 12-15-83; Renumbered from 259-010-0060, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 17-2013, f. & cert. ef. 7-23-13; DPSST 1-2014, f. & cert. ef. 1-2-14; DPSST 5-2014, f. & cert. ef. 1-29-14; DPSST 18-2014, f. & cert. ef. 7-23-14; DPSST 16-2015, f. & cert. ef. 7-23-15

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## Land Conservation and Development Department Chapter 660

**Rule Caption:** Provide land use protection for Greater Sage-Grouse habitat.

**Adm. Order No.:** LCDD 5-2015

**Filed with Sec. of State:** 8-6-2015

**Certified to be Effective:** 8-13-15

**Notice Publication Date:** 7-1-2015

**Rules Adopted:** 660-023-0115

**Subject:** This new rule in OAR chapter 660, division 23, which implements Statewide Planning Goal 5 ("Natural Resources, Scenic and Historic Areas, and Open Spaces"), establishes protection for Oregon's Greater Sage-Grouse habitat on non-federal lands. The U.S. Fish and Wildlife Service is considering listing the sage-grouse under the Endangered Species Act. The new rule establishes areas of significant habitat, identifies conflicting uses, and identifies a process for decision-makers in Baker, Crook, Deschutes, Harney, Lake, Malheur and Union counties to apply when considering proposals for large-scale development and certain other land use activities on significant sage-grouse habitat. The rule creates a monitoring framework, includes metering standards, and establishes overall development thresholds for the best sage-grouse habitat. The rule will apply directly to local governments until a county establishes its own program for protecting sage-grouse habitat.

**Rules Coordinator:** Casaria Taylor—(503) 373-0050, ext. 322

### 660-023-0115

#### Greater Sage-Grouse

(1) Introduction. Greater Sage-Grouse (hereafter "sage-grouse") habitat is a unique wildlife resource subject to a variety of threats across a broad, multi-state region. Oregon's sage-grouse habitat is comprised of a combination of public land managed by the federal government and non-federal land generally in private ownership. Managing private and non-federal land for the best possible outcomes requires partnership and cooperation among many stakeholders. Accordingly, private and other non-federal lands are strongly encouraged to participate in a Candidate Conservation Agreement with Assurances program. Voluntary conservation efforts of this nature are recognized by the State of Oregon as a critical part in recovering the breeding population targeted by Oregon's Greater Sage-Grouse Conservation Assessment and Strategy for Oregon. Beyond voluntary efforts it remains necessary to provide a regulatory framework that

offers fairness, predictability and certainty for all involved parties. Engagement on the part of county government is critical to Oregon's efforts to address possible impacts from future development.

(2) Exempt activities.

(a) Those activities that do not require governmental approval, including farm use as defined in ORS 215.203(2), are exempt from the provisions of this rule. State agency permits necessary to facilitate a farm use, including granting of new water right permits by the Oregon Water Resources Department (OWRD), are also exempt from the provisions of this rule.

(b) Any energy facility that submitted a preliminary application for site certificate pursuant to ORS 469.300 et seq. on or before the effective date of this rule is exempt from the provisions of this rule. Notwithstanding ORS 197.646(3), this rule shall not be directly applicable to any land use decision regarding that facility unless the applicant chooses otherwise. Similarly, any changes to a local government's acknowledged comprehensive plan or land use ordinances developed to achieve consistency with this rule shall not constitute "applicable substantive criteria" pursuant to OAR 345-022-0030(3), unless they are in effect on the date the applicant submits a preliminary application for site certificate, unless the applicant chooses otherwise.

(c) Private and other nonfederal lands are strongly encouraged to participate in a Candidate Conservation Agreement with Assurances (CCAA) program. Voluntary conservation efforts of this nature are recognized by the State of Oregon as a critical part in recovering the breeding population targeted by the Greater Sage-Grouse Conservation Assessment and Strategy for Oregon. Uses identified in CCAA agreements are relieved from the provisions of this rule except that conflicting uses identified in section (7) will be subject to sections (9) to (11) in all instances regardless of enrollment status.

(3) Definitions. For purposes of this rule, the definitions in OAR 635-140-0002 and in the glossary of the "Greater Sage-Grouse Conservation Assessment and Strategy for Oregon" adopted by the Oregon Fish and Wildlife Commission on April 22, 2011 (copies of the plan are available through the Oregon Department of Fish and Wildlife (ODFW)) shall apply. In addition, the following definitions shall apply:

(a) "Areas of High Population Richness" means mapped areas of breeding and nesting habitat within core habitat that support the 75th percentile of breeding bird densities (i.e. the top 25 percent). Please see Exhibit A.

(b) "Candidate Conservation Agreement with Assurances" means a formal agreement between the United States Fish and Wildlife Service (USFWS) and one or more parties to address the conservation needs of proposed or candidate species, or species likely to become candidates, before they become listed as endangered or threatened. Landowners voluntarily commit to conservation actions that will help stabilize or restore the species with the goal that listing under the Federal Endangered Species Act will become unnecessary.

(c) "Core areas" means mapped sagebrush types or other habitats that support sage-grouse annual life history requirements that are encompassed by areas:

(A) Of very high, high, and moderate lek density strata;

(B) Where low lek density strata overlap local connectivity corridors;

or

(C) Where winter habitat use polygons overlap with either low lek density strata, connectivity corridors, or occupied habitat. Core area maps are maintained by ODFW.

(d) "Development action" means any human activity subject to regulation by local, state, or federal agencies that could result in the loss of significant sage-grouse habitat. Development actions may include but are not limited to, construction and operational activities of local, state, and federal agencies. Development actions also include subsequent repermitting of existing activities proposing new impacts beyond current conditions.

(e) "Direct impact" means an adverse effect of a development action upon significant sage-grouse habitat which is proximal to the development action in time and place.

(f) "Disturbance" includes natural threats to sage-grouse habitat such as: wildfire, juniper infestation and the spread of noxious weeds or human activities that can negatively affect sage-grouse use of habitat either through changing the vegetation type or condition, or displacement of sage-grouse use of an area. For purposes of this rule only disturbance from human activities are considered.

(g) "General habitat" means occupied (seasonal or year-round) sage-grouse habitat outside core and low density habitats.

(h) "Indirect impacts" means adverse effects to significant sage-grouse habitat that are caused by or will ultimately result from an affected

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development activity. Indirect impacts usually occur later in time or are removed in distance compared to direct effects.

(i) "Large-scale development" means uses that are: over 50 feet in height; have a direct impact in excess of five acres; generate more than 50 vehicle trips per day; or create noise levels of at least 70 dB at zero meters for sustained periods of time. Uses that constitute large-scale development also require review by county decision makers and are listed in one of the following categories identified in the table attached to OAR 660-033-0120.

- (A) Commercial Uses.
- (B) Mineral, Aggregate, Oil and Gas Uses.
- (C) Transportation Uses.
- (D) Utility/Solid Waste Disposal Facilities.
- (E) Parks/Public/Quasi-Public.

(j) "Lek" means an area where male sage-grouse display during the breeding season to attract females (also referred to as strutting-ground).

(k) "Low density areas" means mapped sagebrush types or other habitats that support sage-grouse that are encompassed by areas where:

- (A) Low lek density strata overlapped with seasonal connectivity corridors;
- (B) Local corridors occur outside of all lek density strata;
- (C) Low lek density strata occur outside of connectivity corridors; or
- (D) Seasonal connectivity corridors occur outside of all lek density strata. Low density area maps are maintained by ODFW.

(l) "Mitigation hierarchy" means an approach used by decision makers to consider development proposals and is ordinarily comprised of a three step process:

(A) "Avoidance" is the first step in the mitigation hierarchy and is accomplished by not taking a certain development action or parts of that action.

(B) "Minimization" is the second step in the mitigation hierarchy and is accomplished by limiting the degree or magnitude of the development action and its implementation.

(C) "Compensatory mitigation" is the third step in the mitigation hierarchy and means the replacement or enhancement of the function of habitat capable of supporting sage-grouse in greater numbers than predicted to be impacted by a development.

(m) "Occupied Lek" means a lek that has been regularly visited by ODFW and has had one or more male sage-grouse counted in one or more of the last seven years.

(n) "Occupied Pending Lek" means a lek that has not been counted regularly by ODFW in the last seven years, but sage-grouse were present at ODFW's last visit.

(o) "Priority Areas for Conservation" (PACs) means key habitats identified by state sage-grouse conservation plans or through other sage-grouse conservation efforts (e.g., BLM Planning). In Oregon, core area habitats are PACs.

(4) Local program development and direct applicability of rule. Local governments may develop a program to achieve consistency with this rule by following the standard process in OAR 660-023-0030, 660-023-0040 and 660-023-0050 and submitting the amendment to the commission in the manner provided for periodic review under ORS 197.628 to 197.650 and OAR 660-025-0175. Until the commission has acknowledged a county amendment to its comprehensive plan and land use regulations to be in compliance with Goal 5 and equivalent to this rule with regard to protecting sage-grouse habitat, sections (5) to (12) shall apply directly to county land use decisions affecting significant sage-grouse habitat. Once the commission has acknowledged a local government program under this section, that program becomes the controlling county land use document and sections (5) to (12) of this rule no longer apply directly.

(5) Quality, Quantity and Location. For purposes of this rule, sage-grouse habitat is only present in Baker, Crook, Deschutes, Harney, Lake, Malheur and Union Counties. The location of sage-grouse habitat within these counties shall be determined by following the map produced by ODFW included as Exhibit B.

(6) Determination of Significance. Significant sage-grouse habitat includes only lands protected under Statewide Planning Goals 3 or 4 as of July 1, 2015 that are identified as:

- (a) Core areas;
- (b) Low density areas; and
- (c) Lands within a general habitat area located within 3.1 miles of an occupied or occupied-pending lek.

(d) The exact location of sage-grouse habitat may be refined during consideration of specific projects but must be done in consultation with ODFW.

(7) Conflicting uses. For purposes of protecting significant sage-grouse habitat, conflicting uses are:

- (a) Large-scale development; and
- (b) Other activities, which require review by county decision makers pursuant to OAR 660-033-0120 table and are proposed:

(A) In a core area within 4.0 miles of an occupied or occupied-pending lek;

(B) In a low density area within 3.1 miles of an occupied or occupied-pending lek; or

(C) In general habitat within 3.1 miles of an occupied or occupied-pending lek.

(8) Pre-Application Conference. A county should convene a pre-application conference prior to accepting an application for a conflicting use in significant sage-grouse habitat. The pre-application conference should include, at a minimum, the applicant, county planning staff and local ODFW staff.

(9) Program to achieve the goal of protecting significant sage grouse habitat in a core area.

(a) A county may consider a large-scale development in a core area upon applying disturbance thresholds and the mitigation hierarchy as follows:

(A) A county may consider a large-scale development that does not cause the one-percent metering threshold described in section (16) or the three-percent disturbance threshold described in section (17) to be exceeded.

(B) Avoidance. Before proceeding with large-scale development activity that impacts a core area, the proponent must demonstrate that reasonable alternatives have been considered and that the activity or other action cannot avoid impacts within core area habitat. If the proposed large-scale development can occur in another location that avoids both direct and indirect impacts within core area habitat, then the proposal must not be allowed unless it can satisfy the following criteria.

(i) It is not technically feasible to locate the proposed large-scale development outside of a core area based on accepted engineering practices, regulatory standards or some combination thereof. Costs associated with technical feasibility may be considered, but cost alone may not be the only consideration in determining that development must be located such that it will have direct or indirect impacts on significant sage-grouse areas; or

(ii) The proposed large-scale development is dependent on a unique geographic or other physical feature(s) that cannot be found on other lands; and

(iii) If either subparagraph (9)(a)(B)(i) or (9)(a)(B)(ii) is found to be satisfied the county must also find that the large-scale development will provide important economic opportunity, needed infrastructure, public safety benefits or public health benefits for local citizens or the entire region.

(C) Minimization. If the proposed use cannot be sited by avoiding a core area altogether, including direct and indirect impacts, it shall be located to minimize the amount of such habitat directly or indirectly disturbed, and to minimize fragmentation of the core area(s) in question by locating the development adjacent to existing development and at the edge of the core area when possible. Uses should minimize impacts through micro-siting, limitations on the timing of construction or use, or both, and methods of construction. Minimizing impacts from large-scale development in core habitat shall also ensure direct and indirect impacts do not occur in known areas of high population richness within a given core area, unless a project proponent demonstrates, by a preponderance of the evidence, that such an approach is not feasible. Costs associated with minimization may be considered, but cost alone may not be the only consideration in determining that location of development cannot further minimize direct or indirect impacts to core areas.

(D) Compensatory Mitigation. To the extent that a proposed large-scale development will have direct or indirect impacts on a core area after application of the avoidance and minimization standards and criteria, above, the permit must be conditioned to fully offset the direct and indirect impacts of the development to any core area. The required compensatory mitigation must comply with OAR chapter 635, division 140.

(b) A county may approve a conflicting use as identified at subsection (7)(b) above upon either:

(A) Receiving confirmation from ODFW that the proposed conflicting use does not pose a threat to significant sage-grouse habitat or the way sage-grouse use that habitat; or

# ADMINISTRATIVE RULES

(B) Conditioning the approval based on ODFW recommendations, including minimization techniques and compensatory mitigation, if necessary, to resolve threats to significant sage-grouse habitat.

(10) Program to achieve the goal of protecting significant sage-grouse habitat in a low density area.

(a) A county may approve a large-scale development in a low density area upon applying the mitigation hierarchy as follows:

(A) Avoidance. Before proceeding with large-scale development activity that impacts a low density area, the proponent must demonstrate that reasonable alternatives have been considered and that the activity or other action cannot avoid impacts within a low density area. If the proposed large-scale development can occur in another location that avoids both direct and indirect impacts within a low density area, then the proposal must not be allowed unless it can satisfy the following criteria:

(i) It is not technically or financially feasible to locate the proposed large-scale development outside of a low density area based on accepted engineering practices, regulatory standards, proximity to necessary infrastructure or some combination thereof; or

(ii) The proposed large-scale development is dependent on geographic or other physical feature(s) found in low density habitat areas that are less common at other locations, or it is a linear use that must cross significant sage-grouse habitat in order to achieve a reasonably direct route.

(B) Minimization. If the proposed use cannot be sited by avoiding a low density area altogether, including direct and indirect impacts, it shall be located to minimize the amount of such habitat directly or indirectly disturbed, and to minimize fragmentation of the low density area(s) in question by locating the development adjacent to existing development and at the edge of the low density area when possible. Uses should minimize impacts through micro-siting, limitations on the timing of construction or use, or both, and methods of construction.

(C) Compensatory Mitigation. Required consistent with the provisions of paragraph (9)(a)(D) above.

(b) A county may approve a conflicting use as identified at subsection (7)(b) above when found to be consistent with the provisions of subsection (9)(b).

(11) Program to achieve the goal of protecting significant sage-grouse habitat on general habitat.

(a) A county may approve a large-scale development on significant sage-grouse habitat in general habitat upon requiring:

(A) General Habitat Consultation. Minimizing impacts from development actions in general habitat shall include consultation between the development proponent and ODFW that considers and results in recommendations on how to best locate, construct or operate the development action so as to avoid or minimize direct and indirect impacts on significant sage-grouse habitat within the area of general habitat. A county shall attach ODFW recommendations as a condition of approval; and

(B) Compensatory Mitigation. Required consistent with the provisions of paragraph (9)(a)(D) above.

(b) A county may approve a conflicting use identified in subsection (7)(b) above when found to be consistent with the provisions of subsection (9)(b).

(12) Especially Unique Local Economic Opportunity. A county may approve a large-scale development proposal that does not meet the avoidance test for significant sage-grouse habitat if the county determines that the overall public benefits of the proposal outweigh the damage to significant sage-grouse habitat. Requirements for minimization and compensatory mitigation continue to apply and attempts should be made to avoid areas of high population richness, if possible. The county shall make this balancing determination only when the proposal involves an economic opportunity that will provide a number of permanent, full-time jobs, not including construction activities, paying at least 150 percent of average county wages sufficient to increase the amount of total private nonfarm payroll employment by at least 0.5 percent over the figure included in the most recent data available from the Oregon Department of Employment rounded down to the nearest whole number. The applicant has the burden to show that the overall public benefits outweigh the damage to the significant sage-grouse habitat. This provision may be exercised by each effected county once during every ten-year period beginning on the effective date of this rule. A county is also free not to approve a proposal submitted under this section.

(13) A proposal to up-zone lands containing significant sage-grouse habitat to a greater development potential than otherwise allowed under Goals 3 and 4 shall follow the ordinary Goal 5 process at OAR 660-023-0030 to 660-023-0050. Furthermore, up-zoning lands in a core area shall be considered a direct impact and count towards the three percent disturbance threshold pursuant to section (17) below.

(14) Landscape-Level Consideration. The standards in sections (9), (10) and (11) above, are designed to minimize the amount of future impacts from human sources to significant sage-grouse habitat areas. Consistent with available science concerning the relation between human activities and sage-grouse population levels, the department will monitor direct impacts in core areas in each of the PACs shown in Exhibit (C).

(15) Central Registry. The department will work with the counties identified in section (5), ODFW, the Bureau of Land Management (BLM), and USFWS to maintain a central registry, tracking human disturbance from existing (baseline) and all new development affecting core areas. In addition to serving as partners in maintaining the central registry, counties must report all development land use permits for all uses within a core area to the department. The registry will include baseline calculations of direct impact levels consistent with the approach identified by the BLM. Counties may establish more refined, project specific data to replace the baseline figures so long as all counties utilize a common methodology. Each year the department shall report to the commission the amount of new direct impacts in each PAC. The report shall be coordinated with and made available to all affected counties.

(16) Metering. This rule is intended to ensure that the area of direct impact levels in any PAC, including energy facilities exempted under subsection (2)(b), does not increase by an amount greater than 1.0 percent of the total area of the PAC in any ten-year period. The initial period shall commence upon the effective date of this rule and continue for ten consecutive years, where upon the process shall be successively repeated. The commission will consider revisions to this rule if the department's yearly reports required by section (15) indicate that the development trends in any PAC indicate that the 1.0 percent direct impact threshold is in jeopardy of being exceeded before the ten-year period has expired. Any proposal to amend this rule undertaken by the department shall be developed in coordination with all affected counties and other stakeholders.

(17) Disturbance Threshold. This rule is intended to ensure that direct impact level, including energy facilities exempted under subsection (2)(b), does not exceed three percent of the total area in any PAC. If this three-percent threshold is approached, then the department must report that situation to the commission along with a proposal to amend this rule to adapt the standards and criteria such that the threshold is not exceeded.

(18) State agency coordination programs. All state agencies that carry out or that permit conflicting uses in core area, low density area, or significant general habitat including but not limited to OWRD, Oregon Department of Transportation, Department of State Lands, Department of Geology and Mineral Industries, Oregon Department of Energy and the Energy Facility Siting Council, and Department of Environmental Quality must report the proposed development to the department, along with an estimate of the direct impact of the development. In addition, to the extent not regulated by a county, such development, other than the issuance of water rights, the expansion of cultivation, and other farm uses under ORS 215.203(2), must meet the requirements of paragraph (9)(a)(D) of this rule.

(19) Scheduled Review. The department shall commence a review of these rules no later than June 30, 2020 and, if determined to be necessary, recommend revisions to achieve the policy objectives found herein. Furthermore, should the species become listed under the Federal Endangered Species Act, the commission shall consider whether continued application of this rule is necessary. Should the rule remain applicable and the species is de-listed the commission shall consider whether continued application of this rule is necessary.

Stat. Auth.: ORS 197.040  
Stats. Implemented: ORS 197.040  
Hist.: LCDD 5-2015, f. 8-6-15, cert. ef. 8-13-15

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## Landscape Contractors Board Chapter 808

**Rule Caption:** Clarifies written advertising, resignation of license, planting includes mulching and housekeeping.

**Adm. Order No.:** LCB 6-2015

**Filed with Sec. of State:** 7-29-2015

**Certified to be Effective:** 8-1-15

**Notice Publication Date:** 7-1-2015

**Rules Amended:** 808-002-0455, 808-003-0010, 808-003-0100, 808-003-0220

**Subject:** Clarifies written advertising, resignation of license, planting includes mulching and housekeeping.

**Rules Coordinator:** Kim Gladwill-Rowley—(503) 967-6291, ext. 223

# ADMINISTRATIVE RULES

## 808-002-0455

### Install

(1) For the purpose of ORS 671.520 “install” means the planting of lawns, trees, shrubs, vines and nursery stock outdoors. For the purpose of this rule, planting includes, but is not limited to, the excavation of the planting pit or hole, physically moving the plant into the pit or hole, backfilling the pit or hole, compacting the backfill; staking the plant if necessary and adding mulching materials when a tree, shrub, vine and/or nursery stock are planted.

(2) Except as provided in subsection (1) installing does not include:

- (a) The placement of mulching materials which includes, but is not limited to bark dust, chips, husks, shells or compost; and
  - (b) The planting of nursery stock for commercial sale or reforestation.
- Stat. Auth.: ORS 670.310 & 671.670  
Stats. Implemented: ORS 671.520(1)  
Hist.: LCB 6-2005, f. 12-30-05, cert. ef. 1-1-06; LCB 9-2011, f. 7-26-11, cert. ef. 8-1-11; LCB 6-2015, f. 7-29-15, cert. ef. 8-1-15

## 808-003-0010

### Written Advertising

(1) All written advertising, except telephone and internet directory line listings and uniforms, shall include the landscape contracting business license number. The landscape contracting business license number in a written advertisement shall be capable of being read (legible) and clearly visible.

(2) Advertising shall include, but not be limited to:

- (a) Newsprint classified advertising and newsprint display advertising for work subject to ORS 671.510 through 671.710;
- (b) Telephone or internet directory space ads, or display ads;
- (c) Business cards;
- (d) Business flyers;
- (e) Business letterhead;
- (f) Business signs at construction sites;
- (g) Contracts and/or proposals;
- (h) Vehicles and trailers with signage; and
- (i) Websites.

(3) No person shall advertise under the heading of “landscape contractor” or any other heading that would lead any person to believe the business is a landscape contracting business in any advertising media unless the person holds an active landscape contracting business license.

(4) A landscape contracting business that holds a valid license shall not advertise for landscaping work outside the scope of the license.

(5) All written advertising on websites must include the landscape contracting business license number at least on the homepage, the footer of each page, or the contact us.

(6) Effective January 1, 2016, a vehicle sticker issued by the State Landscape Contractors Board does not constitute meeting the requirement to have the landscape contracting business license number on a vehicle.

Stat. Auth.: ORS 183 & 671  
Stats. Implemented: ORS 671.530  
Hist.: LC 1-1980, f. & ef. 2-5-80; LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0012; LCB 1-2004, f. 1-27-04, cert. ef. 2-1-04; 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 6-2009(Temp), f. & cert. ef. 10-14-09 thru 4-11-10; Administrative correction 4-21-10; LCB 2-2010, f. & cert. ef. 6-1-10; LCB 4-2010, f. & cert. ef. 6-2-10; LCB 6-2015, f. 7-29-15, cert. ef. 8-1-15

## 808-003-0100

### Licenses; License Cards

(1) A landscape construction professional license and its identifying license number will be issued to one individual only. Other individuals shall not be included in that license, but each shall be separately licensed and shall separately meet the licensing requirements. No individual may perform work subject to ORS Chapter 671 through the use of another individual’s or entity’s license.

(2) Landscape construction professional licenses shall be issued in the name of the individual.

(3) A landscape contracting business license and its identifying license number will be issued to one business entity only. Other business entities shall not be included in that license, but each shall be separately licensed and shall separately meet the licensing requirements. No business entity may perform work subject to ORS Chapter 671 through the use of another individual’s or business entity’s license.

(4) Landscape contracting business licenses shall be issued as follows:

- (a) A sole proprietorship shall be issued in the name of the sole proprietor;

(b) A sole proprietorship using an assumed business name shall be issued in both the name of the sole proprietor and assumed business name

(c) A partnership, limited partnership or joint venture shall be issued in the names of the partners and the assumed business name;

(d) A partnership or limited partnership using an assumed business name shall be issued in the names of the partners and the assumed business name;

(e) A corporation or trust shall be issued in the corporate or trust name;

(f) A limited liability company shall be issued in the limited liability company name.

(5) A license card issued to a landscape contracting business and landscape construction professional is valid for the term for which it is issued only if the licensing requirements or ORS 671.510 to 671.760 and OAR chapter 808 are met throughout the license period:

(6) If a license is no longer valid, the agency may require the return of the license card and pocket card(s).

Stat. Auth.: ORS 670.310 & 671.670  
Stats. Implemented: ORS 671.560 & 671.565  
Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0030; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-95; LCB 2-2002, f. & cert. ef. 5-24-02; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 5-2003, f. & cert. ef. 8-1-03; LCB 4-2007, f. 12-19-07, cert. ef. 1-1-08; LCB 4-2009, f. 6-1-09 cert. ef. 7-1-09; LCB 12-2009, f. 12-23-09, cert. ef. 1-1-10; LCB 6-2015, f. 7-29-15, cert. ef. 8-1-15

## 808-003-0220

### Voluntary Surrender/Resignation of License

(1) A landscape construction professional or landscape contracting business may request resignation and surrender of the holder’s license issued under ORS 671, by submitting:

- (a) A written resignation;
- (b) The current license card issued by the Board;
- (c) A written acknowledgment that, after such resignation, in the event that the licensee wishes to reapply for a license to perform landscaping work, the licensee must meet all requirements of ORS Chapter 671 and OAR chapter 808;
- (d) A written acknowledgment that the licensee will take action to prevent all reasonably foreseeable harm to the licensee’s current clients upon resignation.

(2) A resignation is effective only with the express written approval of the agency. Such license will not be subject to renewal.

(3) If the licensee is the subject of a complaint filed with the Board or a Board investigation, or if disciplinary proceedings are pending against a licensee, the resignation by such licensee may not be approved by the Agency.

(4) Upon any subsequent application to perform landscaping work, the licensee must meet all requirements of ORS Chapter 671 and OAR chapter 808.

Stat. Auth.: ORS 670.310 & 671.670  
Stats. Implements: ORS 671.525 & 671.565  
Hist.: LCB 5-2004, f. & cert. ef. 10-4-04; LCB 4-2007, f. 12-19-07, cert. ef. 1-1-08; LCB 10-2008, f. & cert. ef. 11-6-08; LCB 6-2015, f. 7-29-15, cert. ef. 8-1-15

## Oregon Board of Naturopathic Medicine Chapter 850

**Rule Caption:** Clarifies the Board’s authority to conduct Law Enforcement Data System (LEDS) check on renewing licensees

**Adm. Order No.:** OBNM 4-2015

**Filed with Sec. of State:** 7-17-2015

**Certified to be Effective:** 7-17-15

**Notice Publication Date:** 4-1-2015

**Rules Amended:** 850-030-0020

**Subject:** Clarifies the statutory authority in ORS 685.195 to conduct background checks as part of the license renewal in order to assure fitness to practice.

**Rules Coordinator:** Anne Walsh—(971) 673-0193

## 850-030-0020

### Criminal Records Checks, Fitness Determinations

(1) The purpose of these rules is to provide for the reasonable screening of applicants and licensees in order to determine if they have a history of criminal behavior such that they are not fit to be granted or hold a license that is issued by the Board.

(2) These rules are to be applied when evaluating the criminal history of an applicant or licensee and conducting fitness determinations based

# ADMINISTRATIVE RULES

upon such history. The fact that an applicant or licensee has cleared the criminal history check does not guarantee the granting or renewal of a license.

(3) The Board may require fingerprints of all applicants for an initial license as a naturopathic physician, licensees applying to reinstate a lapsed license, and licensees under investigation to conduct records checks in order to determine the fitness of an applicant or licensee. These fingerprints will be provided on prescribed forms made available by the Board. Fingerprints may be obtained at a law enforcement office or at a private service acceptable to the Board; the Board will submit fingerprints to the Oregon Department of State Police to conduct a Criminal History Check and a National Criminal History Check. Any original fingerprint cards will subsequently be destroyed by the Oregon Department of State Police. The Board may conduct a criminal record check on licensees applying to renew a license using the Law Enforcement Data System (LEDS) maintained by the Department of State Police.

(4) The Board determines whether an applicant or licensee is fit to be granted a license based on the criminal records background check, any false statements made by the applicant or licensee regarding the criminal history of the individual, any refusal to submit or consent to a criminal records check including fingerprint identification, and any other pertinent information obtained as part of an investigation. If an applicant is determined to be unfit, the applicant may not be granted a license. If a licensee is determined to be unfit the licensee's license may not be renewed or reinstated. The Board may make a fitness determination conditional upon applicant's or licensee's acceptance of probation, conditions, limitations, or other restrictions upon licensure.

(5) Except as otherwise provided in section (2), in making the fitness determination the Board considers:

- (a) The nature of the crime;
- (b) The facts that support the conviction or pending indictment or that indicate the making of the false statement;
- (c) The relevancy, if any, of the crime or the false statement to the specific requirements of the applicant's or licensee's present or proposed license; and
- (d) Intervening circumstances relevant to the responsibilities and circumstances of the license. Intervening circumstances include but are not limited to:
  - (A) The passage of time since the commission of the crime;
  - (B) The age of the applicant or licensee at the time of the crime;
  - (C) The likelihood of a repetition of offenses or of the commission of another crime;
  - (D) The subsequent commission of another relevant crime;
  - (E) Whether the conviction was set aside and the legal effect of setting aside the conviction; and
  - (F) A recommendation of an employer.

(6) All requested background checks include available state and national data, unless obtaining one or the other is an acceptable alternative.

(7) In order to conduct the Oregon and National Criminal History Check and fitness determination, the Board may require additional information from the licensee or applicant as necessary, such as but not limited to, proof of identity; residential history; names used while living at each residence; or additional criminal, judicial or other background information.

(8) Criminal offender information is confidential. Dissemination of information received under ORS 181.534 is only to people with a demonstrated and legitimate need to know the information. The information is part of the investigation of an applicant or licensee and as such is confidential pursuant to 676.175(1).

(9) The Board may consider any conviction of any violation of the law for which the court could impose a punishment and in compliance with ORS 670.280. The Board may also consider any arrests, court records, or other information that may be indicative of an individual's inability to perform as a licensee with care and safety to the public.

(10) If an applicant or licensee is determined not to be fit for a license, the applicant or licensee is entitled to a contested case process pursuant to ORS 183.413-183.470. Challenges to the accuracy or completeness of information provided by the Oregon Department of State Police, Federal Bureau of Investigation and agencies reporting information must be made through the Oregon Department of State Police, Federal Bureau of Investigation, or reporting agency and not through the contested case process pursuant to ORS 183. If an individual successfully contests the accuracy or completeness of information provided by the Oregon State Police, the FBI or other reporting agency, the Board will conduct a new criminal history check upon submission of a new request.

(11) If the applicant discontinues the application process or fails to cooperate with the criminal history check process, the application is considered incomplete.

Stat. Auth.: ORS 685.125

Stats. Implemented: ORS 685.195

Hist.: BNE 2-2007, f. & cert. ef. 6-12-07; BNE 3-2008, f. 4-21-08, cert. ef. 6-10-08; OBNM 4-2015, f. & cert. ef. 7-17-15

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## Oregon Business Development Department Chapter 123

**Rule Caption:** These rules relate to the Credit Enhancement Fund.

**Adm. Order No.:** OBDD 5-2015

**Filed with Sec. of State:** 8-3-2015

**Certified to be Effective:** 8-3-15

**Notice Publication Date:** 7-1-2015

**Rules Amended:** 123-021-0010, 123-021-0090, 123-021-0110

**Rules Repealed:** 123-021-0010(T), 123-021-0090(T), 123-021-0110(T)

**Subject:** The changes to the CEF Evergreen and Evergreen Plus program options are to align and coordinate the two programs to have a common maximum coverage percentage and a common fee structure, in order to simplify the use of the programs by our lending partners. Premium rates for each program are available from the Department and shown in the application form available on the department website.

**Rules Coordinator:** Mindee Sublette—(503) 986-0036

### 123-021-0010

#### Definitions

For the purposes of these rules, additional definitions may be found in OAR chapter 123, division 1. The following terms shall have the following definitions, unless the context clearly indicates otherwise:

(1) "Authorized loan amount" means the amount of a loan authorized by the Department to be under the CEF Program pursuant to a loan insurance authorization issued by the Department to the financial institution making the loan.

(2) "Brownfield" means any real property where expansion or redevelopment is complicated by actual or perceived environmental contamination.

(3) "CEF Program" means the Credit Enhancement Fund Insurance Program established under ORS 285B.200 to 285B.218.

(4) The "deficiency" of a loan means the amount of principal outstanding upon default, accrued interest and the financial institution's reasonable costs of collection, exclusive of costs attributable to environmental problems, remaining unpaid after liquidation of collateral and collection of guarantees.

(5) "Destination facilities other than retail or food service" means a qualified business which has a significant impact on the regional recreational or tourism economy. Incidental food service or retail facilities necessary to the operation of a destination facility are eligible. Sleeping accommodations without unique attraction capabilities are not qualified businesses.

(6) "Financial institution" has the meaning set forth in ORS 706.008.

(7) "Fund" means the Credit Enhancement Fund created by ORS 285B.215.

(8) "Loan insurance authorization" means a letter from the director or deputy director or designee to a financial institution agreeing to insure a loan to a borrower on the terms and conditions and subject to the requirements stated therein.

(9) "Loan insurance agreement" means the agreement between the financial institution and the Department required by OAR 123-021-0100.

(10) "Working capital loan" means any loan, the proceeds of which are to be used for operating, maintenance and other costs and expenses, or for purposes other than acquiring real property, production equipment, or other capital assets.

(11) "Principal" in regards to a borrower is defined as:

(a) If a sole proprietorship, the proprietor;

(b) If a partnership, each managing partner and each partner who is a natural person and holds a twenty percent (20%) or more ownership interest in the partnership; and,

(c) If a corporation, limited liability company, association or a development company, each director, each of the five most highly compensated executives or officers of the entity, and each natural person who is a direct

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or indirect holder of twenty percent (20%) or more of the ownership stock or stock equivalent of the entity.

(12) "Principal" in regards to a financial institution is defined as:

- (a) If a sole proprietorship, the proprietor;
- (b) If a partnership, each partner; and

(c) If a corporation, limited liability company, association or a development company, each director, each of the five most highly compensated executives, officers or employees of the entity, and each direct or indirect holder of twenty percent (20%) or more of the ownership stock or stock equivalent of the entity.

(13) "SSBCI Funds" means U.S. Treasury funds allocated to the Department under the State Small Business Credit Initiative Act of 2010 (title III of the Small Business Jobs Act of 2010, P.L. 111-240, 124 Stat. 2568, 2582).

Stat. Auth.: ORS 285A.075

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

Hist.: EDD 5-1994(Temp), f. & cert. ef. 3-3-94; EDD 11-1994, f. & cert. ef. 7-29-94; EDD 12-1997(Temp), f. & cert. ef. 10-7-97; EDD 11-1998, f. & cert. ef. 5-22-98; EDD 8-1999, f. & cert. ef. 10-1-99; EDD 4-2007(Temp), f. & cert. ef. 8-28-07 thru 2-22-08; EDD 5-2008(Temp), f. & cert. ef. 2-26-08 thru 8-1-08; EDD 24-2008, f. 7-31-08, cert. ef. 8-1-08; EDD 17-2009, f. 10-30-09, cert. ef. 11-1-09; OBDD 8-2011(Temp), f. & cert. ef. 12-8-11 thru 6-5-12; OBDD 7-2012, f. & cert. ef. 6-1-12; OBDD 18-2012(Temp), f. & cert. ef. 11-20-12 thru 5-17-13; OBDD 3-2013, f. & cert. ef. 5-23-13; OBDD 1-2015(Temp), f. & cert. ef. 1-26-15 thru 7-24-15; OBDD 5-2015, f. & cert. ef. 8-3-15

## 123-021-0090

### Loan Insurance Programs

The Department shall offer the following insurance programs:

(1) Conventional Insurance, under which the Department may insure

(a) Up to 80 percent of a loan in which case the Department's maximum liability for any loss under the Conventional Insurance is the lesser of \$2,000,000 or an amount equal to the insured percentage times the authorized loan amount, or

(b) Up to 90 percent of a loan in which case the Department's maximum liability for any loss under the Conventional Insurance is the lesser of \$500,000 or an amount equal to the insured percentage times the authorized loan amount. Should a borrower which receives an insured loan default or otherwise be unable to make loan payments, the Department will pay the financial institution the deficiency of a loan times the insured percentage, subject to the limitation set forth above. The balance of any loss is absorbed by the financial institution. Loan payments, the proceeds of collateral (including collection of guarantees), and any recovery after payment of a deficiency are applied pro rata to the portion of a loan insured through Conventional Insurance and the uninsured portion of the loan.

(2)(a) Evergreen Entrants Insurance, under which the Department may insure up to 75 percent of a line of credit working capital loan. Should a borrower which receives an insured loan default or otherwise be unable to make loan payments, the Department will pay the financial institution the deficiency of the line of credit working capital loan times the insured percentage; provided that the Department's maximum liability for any deficiency under the Evergreen Entrants Insurance is the lesser of \$1,500,000 or an amount equal to the insured percentage of the authorized loan amount. The balance of any loss is absorbed by the financial institution. Loan payments, the proceeds of collateral (including collection of guarantees), and any recovery after payment of a deficiency are applied pro rata to the portion of a loan insured through Evergreen Entrants Insurance and the uninsured portion of the loan.

(b) Eligible borrowers include persons or enterprises without or about to be without existing line of credit working capital loans.

(c) To obtain Evergreen Entrants Insurance, a financial institution must have the capacity to service the loan effectively, including monitoring compliance with any audit and control procedures prescribed by the Department or comparable procedures of the financial institution approved by the Department and must have in place and operating a lending program specializing in line of credit loans secured by or with advances based upon eligible accounts receivable and inventory or other assets. The Department must be satisfied that the financial institution is sufficiently experienced and capable of operating such a lending program effectively.

(3) First Loss Insurance, under which the Department will pay 100 percent of the deficiency of a loan, but the Department's maximum liability under the First Loss Insurance shall be the lesser of (a) the insured percentage (which shall not exceed 25 percent) times the authorized loan amount, (b) the insured percentage (which shall not exceed 25 percent) times the outstanding balance of the loan, including accrued interest and reasonable costs and expenses of collection and liquidation of collateral exclusive of costs attributable to environmental problems, but not taking into account the proceeds of collateral liquidation and payments by guarantors, or (c) \$500,000. Any recovery after payment of a deficiency is

applied first to the uninsured portion of the loan and then to the portion of a loan insured through First Loss Insurance.

(4)(a) Evergreen Plus Insurance, under which the Department may insure up to 75 percent of a new increment of a line of credit; provided that the Department's maximum liability under the Evergreen Plus Insurance is \$1,500,000. If the insured loan is a renewal of a loan where the Department insured more than 75% of the loan, the Department may, in its sole discretion, insure the new loan up to the percentage insured on the immediately previous loan being renewed. If a financial institution makes a payment request for any deficiency, the Department will pay to the financial institution the lesser of:

(A) A ratable share of the total default charges; or

(B) The deficiency times the insured percentage. The balance of any loss is absorbed by the financial institution. Loan payments, the proceeds of collateral (including collection of guarantees), and any recovery after payment of a deficiency are applied pro rata to the portion of a loan insured through Evergreen Plus Insurance and the uninsured portion of the loan.

(b) The formula for calculating the Department's ratable share of total default charges is:

$$R = (G \div T) * P$$

R represents the ratable share of total default charges.

G represents the amount of the new increment of the line of credit.

T represents the total credit facility made available.

P represents the principal outstanding upon default plus accrued unpaid interest and costs of collateral liquidation and collection of guarantees exclusive of costs attributable to environmental problems.

(c) To obtain the Evergreen Plus Insurance, a financial institution must have in place and operating a lending program specializing in line of credit loans secured by or with advances based upon eligible accounts receivable and inventory or other assets. The Department must be satisfied that the financial institution is sufficiently experienced and capable of operating such a lending program effectively.

(5) First Loss Collateral Support Insurance (aka Collateral Support Insurance), under which the Department will pay up to a maximum of 100 percent of the deficiency of a loan as follows. The Department's maximum liability under the Collateral Support Insurance per enrolled loan shall be the lesser of:

(a) The insured percentage times the authorized and enrolled loan amount;

(b) The insured percentage times the outstanding balance of the enrolled loan, including accrued interest and reasonable costs and expenses of collection and liquidation of collateral exclusive of costs attributable to environmental problems, after taking into account payments by guarantors but not taking into account the proceeds of collateral liquidation; or,

(c) 25% of the enrolled loan or \$1,000,000. Collateral Support Insurance may not exceed a term of 5 years. Loan payments, the proceeds of collection of guarantees, and recovery after payment of a deficiency from any source other than liquidation of collateral are applied pro rata to the portion of a loan insured through Collateral Support Insurance and the uninsured portion of the loan; the proceeds of collateral are applied first to the uninsured portion of the loan and then to the portion of a loan insured through Collateral Support Insurance. Loans covered by Collateral Support Insurance must meet a participating Lender's credit underwriting criteria with the exception of loan collateral adequacy. Borrowers with loans covered by Collateral Support Insurance must:

(A) Demonstrate significant current and historical cash flow coverage,

(B) Demonstrate strong credit history,

(C) Provide personal guarantees of significant owners; and,

(D) Meet other criteria as determined by the Department.

(d) In contrast to First Loss Insurance, Collateral Support Insurance is only intended to mitigate a collateral shortfall and is not intended to mitigate other or additional credit deficiencies. Collateral Support Insurance will only be provided to the extent necessary to facilitate making a qualified loan, not on a maximum allowable basis for each loan. Loan proceeds may be used to pay off an existing loan where the collateral value is no longer adequate to secure the loan due to a decline in the value of the existing collateral (not due to the loan having been less than fully secured at inception). If any proceeds of the new insured loan are used to finance an existing loan of the lender making application for Collateral Support Insurance, to be eligible for Collateral Support Insurance the existing loan must have reached its maturity date and the new loan must also include new monies advanced to the borrower. Enrollment of the new loan in the Collateral Support Insurance will be limited to the amount of the collateral shortfall or the decline in the collateral value, from the date of the existing loan if proceeds are applied to an existing loan secured by the collateral, whichever is less. For the Collateral Support Insurance, the maximum

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insured percentage for insurance up to \$500,000 shall be 25% of the loan. For insurance above \$500,000 and up to \$1,000,000 the maximum insured percentage shall be 20% of the loan.

(6) The Conventional Insurance, First Loss Insurance, and Collateral Support Insurance are available for all types of non-revolving loans with regular periodic payments of principal and interest no less often than annually for eligible purposes, including working capital loans that are secured by fixed assets or other collateral determined to be sufficient by the Department.

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

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

Hist.: EDD 5-1994(Temp), f. & cert. ef. 3-3-94; EDD 11-1994, f. & cert. ef. 7-29-94; EDD 13-2002(Temp), f. & cert. ef. 6-18-02 thru 12-13-02; Administrative correction 4-15-03; EDD 6-2005(Temp), f. & cert. ef. 8-5-05 thru 1-31-06; EDD 1-2006, f. & cert. ef. 2-10-06; EDD 5-2008(Temp), f. & cert. ef. 2-26-08 thru 8-1-08; EDD 24-2008, f. 7-31-08, cert. ef. 8-1-08; EDD 17-2009, f. 10-30-09, cert. ef. 11-1-09; OBDD 8-2011(Temp), f. & cert. ef. 12-8-11 thru 6-5-12; OBDD 7-2012, f. & cert. ef. 6-1-12; OBDD 18-2012(Temp), f. & cert. ef. 11-20-12 thru 5-17-13; OBDD 3-2013, f. & cert. ef. 5-23-13; OBDD 1-2015(Temp), f. & cert. ef. 1-26-15 thru 7-24-15; OBDD 5-2015, f. & cert. ef. 8-3-15

## 123-021-0110

### Insurance Premiums

(1) The Department shall charge a one-time (up-front) insurance premium. Premiums are due at the time financial institutions originate loans and execute loan authorizations with the Department. The Department's insurance is not effective until premiums are paid. It is expected that financial institutions will pass along the cost of premiums to borrowers. Premiums, expressed as a percentage of the Department's maximum liability, shall be charged in accordance with the schedule for the programs available from the agency.

(2) For revolving lines of credit or evergreen facilities, the premium is based on the Department's maximum liability in regard to the credit facility made available to a borrower, regardless of whether or not the line of credit is fully drawn down. Examples:

(a) The premium due on a \$200,000, five year loan with 80% Conventional Insurance would be \$3,200 ( $\$200,000 \times .80 \times .02$ );

(b) The premium for a \$200,000 loan with 75% Evergreen Entrants Insurance is \$2,625 ( $\$200,000 \times .75 \times .0175$ ); this amount would be due every year thereafter for up to four additional years, assuming the loan and amount is renewed each year for the maximum term permitted under the Evergreen Entrants program (5 years);

(c) The premium for a \$200,000, eight year loan with 25% First Loss Insurance is \$2,500 ( $\$200,000 \times .25 \times .05$ );

(d) The premium for a \$700,000 increment to the line of credit with 30% Evergreen Plus Insurance is \$3,675 ( $\$700,000 \times .30 \times .0175$ ); this amount would be due every year thereafter for up to four additional years, assuming the loan and amount is renewed each year for the maximum term permitted under the program (5 years);

(e) The premium for a \$1,000,000 five-year loan with a 15% Collateral Support Insurance is \$1,250 ( $\$1,000,000 \times .15 \times .035$ ).

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

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

Hist.: EDD 5-1994(Temp), f. & cert. ef. 3-3-94; EDD 11-1994, f. & cert. ef. 7-29-94; EDD 24-2008, f. 7-31-08, cert. ef. 8-1-08; EDD 17-2009, f. 10-30-09, cert. ef. 11-1-09; OBDD 8-2011(Temp), f. & cert. ef. 12-8-11 thru 6-5-12; OBDD 7-2012, f. & cert. ef. 6-1-12; OBDD 18-2012(Temp), f. & cert. ef. 11-20-12 thru 5-17-13; OBDD 3-2013, f. & cert. ef. 5-23-13; OBDD 1-2015(Temp), f. & cert. ef. 1-26-15 thru 7-24-15; OBDD 5-2015, f. & cert. ef. 8-3-15

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**Rule Caption:** These rule amendments relate to the Industry Competitiveness Fund.

**Adm. Order No.:** OBDD 6-2015

**Filed with Sec. of State:** 8-4-2015

**Certified to be Effective:** 8-4-15

**Notice Publication Date:** 7-1-2015

**Rules Amended:** 123-095-0030, 123-095-0035, 123-095-0040

**Subject:** This 2015 Legislative Session, HB 2437 was passed and signed by the Governor, with an emergency clause. The bill added language into the statute that allows the department to enter into agreements for grants or other assistance.

The rules are being amended to comply with the statute. Throughout the division, the word "loan" is being removed wherever it says "grants or loans", or "grant or loan".

**Rules Coordinator:** Mindee Sublette—(503) 986-0036

## 123-095-0030

### Eligible and Non-Eligible Activities

(1) Funds in the Industry Competitiveness Fund may be used by Department to:

(a) provide grants for Projects. Examples of a Project include, but are not limited to, the following activities:

(A) Assisting a Traded Sector Industry(ies) in establishing research and development consortia;

(B) Introducing new products into an existing market or developing new markets for a Traded Sector Industry(ies) or businesses within a Traded Sector Industry;

(C) Promoting the commercialization of new technologies for a Traded Sector Industry(ies);

(D) Increasing the skills of workers to meet the needs of a Traded Sector Industry(ies);

(E) Enhancing the capacity of a Traded Sector Industry(ies) to take advantage of electronic communications and information technologies; and

(F) Increasing the global competitiveness of a Traded Sector Industry(ies);

(G) Activities that are prerequisite to and will lead to the implementation of any of the above (such as preparing an application for federal grant funds for one or more of the above activities); and

(H) Assisting in organizing focus groups or other meetings and conducting research to identify issues and needs of a Traded Sector Industry(ies) and developing strategies to address those needs and issues; and

(b) Directly purchase goods and services which contribute to the stability, growth, development or competitiveness of a Traded Sector Industry(ies).

(2) Funds in the Industry Competitiveness Fund may not be used for:

(a) Any activity that requires continuing subsidies from the State of Oregon; or

(b) Ongoing administrative expenses.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.286 & 285B.290

Hist.: EDD 4-1992(Temp), f. & cert. ef. 3-18-92; EDD 1-1993, f. & cert. ef. 1-15-93; EDD 1-2000, f. & cert. ef. 1-13-00; OBDD 8-2013(Temp), f. & cert. ef. 10-4-13 thru 4-2-14; OBDD 11-2013, f. 11-26-13, cert. ef. 12-1-13; OBDD 6-2015, f. & cert. ef. 8-4-15

## 123-095-0035

### Award Requirements

A Project which is financed through an Industry Competitiveness Fund grant must meet the following criteria:

(1) Individual businesses in the Traded Sector Industry(ies) must be involved in planning the Project or Department must determine that the nature of the Project results in this involvement being unfeasible or in some other manner not applicable;

(2) The grant from the Industry Competitiveness Fund must not represent more than 50% of the total cash cost of the Project;

(3) Private sector funds used to cover cash expenses for the Project must be at least equal to the amount of the grant from the Industry Competitiveness Fund;

(4) Compliance with this division of administrative rule and ORS 285B.286 and 285B.290 does not entitle a Project to a grant from the Industry Competitiveness Fund.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.286 & 285B.290

Hist.: OBDD 8-2013(Temp), f. & cert. ef. 10-4-13 thru 4-2-14; OBDD 11-2013, f. 11-26-13, cert. ef. 12-1-13; OBDD 6-2015, f. & cert. ef. 8-4-15

## 123-095-0040

### Administration of Awards

(1) Upon approval of a grant for a Project, Department will enter into an agreement with the entity responsible for completing the Project. The agreement will, as applicable, include, but is not limited to, the following:

(a) A description of the Project;

(b) Procedures and conditions for disbursing the grant moneys from the Industry Competitiveness Fund;

(c) A requirement that private sector funds used to cover cash expenses for the Project must be at least equal to the amount of the grant from the Industry Competitiveness Fund;

(d) A requirement that the grant from the Industry Competitiveness Fund may not exceed 50% of the total cash cost of the Project;

(e) A requirement that a sign be conspicuously displayed at the site of the Project or a statement included on written documents produced as a result of the Project which indicates the Project is being funded with Oregon State Lottery Funds, administered by Department;

(f) Reporting requirement(s); and

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(g) Other provisions deemed necessary by Department.

(2) Upon approval of using Industry Competitiveness Fund moneys in accordance with 123-095-0020(1)(b), Department will procure the goods and services in accordance with OAR 123 division 6, Procedures for Contracts Entered with the Business Development Department.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.286 & 285B.290

Hist.: EDD 4-1992(Temp), f. & cert. ef. 3-18-92; EDD 1-1993, f. & cert. ef. 1-15-93; EDD 1-2000, f. & cert. ef. 1-13-00; OBDD 8-2013(Temp), f. & cert. ef. 10-4-13 thru 4-2-14; OBDD 11-2013, f. 11-26-13, cert. ef. 12-1-13; OBDD 6-2015, f. & cert. ef. 8-4-15

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## Oregon Department of Aviation Chapter 738

**Rule Caption:** Department of Aviation Implementation of its State Agency Coordination Program

**Adm. Order No.:** AVIA 2-2015

**Filed with Sec. of State:** 7-28-2015

**Certified to be Effective:** 7-28-15

**Notice Publication Date:** 6-1-2015

**Rules Adopted:** 738-130-0005, 738-130-0015, 738-130-0025, 738-130-0035, 738-130-0045, 738-130-0055, 738-130-0065, 738-130-0075, 738-130-0085, 738-130-0095, 738-130-0105, 738-130-0115, 738-130-0125

**Subject:** These rules were adopted to establish the procedures to be used by the Department of Aviation in implementing the provisions of its State Agency Coordination Program and to provide guidance to assure that Department land use programs are carried out in compliance with the statewide planning goals and in a manner compatible with acknowledged comprehensive plans.

**Rules Coordinator:** Lauri Kunze—(503) 986-3171

### 738-130-0005

#### Purpose

The purpose of this division is to establish the procedures used by the Department of Aviation to implement the provisions of its State Agency Coordination Program which assure that Department land use programs are carried out in compliance with the statewide planning goals and in a manner compatible with acknowledged comprehensive plans, as required by ORS 197.180 and OAR 660, divisions 30 and 31. The Department of Aviation adopts the provisions of the State Agency Coordination Program in effect on the date this rule is filed with the Secretary of State.

Stat. Auth.: ORS 835.035 & 835.112

Stats. Implemented: ORS 197.180

Hist.: AVIA 2-2015, f. & cert. ef. 7-28-15

### 738-130-0015

#### Definitions

For the purposes of OAR 738-130-0005 through 738-130-0135 the following definitions apply:

(1) "Affected City or County" means a city or county that has comprehensive planning authority over a site or area which is directly impacted by a proposed Board or Department action.

(2) "Affected State and Federal Agencies" means state and federal agencies identified in the Department's state agency coordination program.

(3) "Board" means the Aviation Board.

(4) "Class 1 Projects" means projects meeting federal criteria for Class 1 Projects under the National Environmental Policy Act (NEPA) and federal agency regulations which carry out NEPA requirements.

(5) "Class 2 Projects" means projects meeting federal criteria for Class 2 Projects under NEPA and federal agency regulations which carry out NEPA requirements.

(6) "Class 3 Projects" means projects meeting federal criteria for Class 3 Projects under NEPA and federal agency regulations which carry out NEPA requirements.

(7) "Department" means the Department of Aviation.

(8) "DLCD" means the Department of Land Conservation and Development.

(9) "Facility Plan" means a plan for a transportation facility such as an airport master plan.

(10) "Metropolitan Planning Organization" means the organization designated by the Governor to coordinate transportation planning in an urbanized area of the state.

(11) "Oregon Aviation Plan" means a plan for a statewide system of aviation that includes identification of system needs, classification of facilities, and establishment of policies as defined in the Oregon Aviation Plan.

(12) "New Transportation Facility" means a transportation facility that does not currently exist. It does not mean the expansion of an existing transportation facility.

(13) "Transportation Facility" means a facility and all of its parts which are used for conveying and managing the transportation of people and goods. It includes all associated structures and alterations that are necessary to protect public safety and mitigate the environmental effects of a transportation facility.

Stat. Auth.: ORS 835.035 & 835.112

Stats. Implemented: ORS 197.180

Hist.: AVIA 2-2015, f. & cert. ef. 7-28-15

### 738-130-0025

#### Applicability

The provisions of OAR 738-130-0005 through 738-130-0135 apply to the following programs and activities:

(1) Adoption of the Transportation Policy Plan.

(2) Adoption of Oregon Aviation Plan.

(3) Adoption of transportation facility plans.

(4) Adoption of project plans for Class 1 and Class 3 projects.

(5) Adoption of project plans for Class 2 projects which would involve any of the activities listed in OAR 738-130-0035.

(6) Carrying out operations, maintenance and modernization activities, which would involve any of the activities listed in OAR 738-130-0035.

(7) Issuing any of the following permits or licenses for Airport Site Approval and License

(8) Renewing permits or licenses for proposed expansion of a licensed airport to permit service to a larger class of aircraft.

Stat. Auth.: ORS 835.035 & 835.112

Stats. Implemented: ORS 197.180

Hist.: AVIA 2-2015, f. & cert. ef. 7-28-15

### 738-130-0035

#### Activities Which Significantly Affect Land Use

The following activities undertaken by the Department significantly affect land use:

(1) Adopting Airport Master Plans which significantly affect the objectives of the Transportation Goal (Goal 12).

(2) Enlarging an existing transportation facility to increase the level of transportation service provided, relocating an existing transportation facility, or constructing a new transportation facility.

(3) Constructing a new Airport Operations Area (AOA), enlarging an existing AOA, or significantly changing the use of an existing AOA.

(4) Changing the size of land parcels through the purchase or sale of property.

(5) Altering land or structures in a way that significantly affects resources or areas protected by the statewide planning goals or acknowledged comprehensive plans. Examples include:

(a) Placing or disposing of materials in wetlands, waterways or floodplains;

(b) Draining wetlands by ditching or by other means;

(c) Removing riparian vegetation.

(6) Agency review of proposed development in and around Airport Safety Overlay Zone areas in order to promote aviation safety by prohibiting structures, trees, and other objects of natural growth from penetrating "airport imaginary surfaces."

(7) Agency review of structures outside of Airport Safety Overlay Zone areas that could be classified as a hazard to air navigation based on the Federal Aviation Administration Advisory Circular (A/C) 7460-1.

Stat. Auth.: ORS 835.035 & 835.112

Stats. Implemented: ORS 197.180

Hist.: AVIA 2-2015, f. & cert. ef. 7-28-15

### 738-130-0045

#### Coordination Procedures for Adopting Final Oregon Aviation Plan

(1) Except in the case of minor amendments, the Department shall involve DLCD, metropolitan planning organizations, and interested cities, counties, state and federal agencies, special districts and other parties in the development or amendment of a Oregon Aviation Plan. This involvement may take the form of mailings, meeting, or other means that the Department determines are appropriate for the circumstances. The Department shall hold at least one public meeting on the plan prior to adoption.

(2) The Department shall evaluate and write draft findings of compliance with all applicable statewide planning goals.

(3) If the draft plan identifies new facilities which would affect identifiable geographic areas, the Department shall meet with the planning representatives of affected cities, counties and metropolitan planning organi-

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zation to identify compatibility issues and the means of resolving them. These may include:

- (a) Changing the draft plan to eliminate the conflicts;
- (b) Working with the affected local governments to amend their comprehensive plans to eliminate the conflicts; or
- (c) Identifying the new facilities as proposals which are contingent on the resolution of the conflicts prior to the completion of the transportation planning program for the proposed new facilities.
- (4) The Department shall present to the Aviation Board the draft plan, findings of compatibility for new facilities affecting identifiable geographic areas, and findings of compliance with all applicable statewide planning goals.
- (5) The Aviation Board, when it adopts a final Oregon Aviation Plan, shall adopt findings of compatibility for new facilities affecting identifiable geographic areas and findings of compliance with all applicable statewide planning goals.
- (6) The Department shall provide copies of the adopted final Oregon Aviation Plan and findings to DLCD, the metropolitan planning organizations, and others who request to receive a copy.

Stat. Auth.: ORS 835.035 & 835.112  
Stats. Implemented: ORS 197.180  
Hist.: AVIA 2-2015, f. & cert. ef. 7-28-15

## 738-130-0055

### Coordination Procedures for Adopting Final Master Plans

(1) Except in the case of minor amendments, the Department shall involve DLCD and affected metropolitan planning organizations, cities, counties, state and federal agencies, special districts and other interested parties in the development or amendment of a facility plan. This involvement may take the form of mailings, meetings or other means that the Department determines are appropriate for the circumstances. The Department shall hold at least one public meeting on the plan prior to adoption.

(2) The Department shall provide a draft of the proposed facility plan to planning representatives of all affected cities, counties and metropolitan planning organization and shall request that they identify any specific plan requirements which apply, any general plan requirements which apply and whether the draft facility plan is compatible with the acknowledged comprehensive plan. If no reply is received from an affected city, county or metropolitan planning organization within 45 days of the Department's request for a compatibility determination, the Department shall deem that the draft plan is compatible with that jurisdiction's acknowledged comprehensive plan. The Department may extend the reply time if requested to do so by an affected city, county or metropolitan planning organization.

(3) If any statewide goal or comprehensive plan conflicts are identified, the Department shall meet with the local government planning representatives to discuss ways to resolve the conflicts. These may include:

- (a) Changing the draft facility plan to eliminate the conflicts;
- (b) Working with the local governments to amend the local comprehensive plans to eliminate the conflicts; or
- (c) Identifying the conflicts in the draft facility plan and including policies that commit the Department to resolving the conflicts prior to the conclusion of the transportation planning program for the affected portions of the transportation facility.

(4) The Department shall evaluate and write draft findings of compatibility with acknowledged comprehensive plans of affected cities and counties, findings of compliance with any statewide planning goals which specifically apply as determined by OAR 660-030-0065(3)(d), and findings of compliance with all provisions of other statewide planning goals that can be clearly defined if the comprehensive plan of an affected city or county contains no conditions specifically applicable or any general provisions, purposes or objectives that would be substantially affected by the facility plan.

(5) The Department shall present to the Aviation Board the draft plan, findings of compatibility with the acknowledged comprehensive plans of affected cities and counties and findings of compliance with applicable statewide planning goals.

(6) The Aviation Board shall adopt findings of compatibility with the acknowledged comprehensive plans of affected cities and counties and findings of compliance with applicable statewide planning goals when it adopts the final facility plan.

(7) The Department shall provide copies of the adopted final facility plan and findings to DLCD, to affected metropolitan planning organizations, cities, counties, state and federal agencies, special districts and to others who request to receive a copy.

Stat. Auth.: ORS 835.035 & 835.112  
Stats. Implemented: ORS 197.180  
Hist.: AVIA 2-2015, f. & cert. ef. 7-28-15

## 738-130-0065

### Coordination Procedures for Adopting Plans for Class 1 and 3 Projects

(1) The Department shall involve affected cities, counties, metropolitan planning organizations, state and federal agencies, special districts and other interested parties in the development of project plans. The Department shall include planning officials of the affected cities, counties and metropolitan planning organization on the project technical advisory committee.

(2) Goal compliance and plan compatibility shall be analyzed in conjunction with the development of the Draft Environmental Impact Statement or Environmental Assessment. The environmental analysis shall identify and address relevant land use requirements in sufficient detail to support subsequent land use decisions necessary to authorize the project.

(3) Except as otherwise set forth in section (4) of this rule, the Department shall rely on affected cities and counties to make all plan amendments and zone changes necessary to achieve compliance with the statewide planning goals and compatibility with local comprehensive plans after completion of the Draft Environmental Impact Statement or Environmental Assessment and before completion of the Final Environmental Impact Statement or Revised Environmental Assessment. These shall include the adoption of general and specific plan provisions necessary to address applicable statewide planning goals.

(4) The Department may complete a Final Environmental Impact Statement or Revised Environmental Assessment before the affected cities and counties make necessary plan amendments and zone changes in the following case:

(a) The Final Environmental Impact Statement or Revised Environmental Assessment identifies that the project be constructed in phases; and

(b) The Department finds:

(A) There is an immediate need to construct one or more phases of the project. Immediate need may include, but is not limited to, the facility to be improved or replaced currently exceeds or is expected to exceed within five years the level of service identified in the Oregon Aviation Plan; and

(B) The project phase to be constructed meets a transportation need independent of the overall project, is consistent with the purpose and need of the overall project as identified in the FEIS, and will benefit the surrounding transportation system even if no further phases of the project are granted land use approval; and

(C) The project does not require an exception to a statewide planning goal pursuant ORS 197.732.

(5) If a Final Environmental Impact Statement or Revised Environmental Assessment is completed pursuant to section (4) of this rule, all necessary plan amendments and zone changes associated with the particular phase of the project to be constructed shall be made by the city or county prior to constructing that phase of the project.

(6) If compatibility with a city or county comprehensive plan cannot be achieved, the Department may modify one or more project alternatives to achieve compatibility or discontinue the project.

(7) The Board or its designee shall adopt findings of compatibility with the acknowledged comprehensive plans of affected cities and counties when it grants design approval for the project. Notice of the decision shall be mailed out to all interested parties.

(8) The Department shall obtain all other land use approvals and planning permits prior to construction of the project.

Stat. Auth.: ORS 835.035 & 835.112  
Stats. Implemented: ORS 197.180  
Hist.: AVIA 2-2015, f. & cert. ef. 7-28-15

## 738-130-0075

### Coordination Procedures for Adopting Plans for Class 2 Projects Determined to Significantly Affect Land Use

The procedures in this section shall be followed when the Department determines that a Class 2 project would significantly affect land use in accordance with OAR 731-130-0035.

(1) Planning officials of affected cities and counties shall be contacted at the start of project planning to identify any possible compliance or compatibility conflicts and ways to avoiding conflicts.

(2) The Department shall attempt to avoid any identified compliance or compatibility conflicts as it develops its plans.

(3) Planning officials of affected cities and counties shall be requested to review preliminary final plans to identify whether any local land use approvals are needed and whether any of the acknowledged comprehensive plan's general provisions would be substantially affected. If no local planning approvals are required and if the plan's general provisions would not

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be substantially affected the Department shall conclude that the project is compatible. If no comments are received from an affected local jurisdiction within 15 days of the Department's request for a compatibility determination, the Department shall deem that the preliminary project plans are compatible with the acknowledged comprehensive plan for that jurisdiction. The Department may extend the reply time if requested to do so by an affected city or county.

(4) If any local planning approvals are required the Department shall either modify its project plans so as to not require approvals, or shall apply for the necessary approvals.

(5) If the affected city or county does not grant approval, the Department may:

- (a) Modify the project plans so as to not require approval;
- (b) Discontinue further work on the project; or
- (c) Appeal the city or county decision.

(6) The Department shall obtain local planning approvals prior to construction of the project.

Stat. Auth.: ORS 835.035 & 835.112  
Stats. Implemented: ORS 197.180  
Hist.: AVIA 2-2015, f. & cert. ef. 7-28-15

## 738-130-0085

### Coordination Procedures for Operations, Maintenance and Modernization Activities

The procedures in this rule shall be followed when the Department determines that an operations, maintenance or modernization activity would significantly affect land use in accordance with OAR 738-130-0035 unless compliance with the statewide planning goals and compatibility with acknowledged comprehensive plans has been established through application of OAR 738-130-0075 or 738-130-0085.

(1) The Department shall consult planning officials of the affected city or county to determine whether any local land use approvals are required to carry out the proposed activity.

(2) If any local planning approvals are required, the Department shall either modify the proposed activity so as to not require approval, or shall apply for the necessary approvals.

(3) If the approvals are not granted the Department may:

- (a) Modify the proposed activity so as to not require permits;
- (b) Not do the proposed activity; or
- (c) Appeal the local decision.

Stat. Auth.: ORS 835.035 & 835.112  
Stats. Implemented: ORS 197.180  
Hist.: AVIA 2-2015, f. & cert. ef. 7-28-15

## 738-130-0095

### Coordination Procedures for the Disposal of Airport Land

(1) The Department shall notify potential buyers of their responsibility to establish compliance and compatibility.

(2) The Department shall obtain a written statement from a planning official of the affected city or county that all land use planning approvals have been obtained or that the planned sale complies with the acknowledged comprehensive plan but no local land use approvals are needed.

Stat. Auth.: ORS 835.035 & 835.112  
Stats. Implemented: ORS 197.180  
Hist.: AVIA 2-2015, f. & cert. ef. 7-28-15

## 738-130-0105

### Permit Program Procedures

(1) The Department shall notify applicants for permits or licenses or renewals of permits or licenses listed in OAR 738-130-0025 of their responsibility to demonstrate compliance and compatibility.

(2) The Department shall not issue a permit unless certification of compatibility is demonstrated by the applicant. The Department may deny, condition or further restrict a permit that is compatible as necessary to carry out applicable Department rules and statutes.

(3) Certification shall be documentation that all local land use planning approvals have been obtained or a written statement by a planning official of the affected city or county that the application complies with the acknowledged comprehensive plan but no local land use approvals are needed.

Stat. Auth.: ORS 835.035 & 835.112  
Stats. Implemented: ORS 197.180  
Hist.: AVIA 2-2015, f. & cert. ef. 7-28-15

## 738-130-0115

### Referral of Compatibility Disputes to the Land Conservation and Development Commission

If a compatibility conflict persists after pursuing the compatibility procedures listed in OAR 738-130-0045 through 738-130-0115, the

Department shall request that the Land Conservation and Development Commission make a compatibility determination in accordance with 660-030-0070(7) through (12).

Stat. Auth.: ORS 835.035 & 835.112  
Stats. Implemented: ORS 197.180  
Hist.: AVIA 2-2015, f. & cert. ef. 7-28-15

## 738-130-0125

### Statewide Goal Compliance and Acknowledged Plan Compatibility for New or Amended Rules and Programs Significantly Affecting Land Use

(1) The Board and Department shall follow the procedures in OAR 660-030-0075 to assure that new or amended rules and programs comply with the requirements of ORS 197.180 and OAR chapter 660, division 30.

(2) The Department shall determine whether new or amended rules and programs affect land use pursuant to OAR 660-030-0005(2) and 738-130-0035.

(3) This section shall not apply to the adoption of temporary rules or programs.

Stat. Auth.: ORS 835.035 & 835.112  
Stats. Implemented: ORS 197.180  
Hist.: AVIA 2-2015, f. & cert. ef. 7-28-15

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

**Rule Caption:** Prior Authorization Approval Criteria Guide

**Adm. Order No.:** DMAP 41-2015(Temp)

**Filed with Sec. of State:** 8-7-2015

**Certified to be Effective:** 8-7-15 thru 2-2-16

**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:

The Authority is amending this rule to update the Oregon Medicaid Fee for Service Prior Authorization Criteria Guide found at <http://www.oregon.gov/oha/healthplan/Pages/pharmacy-policy.aspx> and based on the P&T (Pharmacy and Therapeutic) Committee recommendations.

**Rules Coordinator:** Sandy Cafourek—(503) 945-6430

## 410-121-0040

### Prior Authorization Required for Drugs and Products

(1) Prescribing practitioners shall obtain prior authorization (PA) for the drugs and categories of drugs requiring PA in this rule, using the procedures set forth 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 shall meet the following requirements for coverage:

(a) Each drug shall be prescribed for conditions funded by the Oregon Health Plan (OHP) in a manner consistent with the Health Evidence Review Commission (HERC) Prioritized List of Health Services (OAR 410-141-0480 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 allowed. The use of the medication shall meet corresponding treatment guidelines and 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 Authority may require PA for individual drugs and categories of drugs to ensure that the drugs prescribed are indicated for conditions funded by OHP and consistent with the Prioritized List of Health Services and its corresponding treatment guidelines (see OAR 410-141-0480). The drugs and categories of drugs that the Authority requires PA for this purpose are found in the Oregon Medicaid Fee-for-Service Prior Authorization Approval Criteria (PA Criteria guide) dated July 1, 2015, adopted and incorporated by reference and found at: <http://www.oregon.gov/OHA/healthplan/pages/pharmacy-policy.aspx>.

(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 rec-

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ommended by the Pharmacy & Therapeutics Committee (P&T) and adopted by the Authority in this rule. 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 shall be obtained for brand name drugs that have two or more generically equivalent products available and that are not determined Narrow Therapeutic Index drugs by the DUR/P&T Committee:

(a) Immunosuppressant drugs used in connection with an organ transplant shall 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 shall notify the Authority of patent expiration within 30 days of patent expiration for section (5)(a) to apply;

(c) Criteria for approval are:

(A) If criteria established in section (3) or (4) of this rule applies, follow that criteria;

(B) If section (6)(A) does not apply, the prescribing practitioner shall 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 shall be obtained 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 413.032, 413.042, 414.065, 414.330 - 414.414, 414.312, 414.316

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

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; DMAP 27-2014(Temp), f. & cert. ef. 5-2-14 thru 6-30-14; DMAP 38-

2014, f. & cert. ef. 6-30-14; DMAP 46-2014(Temp), f. & cert. ef. 7-15-14 thru 1-11-15;

DMAP 49-2014(Temp), f. & cert. ef. 8-13-14 thru 1-11-15; DMAP 62-2014(Temp), f. 10-13-

14, cert. ef. 10-14-14 thru 1-11-15; DMAP 75-2014, f. & cert. ef. 12-12-14; DMAP 76-

2014(Temp), f. & cert. ef. 12-12-14 thru 6-7-15; DMAP 89-2014(Temp), f. 12-31-14, cert.

ef. 1-1-15 thru 6-26-15; DMAP 4-2015(Temp), f. & cert. ef. 2-3-15 thru 6-26-15; DMAP 25-

2015(Temp), f. 4-17-15, cert. ef. 4-18-15 thru 6-26-15; DMAP 34-2015, f. 6-25-15, cert.

ef. 6-26-15; DMAP 36-2015(Temp), f. 6-26-15, cert. ef. 7-1-15 thru 12-27-15; DMAP 41-

2015(Temp), f. & cert. ef. 8-7-15 thru 2-2-16

**Rule Caption:** Updating Rate Table Incorporated by Reference and Web Address

**Adm. Order No.:** DMAP 42-2015(Temp)

**Filed with Sec. of State:** 8-11-2015

**Certified to be Effective:** 8-11-15 thru 2-6-16

**Notice Publication Date:**

**Rules Amended:** 410-170-0110

**Subject:** The Authority needs to amend the date of the rate table referenced in 410-170-0110 as the rates have changed. Also, the web address that links to the updated rate table needs to be updated in the rule.

**Rules Coordinator:** Sandy Cafourek—(503) 945-6430

## 410-170-0110

### Billing and Payment for Services and Placement Related Activities

(1) The BRS contractor is compensated for a billable care day (service and placement related activities rates) on a fee-for-service basis, except as otherwise provided for in these rules. The Authority does not make payments for any calendar day that does not meet the definition of a billable care day under this rule.

(2) Billable care day rates are provided in the "BRS Rates Table," dated July 1, 2015, which is adopted as Exhibit 1 and incorporated by reference into this rule. The BRS Rates Table is available at <http://www.oregon.gov/OHA/healthplan/pages/brs.aspx>. A printed copy may be obtained from the agency.

(3) Billable Care Day:

(a) For purposes of computing a billable care day, the BRS client must be in the direct care of the BRS provider at 11:59 p.m. of that day or be on an authorized home visit in accordance with section (4) of this rule;

(b) A billable care day does not include any day where the BRS client is on runaway status, in detention, an inpatient in a hospital, or has not yet entered or has been discharged from the BRS contractor's or BRS provider's program.

(4) Home Visits:

(a) The BRS contractor shall only include a maximum of eight calendar days of home visits in a month as billable care days;

(b) In order to qualify as an authorized home visit day, the BRS contractor must:

(A) Ensure that the home visit is tied to the BRS client's ISP or MSP;

(B) Work with the BRS client and the BRS client's family or substitute family on goals for the home visit and receive regular reports from the family on the BRS client's progress while on the home visit;

(C) Have staff available to answer calls from the BRS client and BRS client's family or substitute family and to provide services to the BRS client during the time planned for the home visit if the need arises;

(D) Document communications with the BRS client's family or substitute family; and

(E) Document the BRS client's progress on goals set for the home visits.

(5) Invoice form:

(a) The BRS contractor must submit a monthly billing form to the agency in a format acceptable to the agency on or after the first day of the month following the month in which it provided services and placement related activities to the BRS client. The billing form must specify the number of billable care days provided to each BRS client in that month;

(b) The BRS contractor must provide, upon request in a format that meets the agency's approval, written documentation of each BRS client's location for each day claimed as a billable care day;

(c) The BRS contractor may only submit a claim for a billable care day consistent with the agency's prior authorization.

(6) Payment for a Billable Care Day:

(a) The agency shall pay the service and placement related activities rates to the BRS contractor for each billable care day in accordance with the BRS Rates Table described in section (2) of this rule;

(b) Notwithstanding section (6)(a) of this rule, the Authority shall only pay the service rate for each billable care day to a public child-caring agency, who by rule or contract provides the local match share for Medicaid claims under OAR 410-120-0035 and 42 CFR 433 Subpart B. The Authority may not pay the placement related activities rate for each billable care day to these types of public child-caring agencies;

(c) To the extent the payment for services is funded by Medicaid and CHIP funds, the BRS contractor and the BRS provider are subject to Medicaid billing and payment requirements in these rules and the Authority's general rules (OAR 410-120-0000 to 410-120-1980).

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(7) Third Party Resources:

(a) The Authority's BRS contractors must make reasonable efforts to obtain payment first from other resources consistent with OAR 410-120-1280(16);

(b) The Department's and OYA's BRS contractors are not required to review or pursue third party resources. The Department and OYA must make reasonable efforts to obtain payment first from other resources consistent with OAR 410-120-1280(16) for Medicaid-eligible BRS clients.

(8) Public child-caring agencies who are responsible by rule or contract for the local match share portion of eligible Medicaid claims must comply with OAR 410-120-0035 and 42 CFR 433 Subpart B.

(9) In cases where the BRS contractor is not also the BRS provider, the BRS contractor is responsible for compensating the BRS provider for billable care days pursuant to the agency-approved subcontract between the BRS contractor and the BRS provider.

(10) The Authority may not be financially responsible for the payment of any claim that the Centers for Medicare and Medicaid Services (CMS) disallows under the Medicaid or CHIP program. If the Authority has previously paid the agency or BRS contractor for any claim that CMS disallows, the payment shall be recouped pursuant to OAR 410-120-1397. The Authority shall recoup or recover any other overpayments as described in OAR 410-120-1397 and OAR 943-120-0350 and 943-120-0360.

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: DMAP 63-2013, f. 11-14-13, cert. ef. 1-1-14; DMAP 42-2015(Temp), f. & cert. ef. 8-11-15 thru 2-6-16

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**Rule Caption:** Direction, Definition, Implementation, and Reporting of Other Non-Medical Services Provided by CCOs

**Adm. Order No.:** DMAP 43-2015(Temp)

**Filed with Sec. of State:** 8-13-2015

**Certified to be Effective:** 8-13-15 thru 2-8-16

**Notice Publication Date:**

**Rules Adopted:** 410-141-3150

**Subject:** The Division created this temporary rule to provide immediate direction and clarification as to the definitions, implementation, and reporting of other non-medical services as provided by the Coordinated Care Organizations within the Oregon Health Plan. These are non-state plan, health-related services provided in lieu of traditional benefits and are intended to improve care delivery and member health and lower costs.

**Rules Coordinator:** Sandy Cafourek—(503) 945-6430

## 410-141-3150

### Other Non-Medical Services

(1) For purposes of this rule: "Other Non-Medical Services" means non-state plan, health related services, also referred to as "flexible services." These services are provided in lieu of traditional benefits and are intended to improve care delivery and member health and lower costs. Services may effectively treat or prevent physical or behavioral healthcare conditions. Services are consistent with the member's treatment plan as developed by the member's primary care team and documented in the member's medical record.

(2) In the conventional manner using CPT or HCPCS codes, Other Non-Medical Services cannot be reported for utilization purposes. CCOs report qualified Other Non-Medical Services to the Authority in the financial report category "health related services" referenced in the CCO contract and accounted for in the CCO's medical or member services' expenses. These expenditures are not counted as administrative costs when determining medical loss ratio. Other Non-Medical Services may include, but are not limited to:

(a) Training and education for health improvement or management, e.g., classes on healthy meal preparation, diabetes self-management curriculum;

(b) Self-help or support group activities, e.g., post-partum depression programs, Weight Watchers groups;

(c) Care coordination, navigation, or case management activities not covered under state plan benefits, e.g., high utilizer intervention program;

(d) Home and living environment items or improvements such as non-DME items to improve mobility, access, hygiene, or other improvements to address a particular health condition, e.g., air conditioner, athletic shoes, or other special clothing;

(e) Transportation not covered under state plan benefits, e.g., other than transportation to a medical appointment;

(f) Programs to improve the general community health, e.g., farmers' market in the "food desert;"

(g) Housing supports related to social determinates of health, e.g., shelter, utilities, or critical repairs; and

(h) Assistance with food or social resources, e.g., supplemental food, referral to job training or social services.

(3) The contractor shall establish and maintain written policies and procedures for authorizing Other Non-Medical Services. In compliance with the contractor's policy, CCO-covered services may be substituted with or expanded to include Other Non-Medical Services. These services shall be coordinated by the contractor and may be in collaboration with the PCPCH or other participating PCPs. The contractor, the member, and, as appropriate, the family of the member are to agree that such services are an effective alternative for the member. These policies and procedures shall be submitted to the Authority for review and approval.

Stat. Auth.: ORS 413.042

Stats Implemented: ORS 413.042

Hist.: DMAP 43-2015(Temp), f. & cert. ef. 8-13-15 thru 2-6-16

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## Oregon Health Authority, Public Health Division Chapter 333

**Rule Caption:** Hospital Satellites: Emergency Departments, Inpatient Psychiatric Services and Emergency Psychiatric Services  
**Adm. Order No.:** PH 11-2015

**Filed with Sec. of State:** 8-13-2015

**Certified to be Effective:** 8-13-15

**Notice Publication Date:** 7-1-2015

**Rules Adopted:** 333-500-0027

**Rules Amended:** 333-500-0010, 333-500-0025

**Rules Repealed:** 333-500-0010(T), 333-500-0025(T), 333-500-0027(T)

**Subject:** The Oregon Health Authority, Public Health Division is permanently adopting and amending administrative rules in chapter 333, division 500 pertaining to hospital satellites (emergency departments, inpatient psychiatric services and emergency psychiatric services).

This action is in response to temporary rules filed on February 20, 2015 in order to clarify the Authority's intent that inpatient psychiatric services and emergency psychiatric services would need to comply with federal Emergency Medical Treatment and Labor Act (EMTALA) regulations, all hospital licensing administrative rules, and that emergency psychiatric services must be offered in an emergency department. The permanent rule change also clarifies that a hospital proposing to offer such services must provide evidence that the facility is not subject to Certificate of Need requirements in ORS 442.315.

This action is also in response to temporary rules filed on March 24, 2015 pertaining to hospital satellite emergency departments. Permanent rules will permit a hospital to have a satellite hospital emergency medical services department, within 35 miles of the parent hospital, under the hospital's license, as long as certain criteria is met.

**Rules Coordinator:** Brittany Sande—(971) 673-1291

## 333-500-0010

### Definitions

As used in OAR chapter 333, divisions 500 through 535, unless the context requires otherwise, the following definitions apply:

(1) "Assessment" means a complete nursing assessment, including:

(a) The systematic and ongoing collection of information to determine an individual's health status and need for intervention;

(b) A comparison with past information; and

(c) Judgment, evaluation, or a conclusion that occurs as a result of subsections (a) and (b) of this definition.

(2) "Authentication" means verification that an entry in the patient medical record is genuine.

(3) "Authority" means the Oregon Health Authority.

(4) "Certified Nursing Assistant" (CNA) means a person who is certified by the Oregon State Board of Nursing (OSBN) to assist licensed nursing personnel in the provision of nursing care.

(5) "Chiropractor" means a person licensed under ORS chapter 684 to practice chiropractic.

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(6) "Conditions of Participation" mean the applicable federal regulations that hospitals are required to comply with in order to participate in the federal Medicare and Medicaid programs.

(7) "Deemed" means a health care facility that has been inspected by an approved accrediting organization and has been approved by the Centers for Medicare and Medicaid Services (CMS) as meeting CMS Conditions of Participation.

(8) "Discharge" means the release of a person who was an inpatient of a hospital and includes:

(a) The release and transfer of a newborn to another facility, but not a transfer between acute care departments of the same facility;

(b) The release of a person from an acute care section of a hospital for admission to a long-term care section of a facility;

(c) Release from a long-term care section of a facility for admission to an acute care section of a facility;

(d) A patient who has died; and

(e) An inpatient who leaves a hospital for purposes of utilizing non-hospital owned or operated diagnostic or treatment equipment, if the person does not return as an inpatient of the same health care facility within a 24-hour period.

(9) "Direct ownership" has the meaning given the term 'ownership interest' in 42 CFR 420.201.

(10) "Division" means the Public Health Division within the Authority.

(11) "Emergency Medical Services" means medical services that are usually and customarily available at the respective hospital in an emergency department and that must be provided immediately to sustain a person's life, to prevent serious permanent disfigurement or loss or impairment of the function of a bodily member or organ, or to provide care to a woman in labor where delivery is imminent if the hospital is so equipped and, if the hospital is not equipped, to provide necessary treatment to allow the woman to travel to a more appropriate facility without undue risk of serious harm.

(12) "Emergency Psychiatric Services" means mental health services that are usually and customarily available in an emergency department at the respective hospital and that must be provided immediately to prevent harm to the patient or others including but not limited to triage and assessment; observation and supervision; crisis stabilization; crisis intervention; and crisis counseling.

(13) "Financial interest" means a five percent or greater direct or indirect ownership interest.

(14) "Full compliance survey" means a survey conducted by the Division following a complaint investigation to determine a hospital's compliance with the CMS Conditions of Participation.

(15) "Governing body" means the body or person legally responsible for the direction and control of the operation of the hospital.

(16) "Governmental unit" has the meaning given that term in ORS 442.015.

(17) "Health care facility" (HCF) has the meaning given the term in ORS 442.015.

(18) "Health Care Facility Licensing Laws" means ORS 441.005 through 441.990 and its implementing rules.

(19) "Hospital" has the meaning given that term in ORS 442.015.

(20) "Indirect ownership" has the meaning given the term 'indirect ownership interest' in 42 CFR 420.201.

(21) "Licensed" means that the person to whom the term is applied is currently licensed, certified or registered by the proper authority to follow his or her profession or vocation within the State of Oregon, and when applied to a hospital means that the facility is currently licensed by the Authority.

(22) "Licensed nurse" means a nurse licensed under ORS chapter 678 to practice registered or practical nursing.

(23) "Licensed Practical Nurse" means a nurse licensed under ORS chapter 678 to practice practical nursing.

(24) "Major alteration" means any structural change to the foundation, roof, floor, or exterior or load bearing walls of a building, or the extension of an existing building to increase its floor area. Major alteration also means the extensive alteration of an existing building such as to change its function and purpose, even if the alteration does not include any structural change to the building.

(25) "Manager" means a person who:

(a) Has authority to direct and control the work performance of nursing staff;

(b) Has authority to take corrective action regarding a violation of law or a rule or a violation of professional standards of practice, about which a nursing staff has complained; or

(c) Has been designated by a hospital to receive the notice described in ORS 441.174(2).

(26) "Minor alteration" means cosmetic upgrades to the interior or exterior of an existing building, such as but not limited to wall finishes, floor coverings and casework.

(27) "Mobile Satellite" means a MRI, CAT Scan, Lithotripsy Unit, Cath Lab, or other such modular outpatient treatment or diagnostic unit that is capable of being moved, is housed in a vehicle with a vehicle identification number (VIN), and does not remain on a hospital campus for more than 180 days in any calendar year.

(28) "NFPA" means National Fire Protection Association.

(29) "Nurse Midwife/Nurse Practitioner" means a registered nurse certified by the OSBN as a nurse midwife/nurse practitioner.

(30) "Nurse Practitioner" has the meaning given that term in ORS 678.010.

(31) "Nursing staff" means a registered nurse, a licensed practical nurse, or other assistive nursing personnel.

(32) "OB Unit" means a dedicated obstetrical unit that meets the requirements of OAR 333-535-0120.

(33) "On-call" means a scheduled state of availability to return to duty, work-ready, within a specified period of time.

(34) "Oregon Sanitary Code" means the Food Sanitation Rules in OAR 333-150-0000.

(35) "Patient audit" means review of the medical record or physical inspection or interview of a patient.

(36) "Person" has the meaning given that term in ORS 442.015.

(37) "Physician" means a person licensed as a doctor of medicine or osteopathy under ORS chapter 677.

(38) "Physician Assistant" has the meaning given that term in ORS 677.495.

(39) "Plan of correction" means a document executed by a hospital in response to a statement of deficiency issued by the Division that describes with specificity how and when deficiencies of health care licensing laws or conditions of participation shall be corrected.

(40) "Podiatrist" has the same meaning as "podiatric physician and surgeon" in ORS 677.010.

(41) "Podiatry" means the diagnosis or the medical, physical or surgical treatment of ailments of the human foot, except treatment involving the use of a general or spinal anesthetic unless the treatment is performed in a licensed hospital or in a licensed ambulatory surgical center and is under the supervision of or in collaboration with a physician. "Podiatry" does not include the administration of general or spinal anesthetics or the amputation of the foot.

(42) "Public body" has the meaning given that term in ORS 30.260.

(43) "Registered Nurse" means a person licensed under ORS chapter 678 to practice registered nursing.

(44) "Respite care" means care provided in a temporary, supervised living arrangement for individuals who need a protected environment, but who do not require acute nursing care or acute medical supervision.

(45) "Retaliatory action" means the discharge, suspension, demotion, harassment, denial of employment or promotion, or layoff of a nursing staff person directly employed by the hospital, or other adverse action taken against a nursing staff person directly employed by the hospital in the terms or conditions of employment of the nursing staff person, as a result of filing a complaint.

(46) "Satellite" means a building or part of a building owned or leased by a hospital, and operated by a hospital in a geographically separate location from the hospital, with a separate physical address from the hospital but that is within 35 miles from the hospital, through which the hospital provides:

(a) Outpatient diagnostic, therapeutic, or rehabilitative services;

(b) Psychiatric services in accordance with OAR 333-525-0000 including:

(A) Inpatient psychiatric services; and

(B) Emergency psychiatric services through an emergency department in accordance with OAR 333-520-0070; or

(c) Emergency medical services in accordance with OAR 333-500-0027.

(47) "Special Inpatient Care Facility" means a facility with inpatient beds and any other facility designed and utilized for special health care purposes that may include but is not limited to a rehabilitation center, a facility for the treatment of alcoholism or drug abuse, a freestanding hospice facility, or an inpatient facility meeting the requirements of ORS 441.065, and any other establishment falling within a classification established by

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the Division, after determination of the need for such classification and the level and kind of health care appropriate for such classification.

(48) "Stable newborn" means a newborn who is four or more hours post-delivery and who is free from abnormal vital signs, color, activity, muscle tone, neurological status, weight, and maternal-child interaction.

(49) "Stable postpartum patient" means a postpartum mother who is four hours or more postpartum and who is free from any abnormal fluctuations in vital signs, has vaginal flow within normal limits, and who can ambulate, be independent in self-care, and provide care to her newborn infant, if one is present.

(50) "Statement of deficiencies" means a document issued by the Division that describes a hospital's deficiencies in complying with health care facility licensing laws or conditions of participation.

(51) "Survey" means an inspection of a hospital to determine the extent to which a hospital is in compliance with health facility licensing laws and conditions of participation

Stat. Auth.: ORS 441.025

Stats. Implemented: ORS 441.025

Hist.: HB 183, f. & ef. 5-26-66; HB 209, f. 12-18-68; HD 11, f. 3-16-72, ef. 4-1-72; HD 11-1980, f. & ef. 9-10-80, HD 8-1985, f. & ef. 5-17-85; Renumbered from 333-023-0114; HD 13-1987, f. 9-1-87, ef. 9-15-87; HD 23-1987(Temp), f. 11-27-87, ef. 10-15-87 through 4-15-88; HD 10-1988, f. & cert. ef. 5-27-88; HD 29-1988, f. 12-29-88, cert. ef. 1-1-89, Renumbered from 333-070-0000; HD 21-1993, f. & cert. ef. 10-28-93; HD 30-1994, f. & cert. ef. 12-13-94; OHD 2-2000, f. & cert. ef. 2-15-00; OHD 20-2002, f. & cert. ef. 12-10-02; PH 11-2009, f. & cert. ef. 10-1-09; PH 26-2010, f. 12-14-10, cert. ef. 12-15-10; PH 17-2012, f. 12-20-12, cert. ef. 1-1-13; PH 5-2015, f. & cert. ef. 2-6-15; PH 6-2015(Temp), f. & cert. ef. 2-20-15 thru 8-18-15; PH 7-2015(Temp), f. & cert. ef. 3-24-15 thru 9-19-15; PH 11-2015, f. & cert. ef. 8-13-15

## 333-500-0025

### Indorsement of Satellite Operations

(1) The Division may indorse, under a hospital's license, a satellite or mobile satellite of a hospital.

(2) In order for a satellite to be indorsed under a hospital's license, the applicant or licensee shall pay the appropriate fee and provide evidence to the Division that:

(a) The satellite meets the requirements in OAR chapter 333, divisions 500 through 535;

(b) The services at the satellite are integrated with the hospital;

(c) The financial operations of the satellite are integrated with the hospital;

(d) The hospital and the satellite have the same governing body;

(e) The satellite is under the ownership and control of the hospital;

(f) Staff at the satellite have privileges at the hospital;

(g) Medical records of the satellite are integrated with the hospital into a unified system;

(h) The facility is not subject to certificate of need requirements in ORS 442.315 to 442.361; and

(i) If the satellite is intended to provide emergency medical services, the satellite can comply with OAR 333-500-0027.

(3) A hospital applying for an emergency medical services satellite indorsement must also submit for its emergency department, the information described in OAR 333-500-0027(1)(e), for the previous six months.

(4) A satellite shall be subject to a plans review and must pass life safety code requirements.

(5) In order for a mobile satellite to be indorsed under a hospital's license, the applicant or licensee shall pay the appropriate fee and provide evidence to the Division that:

(a) The mobile satellite is operated in whole or in part by the hospital through lease, ownership or other arrangement;

(b) The services at the mobile satellite are integrated with the hospital;

(c) The financial operations of the mobile satellite are integrated with the hospital;

(d) The mobile satellite is physically separate from the hospital and other buildings on the hospital campus by at least 20 feet; and

(e) It meets the 2000 NFPA 101 Life Safety Code for mobile units.

(6) A mobile satellite shall keep and provide to the Division and the Fire Marshal upon request, a log that shows where the mobile satellite is located every day of the year, and its use. A copy of the log shall be kept in the mobile satellite at all times.

(7) A hospital that has a satellite that provides inpatient services that is indorsed under its license as of October 1, 2009, may continue to have that satellite indorsed under its license. On or after October 1, 2009, a satellite must meet the definition of satellite in OAR 333-500-0010(46) and comply with all other rules related to satellites in order to have a satellite indorsed under a hospital license.

(8) Nothing in these rules is meant to:

(a) Prevent a satellite as defined in OAR 333-500-0010(46) from providing outpatient medical services; or

(b) Permit the indorsement of satellite under a hospital license as a means to circumvent the certificate of need laws in ORS chapter 442 and OAR chapter 333, divisions 545 through 670.

(9) The Division may revoke the indorsement of a satellite at any time if it determines a hospital or its satellite:

(a) Is not complying with this rule or OAR 333-500-0027, as applicable; or

(b) Is unable to ensure the safety of patients at the satellite.

Stat. Auth.: ORS 441.025

Stats. Implemented: ORS 441.020

Hist.: PH 11-2009, f. & cert. ef. 10-1-09; PH 26-2010, f. 12-14-10, cert. ef. 12-15-10; PH 5-2015, f. & cert. ef. 2-6-15; PH 6-2015(Temp), f. & cert. ef. 2-20-15 thru 8-18-15; PH 7-2015(Temp), f. & cert. ef. 3-24-15 thru 9-19-15; PH 11-2015, f. & cert. ef. 8-13-15

## 333-500-0027

### Emergency Medical Services Satellites

(1) A facility indorsed as a satellite under a hospital license for the provision of emergency medical services must, in addition to any requirements in OAR 333-500-0025:

(a) Operate 24 hours a day, seven days a week, 365 days a year;

(b) Comply with the hospital emergency department rule in OAR 333-520-0070;

(c) Develop written emergency department policies and procedures for all emergency medical services satellite operations including but not limited to:

(A) The type and scope of emergency medical services provided at the satellite;

(B) Integration of satellite operations with parent hospital surgical, laboratory, radiology, pharmacy, nutrition, and other departments to ensure timely provision of services;

(C) For a patient who cannot be provided the type and level of care needed to complete treatment of the patient's injury or condition within 24 hours of arrival at the satellite:

(i) Transport of the patient to the parent hospital for continuing care using appropriate transportation and personnel; or

(ii) Transfer to another receiving hospital with capability and capacity.

(d) Coordinate with:

(A) Any 9-1-1 jurisdiction within the 9-1-1 service area as those terms are defined in ORS 403.105 to ensure, to the greatest extent possible, that only patients who can receive an appropriate level of care at the satellite are transported to the satellite to limit the need for multiple emergency transports; and

(B) Ambulance services within the ambulance service area as those terms are defined in OAR 333-250-0010 to ensure, to the greatest extent possible, that only patients who can receive an appropriate level of care at the satellite are transported to the satellite to limit the need for multiple emergency transports; and

(e) On a quarterly basis, report to the Division, for each patient evaluated or treated at the satellite, a basic emergency medical services data set including but not limited to:

(A) Unique patient ID;

(B) Gender;

(C) Ethnicity;

(D) Race;

(E) Year of birth;

(F) Date and time of patient presentation to satellite;

(G) Chief complaint;

(H) Diagnosis;

(I) Discharge disposition;

(J) Date and time of patient discharge;

(K) Transport mode to and from the facility, including ambulance service provider, if applicable; and

(L) Facility transferred to, if applicable.

(2) A facility indorsed as a satellite under a hospital license for the provision of emergency medical services may not:

(a) Be located:

(A) In a county with three or more hospitals with an emergency department; or

(B) In a city with a hospital with an emergency department.

(b) Receive a trauma center categorization by the Division;

(c) Keep a patient for more than 24 hours; or

(d) Provide inpatient care.

Stat. Auth.: ORS 441.025

Stats. Implemented: ORS 441.020

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Hist.: PH 7-2015(Temp), f. & cert. ef. 3-24-15 thru 9-19-15; PH 11-2015, f. & cert. ef. 8-13-15

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**Oregon Liquor Control Commission**  
**Chapter 845**

**Rule Caption:** Eliminates the 31 day special license limit to allow more business opportunities.

**Adm. Order No.:** OLCC 1-2015

**Filed with Sec. of State:** 8-4-2015

**Certified to be Effective:** 9-1-2015

**Notice Publication Date:** 5-1-2015

**Rules Amended:** 845-005-0410, 845-005-0414, 845-005-0415, 845-005-0440

**Subject:** OAR 845-005-0410, 005-0414, 005-0415, and 005-0440 limit the number of days a Special License may be obtained. Currently, these rules limit a person from obtaining a special event license to sell alcohol at the same address to only 31 license days in a calendar year. Eliminating the 31 days limit will allow more business opportunities.

There are three primary measures already in place that give the Commission the ability to control these licenses: (1) The applicant must still obtain the local government's (city or county) approval of each application. (2) The Commission won't approve the application until there is a control plan approved by the Commission. (3) There is a limit on the number of licensed days per application (the limit is 5 days or 7 days, depending on the type of application). This limit allows the Commission to monitor an event, and if necessary, require an enhanced control plan for future events.

**Rules Coordinator:** Bryant Haley—(503) 872-5136

## 845-005-0410

### Full or Limited On-Premises Licensee Large-Scale Private Catered Events and Temporary Use of an Annual License for Events at Another Location

(1) A person must obtain from the Commission a license or authority to sell alcoholic beverages on premises that the Commission has not licensed. ORS 471.405 establishes a prohibition on the sale of alcoholic beverages without a license or authority. ORS 471.406 defines sale of alcoholic beverages.

(2) Definitions. For this rule:

(a) "Bar" means a counter at which the preparation, pouring, serving, sale, or consumption of alcoholic beverages is the primary activity;

(b) "Food counter" means a counter in an area in which minors are allowed and at which the primary activity at all times is the preparation, serving, sale, or consumption of food;

(c) "License day" means from 7:00 am until 2:30 am on the succeeding calendar day, or any part of a license day.

(d) "Serious violation history" means:

(A) Two or more category III or IIIa administrative violations of any type, or category IV violations involving minors. However, if the circumstances of a violation include aggravation, one violation may be sufficient; or

(B) One category I, II, or IIa administrative violation; or

(C) Two or more crimes or offenses involving liquor laws.

(e) "Social game" means a game other than a lottery, if authorized by a local county or city ordinance pursuant to ORS 167.121, between players in a private business, private club, or place of public accommodation where no house player, house bank, or house odds exist and there is no house income from the operation of the social game.

(f) "Video lottery game" means a video lottery game terminal authorized by the Oregon State Lottery. Examples include but are not limited to video poker and video slots. Keno monitors are not considered a video lottery game.

(3) ORS 471.184(2) allows the holder of a Full On-Premises Sales or Limited On-Premises Sales license to serve the alcoholic beverages permitted by the license for on-premises consumption at locations other than the licensee's annually licensed premises at large-scale catered events or temporary use of an annual license events after having obtained prior written Commission approval. This rule refers to these types of events as either large-scale private catered events or temporary use of an annual license events.

(4) For purposes of this rule, large-scale private catered events are events, such as weddings, receptions, conferences, company picnics and parties, and company sponsored events, that:

(a) Are not open to the general public. However, a large-scale private event may be open to the general public if the purpose of the event is fund raising for a charitable or nonprofit organization that is registered as such with Oregon's Secretary of State;

(b) Are catered for 101 or more guests or participants;

(c) Have a contract between the client and the licensee to provide alcohol and food service for a specific number of guests or participants;

(d) Have alcoholic beverage service as secondary to and in conjunction with food service at the event;

(e) Have the licensee not as the client; and

(f) Have the provision of alcohol at the catered event be not more than one license day's duration unless the event is a closed conference or seminar.

(5) An event that doesn't qualify as a large-scale private catered event under this rule may be approved as a temporary use of an annual license event under this rule.

(6) For purposes of this rule, temporary use of an annual license events are events at which the licensee:

(a) Does not have, or is not eligible for, pre-approval to provide the service of small-scale private catering as per OAR 845-005-0405; and

(b) Does not have, or is not eligible for, pre-approval to provide the service of large-scale private catering as per this rule.

(7) Application. Applicants for events under this rule must apply in writing using the application form provided by the Commission. The Commission may require additional forms, documents, or information as part of the application. The Commission may refuse to process any application not complete, not accompanied by the documents or disclosures required by the form or the Commission, or that does not allow the Commission sufficient time to investigate it. Sufficient time is typically one to three weeks prior to beginning the service of large-scale private catering or prior to the date of the temporary use event. The Commission may give applicants the opportunity to be heard if the Commission refuses to process an application. A hearing under this subsection is not subject to the requirements for contested case proceeding under ORS 183.310 to 183.550.

(8) The Commission may grant pre-approval to provide the service of large-scale private catering for events that meet the requirements of section (4) of this rule. The licensee's application for pre-approval for future large-scale private catered events shall be made in writing and include:

(a) A written, dated, and signed plan the Commission determines adequately manages:

(A) All events to prevent problems and violations;

(B) Patronage by minors as set out in subsection (10) of this rule; and

(C) Alcohol consumption by adults.

NOTE: An application is not complete if this plan is not approved by the Commission. The Commission may use subsection (7) of this rule to refuse to process any application that is not complete;

(b) A brief description of the types of events to be catered;

(c) Identification of the counties and incorporated cities where the licensee will usually cater events authorized under this section; and

(d) Menu or sample menu showing type of food service proposed to comply with OAR 845-006-0462.

(9) The Commission does not grant pre-approval for the temporary use of an annual license for events at another location. The licensee may apply for approval of each temporary use of an annual license event as provided in this section. The licensee's application for the temporary use of an annual license at another location must be in writing and must be on a separate application form for each event. The Commission will not approve more than seven license days on a single application. The Commission may limit approval of any application to a single license day or to any number of license days fewer than seven days. The application must include:

(a) A written, dated, and signed plan the Commission determines adequately manages:

(A) All events to prevent problems and violations;

(B) Patronage by minors as set out in subsection (10) of this rule; and

(C) Alcohol consumption by adults.

NOTE: An application is not complete if this plan is not approved by the Commission. The Commission may use subsection (7) of this rule to refuse to process any application that is not complete;

(b) Identification of all individuals to be employed by the licensee to manage the premises proposed for license authority;

(c) Identification of the premises proposed to be licensed;

(d) Statement of the type of event to be licensed, type and extent of entertainment to be offered, expected patronage overall and by minors, and proposed hours of operation;

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(e) A written proposal showing compliance with the food service standards of OAR 845-006-0462;

(f) The recommendation of the local governing body where the licensed premises will be located; and

(g) Processing fee established by Commission rule.

(10) A plan for managing patronage by minors under subsections (8)(a) and (9)(a) of this rule must meet the following requirements:

(a) If the large-scale catered event premises or temporary use of an annual licensed premises will be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will follow the minor posting and control plan, including any temporary relaxation of the minor posting, assigned to that premises, room, or area under the annual license. The Commission must also be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises prohibited to minors.

(b) If the catered or temporary use of an annual licensed premises will not be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises the Commission prohibits to minors.

(11) Minors are prohibited from the large-scale catered event premises or temporary use of an annual licensed premises or portions of the licensed premises as follows:

(a) Minors may not sit or stand at a bar; however, minors may sit or stand at a food counter;

(b) Minors may not be in an area where there are video lottery games, social games, or nude entertainment or where such activities are visible;

(c) Minors may not be in an area where the licensee's approved written plan designates that minors will be excluded.

(12) The Commission may deny, cancel or restrict temporary off-premises license use for large-scale private catering or temporary use of an annual license for any reason for which the Commission may deny, cancel or restrict a regular license.

(13) The Commission may deny or restrict temporary off-premises license use for large-scale private catering or temporary use of an annual license events if the applicant has a serious violation history within the past 36 months.

(14) When the Commission approves a written plan under subsections (8)(a) or (9)(a) of this rule, the licensee must follow that written plan. Failure to follow that written plan is a Category III violation.

(15) If the licensee fails to prevent minors from gaining access to alcoholic beverages or fails to prevent minors from gaining access to any portion of the large-scale private catering or temporary use licensed premises prohibited to minors, the Commission may immediately prohibit minors from the licensed premises or portion(s) of the premises.

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

Stats. Implemented: ORS 471.184(2)

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 1-2009, f. 3-17-09, cert. ef. 4-1-09; OLCC 1-2015, f. 8-4-15, cert. ef. 9-1-15

## 845-005-0414

### Special Events Brewery-Public House License

ORS 471.200 authorizes the Commission to issue a Special Events Brewery-Public House (SEBPH) license to a Brewery-Public House licensee. This rule sets the qualifications and requirements for a Special Events Brewery-Public House license.

(1) Definitions. For this rule:

(a) "Bar" means a counter at which the preparation, pouring, serving, sale, or consumption of alcoholic beverages is the primary activity;

(b) "Food counter" means a counter in an area in which minors are allowed and at which the primary activity at all times is the preparation, serving, sale, or consumption of food;

(c) "License day" means from 7:00 am until 2:30 am on the succeeding calendar day. The license fee is \$10.00 per license day or any part of a license day.

(d) "Serious violation history" means:

(A) Two or more category III or IIIa administrative violations of any type, or category IV violations involving minors. However, if the circumstances of a violation include aggravation, one violation may be sufficient; or

(B) One category I, II, or IIa administrative violation; or

(C) Two or more crimes or offenses involving liquor laws.

(e) "Social game" means a game other than a lottery, if authorized by a local county or city ordinance pursuant to ORS 167.121, between players in a private business, private club, or place of public accommodation where

no house player, house bank, or house odds exist and there is no house income from the operation of the social game.

(f) "Video lottery game" means a video lottery game terminal authorized by the Oregon State Lottery. Examples include but are not limited to video poker and video slots. Keno monitors are not considered a video lottery game.

(2) Only the holder of a Brewery-Public House license issued under ORS 471.200 may qualify for a Special Events Brewery-Public House license. The SEBPH license is only for a location other than that designated as the Brewery-Public House licensee's annually licensed premises and may allow the licensee to sell wine, malt beverages and cider at retail for consumption on or off the licensed premises.

(3) The Commission will not approve more than five license days on a single application. The Commission may limit approval of any application to a single license day or to any number of license days fewer than five days.

(4) Applicants must apply in writing for a Special Events Brewery-Public House license, using the application form provided by the Commission. The Commission may require additional forms, documents, or information as part of the application. The Commission may refuse to process any application not complete, not accompanied by the documents or disclosures required by the form or the Commission, or that does not allow the Commission sufficient time to investigate it. Sufficient time is typically one to three weeks prior to the event date. The Commission may give applicants the opportunity to be heard if the Commission refuses to process an application. A hearing under this subsection is not subject to the requirements for contested case proceeding under ORS 183.310 to 183.550.

(5) The application for a SEBPH license under this rule shall include:

(a) A written, dated, and signed plan the Commission determines adequately manages:

(A) The event to prevent problems and violations;

(B) Patronage by minors as set out in subsection (6) of this rule; and

(C) Alcohol consumption by adults.

NOTE: An application is not complete if this plan is not approved by the Commission. The Commission may use subsection (4) of this rule to refuse to process any application that is not complete;

(b) Identification of the individuals to be employed by the licensee to manage events on the SEBPH licensed premises;

(c) Identification of the premises or area proposed to be licensed;

(d) Menu and proposal showing compliance with the food service standards of OAR 845-006-0465(2)-(4);

(e) Statement of the type of event to be licensed, type and extent of entertainment to be offered, expected patronage overall and by minors, type of food service to be offered, proposed hours of food service, and proposed hours of operation;

(f) The recommendation in writing of the local governing body where the licensed premises will be located; and

(g) License fees as established by ORS 471.311.

(6) A plan for managing patronage by minors under subsection (5)(a) of this rule must meet the following requirements:

(a) If the SEBPH license will be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will follow the minor posting and control plan, including any temporary relaxation of the minor posting, assigned to that premises, room, or area under the annual license. The Commission must also be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises prohibited to minors.

(b) If the SEBPH license will not be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises the Commission prohibits to minors.

(7) Minors are prohibited from the SEBPH licensed premises or portions of the licensed premises as follows:

(a) Minors may not sit or stand at a bar; however, minors may sit or stand at a food counter;

(b) Minors may not be in an area where there are video lottery games, social games, or nude entertainment or where such activities are visible;

(c) Minors may not be in an area where the licensee's approved written plan designates that minors will be excluded.

(8) The Commission may deny, cancel or restrict a SEBPH license for any reason for which the Commission may deny, cancel or restrict a regular license.

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(9) The Commission may deny or restrict a SEBPH license if the applicant has a serious violation history at events previously licensed with a special license within the past 36 months.

(10) The Commission may refund the SEBPH license fee if the application is withdrawn by the applicant or denied by the Commission, or if the event does not take place because of circumstances beyond the licensee's control, or if the Commission determines the applicant does not need a license for the event proposed in the application.

(11) When the Commission approves a written plan under subsection (5)(a) of this rule, the licensee must follow that written plan. Failure to follow that written plan is a Category III violation.

(12) If the licensee fails to prevent minors from gaining access to alcoholic beverages or fails to prevent minors from gaining access to any portion of the licensed premises prohibited to minors, the Commission may immediately prohibit minors from the licensed premises or portion(s) of the premises.

Stat. Auth.: ORS 471.471.030, 471.040 & 471.730(1) & (5)

Stats. Implemented: ORS 471.200

Hist.: OLCC 1-2010, f. 2-22-10, cert. ef. 3-1-10; OLCC 1-2015, f. 8-4-15, cert. ef. 9-1-15

## 845-005-0415

### Special Event Winery and Special Event Grower Sales Licenses

(1) ORS 471.223 authorizes the Commission to issue a Special Events Winery license to a Winery licensee. The special license may allow the licensee to sell wine, malt beverages and cider allowed to be sold under the annual Winery license at retail for consumption on or off the licensed premises at a location other than that designated as the winery's annually licensed premises.

(2) ORS 471.227 authorizes the Commission to issue a Special Events Grower license to a Grower Sales Privilege licensee. The special license may allow the licensee to sell wine and cider allowed to be sold under the annual Grower Sales Privilege license at retail for consumption on or off the licensed premises at a location other than that designated as the grower's annually licensed premises.

(3) Definitions. For this rule:

(a) "Bar" means a counter at which the preparation, pouring, serving, sale, or consumption of alcoholic beverages is the primary activity;

(b) "Food counter" means a counter in an area in which minors are allowed and at which the primary activity at all times is the preparation, serving, sale, or consumption of food;

(c) "License day" means from 7:00 am until 2:30 am on the succeeding calendar day. The license fee is \$10.00 per license day or any part of a license day.

(d) "Serious violation history" means:

(A) Two or more category III or IIIa administrative violations of any type, or category IV violations involving minors. However, if the circumstances of a violation include aggravation, one violation may be sufficient; or

(B) One category I, II, or IIa administrative violation; or

(C) Two or more crimes or offenses involving liquor laws.

(e) "Social game" means a game other than a lottery, if authorized by a local county or city ordinance pursuant to ORS 167.121, between players in a private business, private club, or place of public accommodation where no house player, house bank, or house odds exist and there is no house income from the operation of the social game.

(f) "Video lottery game" means a video lottery game terminal authorized by the Oregon State Lottery. Examples include but are not limited to video poker and video slots. Keno monitors are not considered a video lottery game.

(4) The Commission will not approve more than five license days on a single application. The Commission may limit approval of any application to a single license day or to any number of license days fewer than five days.

(5) Applicants must apply in writing for a Special Event Winery or Special Event Grower license, using the application form provided by the Commission. The Commission may require additional forms, documents, or information as part of the application. The Commission may refuse to process any application not complete, not accompanied by the documents or disclosures required by the form or the Commission, or that does not allow the Commission sufficient time to investigate it. Sufficient time is typically one to three weeks prior to the event date. The Commission may give applicants the opportunity to be heard if the Commission refuses to process an application. A hearing under this subsection is not subject to the requirements for contested case proceeding under ORS 183.310 to 183.550.

(6) The application for a special license under this rule shall include:

(a) A written, dated, and signed plan the Commission determines adequately manages:

(A) The event to prevent problems and violations;

(B) Patronage by minors as set out in subsection (7) of this rule; and

(C) Alcohol consumption by adults.

**NOTE:** An application is not complete if this plan is not approved by the Commission. The Commission may use subsection (5) of this rule to refuse to process any application that is not complete;

(b) Identification of the individuals to be employed by the licensee to manage the event proposed in the application;

(c) Identification of the premises proposed to be licensed;

(d) Menu and proposal showing compliance with the food service standards of OAR 845-006-0465;

(e) Statement of the type of event to be licensed, type and extent of entertainment to be offered, expected patronage overall and by minors, type of food service to be offered, proposed hours of food service, and proposed hours of operation;

(f) The recommendation in writing of the local governing body where the licensed premises will be located; and

(g) License fees as established by ORS 471.311.

(7) A plan for managing patronage by minors under subsection (6)(a) of this rule must meet the following requirements:

(a) If the special license will be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will follow the minor posting and control plan, including any temporary relaxation of the minor posting, assigned to that premises, room, or area under the annual license. The Commission must also be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises prohibited to minors.

(b) If the special license will not be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises the Commission prohibits to minors.

(8) Minors are prohibited from the special licensed premises or portions of the licensed premises as follows:

(a) Minors may not sit or stand at a bar; however, minors may sit or stand at a food counter;

(b) Minors may not be in an area where there are video lottery games, social games, or nude entertainment or where such activities are visible;

(c) Minors may not be in an area where the licensee's approved written plan designates that minors will be excluded.

(9) The Commission may deny, cancel or restrict a special license for any reason for which the Commission may deny, cancel or restrict a regular license.

(10) The Commission may deny or restrict a special license if the applicant has a serious violation history at events previously licensed with a special license within the past 36 months.

(11) The Commission may refund the special license fee if the application is withdrawn by the applicant or denied by the Commission, or if the event does not take place because of circumstances beyond the licensee's control, or if the Commission determines the applicant does not need a license for the event proposed in the application.

(12) When the Commission approves a written plan under subsection (6)(a) of this rule, the licensee must follow that written plan. Failure to follow that written plan is a Category III violation.

(13) If the licensee fails to prevent minors from gaining access to alcoholic beverages or fails to prevent minors from gaining access to any portion of the licensed premises prohibited to minors, the Commission may immediately prohibit minors from the licensed premises or portion(s) of the premises.

Stat. Auth.: ORS 471.471.030, 471.040 & 471.730(1) & (5)

Stats. Implemented: ORS 471.223 & 471.227

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 7-2003(Temp), f. & cert. ef. 5-20-03 thru 11-16-03; OLCC 12-2003, f. 9-23-03, cert. ef. 11-1-03; OLCC 6-2007(Temp), f. & cert. ef. 5-14-07 thru 11-10-07; OLCC 19-2007, f. 9-27-07, cert. ef. 11-11-07; OLCC 1-2009, f. 3-17-09, cert. ef. 4-1-09; OLCC 9-2009(Temp), f. 7-13-09, cert. ef. 7-15-09 thru 1-10-10; OLCC 12-2009, f. 10-19-09, cert. ef. 1-11-10; OLCC 1-2015, f. 8-4-15, cert. ef. 9-1-15

## 845-005-0440

### Temporary Sales Licenses

(1) A person must obtain from the Commission a license or authority to sell alcoholic beverages. ORS 471.405 establishes a prohibition on sale of alcoholic beverages without a license or authority. ORS 471.406 defines sale of alcoholic beverages. This rule sets the requirements for obtaining a Temporary Sales License.

(2) Definitions. For this rule:

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(a) "Bar" means a counter at which the preparation, pouring, serving, sale, or consumption of alcoholic beverages is the primary activity.

(b) "Food counter" means a counter in an area in which minors are allowed and at which the primary activity at all times is the preparation, serving, sale, or consumption of food.

(c) "License day" means from 7:00 am until 2:30 am on the succeeding calendar day. The license fee is \$50 per license day or for any part of a license day.

(d) "Nonprofit trade association" means an organization comprised of individual or business members where the organization represents the interests of the members and is registered with the state of Oregon as a nonprofit association.

(e) "Serious violation history" means:

(A) Two or more category III or IIIa administrative violations of any type, or category IV violations involving minors. However, if the circumstances of a violation include aggravation, one violation may be sufficient; or

(B) One category I, II or IIa administrative violation; or

(C) Two or more crimes or offenses involving liquor laws.

(f) "Social game" means a game other than a lottery, if authorized by a local county or city ordinance pursuant to ORS 167.121, between players in a private business, private club, or place of public accommodation where no house player, house bank, or house odds exist and there is no house income from the operation of the social game.

(g) "Video lottery game" means a video lottery game terminal authorized by the Oregon State Lottery. Examples include but are not limited to video poker and video slots. Keno monitors are not considered a video lottery game.

(3) ORS 471.190 authorizes the Commission to issue a Temporary Sales License. Temporary Sales Licenses are issued in increments of one license day. The Commission will not approve more than seven license days on a single application. The Commission may limit approval of any application to a single license day or to any number of license days fewer than seven days. The Commission may issue a Temporary Sales License only to applicants that qualify under the Commission's licensing standards and that are:

(a) A nonprofit or charitable organization that is registered with the state, including nonprofit trade associations where at least 51% of the total membership is comprised of persons that hold winery licenses issued under ORS 471.223 or grower sales privilege licenses issued under 471.227; or

(b) A political committee that has a current statement of organization filed under ORS 260.039 or 260.042; or

(c) An agency of the State; or

(d) A local government or an agency or department of a local government; or

(e) Any applicant not described in (3)(a)–(3)(d) of this subsection, including licensees of the Commission.

(4) A Temporary Sales License may authorize the licensee to sell wine, malt beverages and cider at retail for consumption on the licensed premises and for consumption off the licensed premises. All wine, malt beverages and cider sold for consumption off the licensed premises must be in either:

(a) Manufacturer-sealed containers that do not hold more than two and one-quarter gallons each; or

(b) Securely covered containers provided by the consumer that do not hold more than two gallons each.

(5) A Temporary Sales License may authorize the licensee to sell distilled liquor by the drink at retail for consumption on the licensed premises.

(6) Applicants must apply in writing for a Temporary Sales License, using the application form provided by the Commission. The Commission may require additional forms, documents, or information as part of the application. The Commission may refuse to process any application not complete, not accompanied by the documents or disclosures required by the form or the Commission, or that does not allow the Commission sufficient time to investigate it. Sufficient time is typically one to three weeks prior to the event date. The Commission may give applicants the opportunity to be heard if the Commission refuses to process an application. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS 183.310 to 183.550.

(7) The application for a Temporary Sales License under this rule shall include:

(a) A written, dated, and signed plan. An application is not complete if this plan is not approved by the Commission. To approve a plan, the Commission must determine that the plan adequately manages:

(A) The event to prevent problems and violations;

(B) Patronage by minors as set out in subsection (8) of this rule; and

(C) Alcohol consumption by adults.

(b) Identification of the individuals to be employed by the licensee to manage events on the licensed premises;

(c) Identification of the premises proposed to be licensed;

(d) Menu and proposal showing compliance with the food service standards of OAR 845-006-0465;

(e) Statement of the type of event to be licensed, type and extent of entertainment to be offered, expected patronage overall and by minors, type of food service to be offered, proposed hours of food service, and proposed hours of operation;

(f) The recommendation in writing of the local governing body where the licensed premises will be located;

(g) License fees as established by ORS 471.311.

(8) A plan for managing patronage by minors under subsection (7)(a) of this rule must meet the following requirements:

(a) If the Temporary Sales License will be on any part of a premises, room, or area with a permanent license issued by the Commission, the Commission must be convinced that the plan will follow the minor posting and control plan, including any temporary relaxation of the minor posting, assigned to that premises, room, or area under the permanent license. The Commission must also be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises prohibited to minors.

(b) If the Temporary Sales License will not be on any part of a premises, room, or area with a permanent license issued by the Commission, the Commission must be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises the Commission prohibits to minors.

(9) Minors are prohibited from the licensed premises or portions of the licensed premises as follows:

(a) Minors may not sit or stand at a bar; however, minors may sit or stand at a food counter;

(b) Minors may not be in an area where there is video lottery games, social games, or nude entertainment or where such activities are visible.

(c) Minors may not be in an area where the licensee's approved written plan designates that minors will be excluded.

(10) Minimum Age of Servers. Alcohol servers at temporary sales licensed locations must be at least 21 years of age to sell or serve alcoholic beverages, with the following exceptions:

(a) In areas of the licensed premises not prohibited to minors, persons who are 18, 19, and 20 years of age may:

(A) Take orders for, serve and sell alcoholic beverages for on-premises consumption if the activity is incidental to the selling or serving of food in that area of the licensed premises, and may sell alcoholic beverages in manufacturer-sealed containers for off-premises consumption; or

(B) Sell tokens/script, including verifying age, to be redeemed for alcoholic beverages or food at the event.

(b) In areas of the licensed premises prohibited to minors, persons who are 18, 19, and 20 years of age may deliver food, restock non-alcohol supplies and perform other non-alcohol related duties, however the person shall not remain in the prohibited area longer than is necessary to perform these duties.

(11) Alcohol servers at locations licensed under subsections (3)(b)–(e) of this rule must hold valid service permits unless specifically exempted under authority of subsection (12) of this rule.

(12) The Commission may waive the service permit requirement for the holder of a Temporary Sales License issued under subsections (3)(b)–(e) of this rule, and the licensee's alcohol servers, if:

(a) The license is used only for package sales; or if

(b) The Commission concludes alcohol service by individuals who do not hold a service permit does not pose a significant risk for public safety problems or non-compliance with liquor laws; and

(c) Each alcoholic beverage point-of-sale at the licensed location is staffed, at all times alcoholic beverages are being sold or served, by an individual who has completed a Server Education course successfully within 5 years prior to the date of the event.

(13) At events licensed under subsection (3)(a) of this rule, before allowing alcohol servers to sell or serve alcoholic beverages, the licensee must ensure that all alcohol servers have met one of the following standards:

(a) The alcohol server has a valid service permit or has successfully completed a Server Education course within 5 years prior to the date of the event, or

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(b) The alcohol server has attended training provided by the licensee, and has read, signed and dated the Commission-provided brochure, What Every Volunteer Alcohol Server Needs to Know. The licensee-provided training must address the topics included in the brochure, including but not limited to: minors and proper checking of identification, and how to recognize and respond appropriately to visibly intoxicated persons. At any time while on duty, the alcohol server shall make the signed brochure available for immediate inspection by any inspector or investigator employed by the Commission or by any other peace officer.

(14) If there are compliance problems with an operator or an event, the Commission may add other requirements for the education of servers at events licensed under this rule.

(15) The Commission may deny, cancel or restrict a Temporary Sales License for any reason for which the Commission may deny, cancel or restrict a regular license.

(16) The Commission may deny or restrict a Temporary Sales License if the applicant has a serious violation history at events previously licensed with a Temporary Sales License within the past 36 months.

(17) The Commission may refund the Temporary Sales License fee if the application is withdrawn by the applicant or denied by the Commission, if the event does not take place because of circumstances beyond the applicant's control, or if the Commission determines the applicant does not need a license for the event proposed in the application.

(18) When the Commission approves a written plan under subsection (7)(a) of this rule, the licensee must follow that written plan. Failure to follow that written plan is a category III violation.

(19) If the licensee fails to prevent minors from gaining access to alcoholic beverages or fails to prevent minors from gaining access to any portion of the licensed premises prohibited to minors, the Commission may immediately prohibit minors from the licensed premises or portion(s) of the premises.

Stat. Auth.: ORS 471, ORS 471.030, 471.040, 471.190 & 471.730(1) & (5)  
Stats. Implemented: ORS 471.190, 471.360 & 471.482  
Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 4-2001(Temp), f. & cert. ef. 8-15-01 thru 2-11-02; OLCC 13-2001, f. 12-18-01, cert. ef. 2-12-02; OLCC 14-2002, f. 10-25-02 cert. ef. 11-1-02; OLCC 24-2007, f. 12-17-07, cert. ef. 1-1-08; OLCC 17-2010, f. 12-22-10, cert. ef. 1-1-11; OLCC 9-2012, f. 10-30-12, cert. ef. 11-1-12; OLCC 8-2013(Temp), f. 9-17-13, cert. ef. 10-1-13 thru 3-30-14; OLCC 1-2014, f. 2-11-14, cert. ef. 3-1-14; OLCC 1-2015, f. 8-4-15, cert. ef. 9-1-15

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**Rule Caption:** Temporary rule to implement House Bill 2567 statutory amendments to 471.230 (distillery license statute).

**Adm. Order No.:** OLCC 2-2015(Temp)

**Filed with Sec. of State:** 8-4-2015

**Certified to be Effective:** 8-5-15 thru 1-31-16

**Notice Publication Date:**

**Rules Amended:** 845-004-0101, 845-005-0413, 845-005-0431, 845-006-0452

**Rules Suspended:** 845-004-0105(T)

**Subject:** HB 2567 passed in the 2015 Oregon legislative session with an effective date of June 25, 2015. It makes several changes to ORS 471.230 (the distillery license statute). The following amendments are required to align the rules with the statute changes.

**Rules Coordinator:** Bryant Haley—(503) 872-5136

## 845-004-0101

### Industrial Alcohol Authority

(1) Definitions. For this rule:

(a) "Denatured alcohol" means ethanol (ethyl alcohol) with additives for the purpose of making it unfit for human consumption. Denatured alcohol is not considered an alcoholic beverage or alcoholic liquor under ORS 471.001(1).

(b) "Non-denatured alcohol" means alcohol as defined in ORS 471.001(1).

(2) Denatured alcohol may be imported into Oregon and stored, possessed, sold, purchased, transferred, shipped, delivered, and transported in Oregon without an Industrial Alcohol Authority or license from the Commission.

(3) A person without a distillery license issued under ORS 471.230 may not manufacture non-denatured alcohol but may obtain an Industrial Alcohol Authority to:

(a) Import into Oregon and store 190 to 200 proof non-denatured alcohol without a distillery license issued under ORS 471.230 if the person holds a certificate of approval issued under ORS 471.251.

(b) Convert non-denatured alcohol into denatured alcohol.

(c) Sell or transfer 190 to 200 proof non-denatured alcohol to the holder of an Industrial Alcohol Authority.

(d) Acquire 190 to 200 proof non-denatured alcohol from the holder of an Industrial Alcohol Authority.

(e) Use 190 to 200 proof non-denatured alcohol for scientific, pharmaceutical, manufacturing, mechanical, and industrial purposes.

(4) Application. Applicants for an Industrial Alcohol Authority must apply in writing using the application form provided by the Commission. The Commission may require additional forms, documents, or information as part of the application. The Commission may refuse to process any application not complete or not accompanied by the documents or disclosures required by the form or the Commission.

(5) The Commission may refuse to issue an Industrial Alcohol Authority, and may cancel or revoke the Industrial Alcohol Authority, if the person makes a false statement to the Commission or uses or proposes to use the alcohol other than for scientific, pharmaceutical, manufacturing, mechanical, or industrial purposes.

(6) A person may hold both a distillery license issued under ORS 471.230 and an Industrial Alcohol Authority.

(7) A person with an Industrial Alcohol Authority must keep a record of all non-denatured alcohol imported into Oregon including the date and amount of all alcohol imported. These records must be kept for a minimum of two years from the date the alcohol was imported into Oregon. The authority holder must allow the Commission to audit the authority holder's records upon request and shall make those records available to the Commission in Oregon no later than 60 days after the Commission mails the notice.

Stat. Auth.: ORS 471, including 471.030 & 471.730(1) & (5)  
Stats. Implemented: ORS 471.404 & 471.730(8)  
Hist.: OLCC 25-1990, f. 12-19-90, cert. ef. 2-1-91; OLCC 16-1999, f. 11-2-99, cert. ef. 12-31-99; OLCC 13-2004, f. 11-18-04, cert. ef. 1-1-05; OLCC 2-2015(Temp), f. 8-4-15, cert. ef. 8-5-15 thru 1-31-16

## 845-005-0413

### Special Events Distillery License

ORS 471.230 authorizes the Commission to issue a Special Events Distillery (SED) license to an Oregon Distillery licensee. This rule sets the qualifications and requirements for a Special Events Distillery license.

(1) Definitions. For this rule:

(a) "Bar" means a counter at which the preparation, pouring, serving, sale, or consumption of alcoholic beverages is the primary activity;

(b) "Food counter" means a counter in an area in which minors are allowed and at which the primary activity at all times is the preparation, serving, sale, or consumption of food;

(c) "License day" means from 7:00 am until 2:30 am on the succeeding calendar day. The license fee is \$10.00 per license day or any part of a license day.

(d) "Manufactured by the distillery licensee" means the licensee distills, rectifies, blends, or otherwise produces the distilled liquor product on the distillery licensed premises in Oregon.

(e) "Serious violation history" means:

(A) Two or more category III or IIIa administrative violations of any type, or category IV violations involving minors. However, if the circumstances of a violation include aggravation, one violation may be sufficient; or

(B) One category I, II, or IIa administrative violation; or

(C) Two or more crimes or offenses involving liquor laws.

(f) "Social game" means a game other than a lottery, if authorized by a local county or city ordinance pursuant to ORS 167.121, between players in a private business, private club, or place of public accommodation where no house player, house bank, or house odds exist and there is no house income from the operation of the social game.

(g) "Trade visitor" means a person whose job includes the purchase, or recommended purchase, of distilled spirits by a licensee of the Commission or distributors and others in the commercial distribution chain; or a person representing an agency of mass communication, such as television, radio, newspaper, magazine, and internet.

(h) "Video lottery game" means a video lottery game terminal authorized by the Oregon State Lottery. Examples include but are not limited to video poker and video slots. Keno monitors are not considered a video lottery game.

(2) Only the holder of a Distillery license issued under ORS 471.230 may qualify for a Special Events Distillery license.

(a) A distillery licensee providing tastings of distilled liquor for retailers at an educational seminar that is not open to the public is not required to obtain a SED and is subject to OAR 845-013-0060.

# ADMINISTRATIVE RULES

(b) A distillery licensee providing tastings of distilled liquor at a retail liquor store must follow OAR 845-015-0155. A distillery licensee is not eligible for a SED at a retail liquor store.

(3) The Commission will not approve more than five license days on a single application. The Commission may limit approval of any application to a single license day or to any number of license days fewer than five days.

(4) Applicants must apply in writing for a Special Events Distillery license, using the application form provided by the Commission. The Commission may require additional forms, documents, or information as part of the application. The Commission may refuse to process any application not complete, not accompanied by the documents or disclosures required by the form or the Commission, or that does not allow the Commission sufficient time to investigate it. Sufficient time is typically one to three weeks prior to the event date. The Commission may give applicants the opportunity to be heard if the Commission refuses to process an application. A hearing under this subsection is not subject to the requirements for contested case proceeding under ORS 183.310 to 183.550.

(5) The application for a SED license under this rule shall include:

(a) A written, dated, and signed plan. An application is not complete if this plan is not approved by the Commission. To approve a plan, the Commission must determine that the plan adequately manages:

(A) The event to prevent problems and violations;

(B) Patronage by minors as set out in subsection (6) of this rule; and

(C) Alcohol consumption by adults.

(b) Identification of the individuals to be employed by the licensee to manage events on the SED licensed premises;

(c) Identification of the premises or area proposed to be licensed;

(d) Statement of the type of event to be licensed, type and extent of entertainment to be offered, expected patronage overall and by minors, and proposed hours of operation;

(e) A description of how the licensee will distinguish trade visitors from members of the general public, such as by providing tastings for trade visitors in separate areas or at separate times from tastings for the general public, by using distinctive glassware for trade visitors, or by the use of badges or name tags;

(f) The recommendation in writing of the local governing body where the licensed premises will be located; and

(g) License fees as established by ORS 471.311.

(h) If the licensee will provide distilled liquor by the drink, a written proposal showing compliance with the food service standards of OAR 845-006-0465.

(6) A plan for managing patronage by minors under subsection (5)(a) of this rule must meet the following requirements:

(a) If the SED license will be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will follow the minor posting and control plan, including any temporary relaxation of the minor posting, assigned to that premises, room, or area under the annual license. The Commission must also be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises prohibited to minors.

(b) If the SED license will not be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises the Commission prohibits to minors.

(7) Minors are prohibited from the SED licensed premises or portions of the licensed premises as follows:

(a) Minors may not sit or stand at a bar; however, minors may sit or stand at a food counter;

(b) Minors may not be in an area where there are video lottery games, social games, or nude entertainment or where such activities are visible;

(c) Minors may not be in an area where the licensee's approved written plan designates that minors will be excluded.

(8) The Commission may deny, cancel or restrict a SED license for any reason for which the Commission may deny, cancel or restrict a regular license.

(9) The Commission may deny or restrict a SED license if the applicant has a serious violation history at events previously licensed with a special license within the past 36 months.

(10) The Commission shall limit the issuance of a SED license to the same applicant at the same location to no more than 31 62 license days from January 1 to December 31 of each year.

(11) The Commission may refund the SED license fee if the application is withdrawn by the applicant or denied by the Commission, or if the event does not take place because of circumstances beyond the licensee's control, or if the Commission determines the applicant does not need a license for the event proposed in the application.

(12) When the Commission approves a written plan under subsection (5)(a) of this rule, the licensee must follow that written plan. Failure to follow that written plan is a Category III violation.

(13) If the licensee fails to prevent minors from gaining access to alcoholic beverages or fails to prevent minors from gaining access to any portion of the licensed premises prohibited to minors, the Commission may immediately prohibit minors from the licensed premises or portion(s) of the premises.

(14) A distillery licensee with a SED may:

(a) Permit tastings of distilled liquor approved by the Commission for sale in Oregon. The taste must contain distilled liquor manufactured by the distillery licensee. Once the taste contains distilled liquor manufactured by the distillery licensee, the taste may contain other distilled liquor approved by the Commission for sale in Oregon and may also include malt beverages, wine, cider, and non-alcoholic liquids.

(A) The distillery licensee must pay the Commission a processing fee for any distilled liquor in the taste that is manufactured by the distillery licensee and is obtained from the inventory of the Commission.

(B) The distillery licensee must purchase at the retail price set by the Commission any distilled liquor in the taste that was not manufactured by the distillery licensee.

(b) Permit sales by the drink of distilled liquor approved by the Commission for sale in Oregon. The drink must contain distilled liquor manufactured by the distillery licensee. Once the drink contains distilled liquor manufactured by the distillery licensee, the drink may contain other distilled liquor approved by the Commission for sale in Oregon and may also include malt beverages, wine, cider, and non-alcoholic liquids. The distillery licensee must purchase the distilled liquor that the licensee uses for sales by the drink at the event at the retail price set by the Commission for the month in which the distilled liquor is sold by the drink.

(c) If the distillery licensee has been appointed as a distillery retail outlet agent, sell factory-sealed containers of distilled liquor manufactured by the licensee for consumption off the licensed premises of the event. The distillery licensee must purchase and sell the factory-sealed containers in accordance with the terms of the Distillery Retail Outlet Agent Agreement and the Commission's Distillery Retail Outlet Manual.

(15) Tastings provided to the general public.

(a) A tasting provided to the general public shall be no more than one-half fluid ounce of distilled liquor in a single container. The container may also contain nonalcoholic beverages; however, the total amount of liquid in the container may be no more than two ounces. A licensee may charge a member of the general public a fee for tastings.

(b) A distillery licensee shall not provide more than two and one-half fluid ounces of distilled liquor per person per license day.

(16) Tastings provided to a trade visitor.

(a) A tasting provided to a trade visitor shall be no more than one fluid ounce of distilled liquor in a single container. The container may also contain nonalcoholic beverages; however, the total amount of liquid in the container may be no more than three ounces. A licensee may not charge a trade visitor a fee for tastings.

(b) There is no daily limit on distilled liquor tastings provided to a trade visitor.

(c) Trade visitors must be distinguished from members of the general public. For example, providing tastings for trade visitors in separate areas or at separate times from tastings for the general public, using distinctive glassware for trade visitors, or using badges or name tags to identify trade visitors could be ways a licensee complies with this requirement.

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

Stats. Implemented: ORS 471.230

Hist.: OLCC 1-2010, f. 2-22-10, cert. ef. 3-1-10; OLCC 2-2012(Temp), f. & cert. ef. 4-5-12 thru 10-1-12; OLCC 7-2012, f. 9-14-12, cert. ef. 10-1-12; OLCC 2-2015(Temp), f. 8-4-15, cert. ef. 8-5-15 thru 1-31-16

## 845-005-0431

### Qualifications for Distilled Liquor Tastings Provided by Oregon Distillery Licensee

ORS 471.230 allows an Oregon distillery licensee to provide tastings of distilled liquor manufactured by the distillery licensee for consumption on the distillery licensee's premises and on no more than five other premises owned or leased by the distillery licensee. This rule sets the qualifications to obtain approval to provide these tastings.

(1) Definitions.

# ADMINISTRATIVE RULES

(a) "Identified tasting area" means a specific defined area where tastings of alcohol occur. The area must be of a size and design such that the person(s) serving the taste(s) can observe and control persons in the area to ensure no minors or visibly intoxicated persons possess or consume alcohol and that other liquor laws are followed.

(b) "Manufactured by the distillery licensee" means the licensee distills, rectifies, blends, or otherwise produces the distilled liquor product in Oregon on the distillery's licensed premises.

(c) "Other premises owned or leased by the distillery licensee" means any other licensed location that is owned or leased by the distillery licensee and separate from its annually licensed location. To qualify under this definition, the distillery licensee must provide proof of ownership or a written contract entitling it to exclusive use and possession of the other location.

(d) "Per day" means from 7:00 am until 2:30 am on the succeeding calendar day.

(e) "Primary location" means the location where distilled liquor is manufactured by the distillery licensee.

(f) "Trade visitor" means a person whose job includes the purchase or recommended purchase of distilled spirits by a licensee of the Commission or distributors and others in the commercial distribution chain; or a person representing an agency of mass communication, such as television, radio, newspaper, magazine, and internet.

(2) A distillery licensee providing tastings of distilled liquor on its primary location and on no more than five other premises owned or leased by the distillery licensee must follow this rule and may only offer tastings of distilled liquor in accordance with the requirements of OAR 845-006-0452.

(3) A distillery licensee providing tastings of distilled liquor for retailers at an educational seminar that is not open to the public is subject to OAR 845-013-0060 and is not subject to this rule.

(4) A distillery licensee providing tastings of distilled liquor at a retail liquor store is subject to OAR 845-015-0155 and is not subject to this rule.

(5) A distillery licensee providing tastings of distilled liquor on a full on-premises licensed premises that is other than the distillery licensee's full on-premises licensed premises is subject to OAR 845-005-0428 and is not subject to this rule.

(6) If a distillery licensee also holds a full on-premises sales license as per ORS 471.175 on the distillery licensed premises or on any other premises owned or leased by the distillery licensee, then all sale or service of alcohol for on-premises consumption at the full on-premises licensed location, including tastings, is provided under the full on-premises license and is not subject to this rule.

(7) A distillery licensee holding a full on-premises sales license as per ORS 471.175 that provides alcohol service at a catered event that is on a premises approved as per OAR 845-005-0405 or 845-005-0410 is providing the alcohol service under the privilege of the full on-premises sales license and is not subject to this rule.

(8) More than one distillery licensee may be licensed to use the same premises at the same time for conducting tastings if:

(a) The premises are a primary location and the licensees share the premises; or

(b) The premises are owned by the same entity.

(9) Application for tastings on the distillery licensee's primary location. A distillery licensee who intends to provide the service of distilled liquor tastings on the distillery's primary location must make application to the Commission upon forms to be furnished by the Commission and receive prior approval from the Commission before beginning the distilled liquor tasting service. After the Commission has given its approval for the tastings, the distillery licensee must re-apply if it changes its identified tasting area. The application shall include:

(a) A floor plan showing the identified tasting area on a form provided by the Commission;

(b) A description of how the licensee will distinguish trade visitors from members of the general public, such as by providing tastings for trade visitors in separate areas or at separate times from tastings for the general public, by using distinctive glassware for trade visitors, or by the use of badges or name tags; and

(c) A statement that the licensee understands and will comply with the requirements of OAR 845-006-0452.

(10) Application for tastings on no more than five other premises owned or leased by the distillery licensee. A distillery licensee who intends to provide the service of distilled liquor tastings on no more than five other premises owned or leased by the distillery licensee must make application to the Commission upon forms to be furnished by the Commission and receive prior approval from the Commission before beginning the distilled

liquor tasting service. After the Commission has given its approval for the tastings, the distillery licensee must re-apply if it changes its identified tasting area. The application shall include:

(a) A floor plan showing the identified tasting area on a form provided by the Commission;

(b) A description of how the licensee will distinguish trade visitors from members of the general public, such as by providing tastings for trade visitors in separate areas or at separate times from tastings for the general public, by using distinctive glassware for trade visitors, or by using badges or name tags to identify trade visitors;

(c) A statement that the licensee understands and will comply with the requirements of OAR 845-006-0452; and

(d) Proof of ownership or a written contract that entitles the distillery licensee to exclusive use and possession of the other premises.

(11) Liquor liability insurance requirement. A distillery licensee providing only tastings under this rule and OAR 845-006-0452 is not required to obtain or maintain liquor liability insurance.

(12) The Commission may refuse to process any application required under this rule if the application is not complete and accompanied by the documents or disclosures required by the form. The Commission shall give applicants the opportunity to be heard if the Commission refuses to process an application. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS Chapter 183.

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

Stats. Implemented: ORS 471.230

Hist.: OLCC 11-2009, f. 8-26-09 cert. ef. 11-1-09; OLCC 2-2014, f. 2-11-14, cert. ef. 3-1-14; OLCC 2-2015(Temp), f. 8-4-15, cert. ef. 8-5-15 thru 1-31-16

## 845-006-0452

### Requirements for Distilled Liquor Tastings Provided by Oregon Distillery Licensee

OAR 845-005-0431 sets the qualifications for an Oregon distillery licensee to obtain approval to provide tastings of distilled liquor manufactured by the distillery licensee for consumption on the distillery licensee's premises and on no more than five other premises owned or leased by the distillery licensee. This rule sets the requirements to provide these tastings.

(1) Definitions.

(a) "Identified tasting area" means a specific defined area where tastings of alcohol occur. The area must be of a size and design such that the person(s) serving the taste(s) can observe and control persons in the area to ensure no minors or visibly intoxicated persons possess or consume alcohol and that other liquor laws are followed.

(b) "Manufactured by the distillery licensee" means the licensee distills, rectifies, blends, or otherwise produces the distilled liquor product in Oregon on the distillery's licensed premises.

(c) "Other premises owned or leased by the distillery licensee" means any other licensed location that is owned or leased by the distillery licensee and separate from its annually licensed location. To qualify under this definition, the distillery licensee must provide proof of ownership or a written contract entitling it to exclusive use and possession of the other location.

(d) "Per day" means from 7:00 am until 2:30 am on the succeeding calendar day.

(e) "Primary Location" means the location where distilled liquor is manufactured by the distillery licensee.

(f) "Trade visitor" means a person whose job includes the purchase or recommended purchase of distilled spirits by a licensee of the Commission or distributors and others in the commercial distribution chain; or a person representing an agency of mass communication, such as television, radio, newspaper, magazine, and internet.

(2) Tastings of distilled liquor are allowed only within the identified tasting area or areas approved by the Commission. The identified tasting area or areas may be on the distillery licensee's primary location and on no more than five other premises owned or leased by the distillery licensee. Customers may not remove the tastings from the identified tasting area or areas.

(3) A distillery licensee may provide only tastings as described in this rule.

(4) The distilled liquor in a taste must be approved by the Commission for sale in Oregon. The taste must contain distilled liquor manufactured by the distillery licensee or another distillery licensee. Once the taste contains distilled liquor manufactured by the distillery licensee or another distillery licensee, the taste may contain other distilled liquor approved by the Commission for sale in Oregon and may also include malt beverages, wine, cider, and non-alcoholic liquids.

# ADMINISTRATIVE RULES

(a) The distillery licensee must pay the Commission a processing fee for any distilled liquor in the taste that is manufactured by the distillery licensee and is obtained from the inventory of the Commission.

(b) The distillery licensee must purchase at the retail price set by the Commission any distilled liquor that was not manufactured by the distillery licensee.

(5) Tastings provided to the general public.

(a) A tasting provided to the general public shall be no more than one-half fluid ounce of distilled liquor in a single container. The container may also contain nonalcoholic beverages; however, the total amount of liquid in the container may be no more than two ounces. A licensee may charge a member of the general public a fee for tastings.

(b) A distillery licensee shall not provide more than two and one-half fluid ounces of distilled liquor per person per day.

(6) Tastings provided to a trade visitor.

(a) A tasting provided to a trade visitor shall be no more than one fluid ounce of distilled liquor in a single container. The container may also contain nonalcoholic beverages; however, the total amount of liquid in the container may be no more than three ounces. A licensee may not charge a trade visitor a fee for tastings.

(b) There is no daily limit on distilled liquor tastings provided to a trade visitor.

(c) Trade visitors must be distinguished from members of the general public. For example, providing tastings for trade visitors in separate areas or at separate times from tastings for the general public, using distinctive glassware for trade visitors, or using badges or name tags to identify trade visitors could be ways a licensee complies with this requirement.

(7) Minors are permitted in the identified tasting area only if allowed by the Commission's rule on minor postings (see OAR 845-006-0340).

(8) Alcohol servers who pour tastings must have valid service permits and be at least 21 years of age.

(9) Failing to obtain Commission approval as required by OAR 845-005-0431 prior to providing the service of distilled liquor tastings is a Category I violation. A violation of sections (1) – (8) of this rule is a Category III violation.

(10) A violation of a liquor law at any premises owned or leased by the distillery licensee is the responsibility of the distillery licensee.

Stat. Auth.: ORS 471.471.030, 471.040 & 471.730(1) & (5)

Stats. Implemented: ORS 471.230

Hist.: OLCC 11-2009 f. 8-26-09 cert. ef. 11-1-09; OLCC 2-2014, f. 2-11-14, cert. ef. 3-1-14;

OLCC 2-2015(Temp), f. 8-4-15, cert. ef. 8-5-15 thru 1-31-16

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## Oregon Public Employees Retirement System Chapter 459

**Rule Caption:** Incorporate defined terms “date of termination,” “date of separation from service,” and “date of disability.”

**Adm. Order No.:** PERS 8-2015

**Filed with Sec. of State:** 7-31-2015

**Certified to be Effective:** 7-31-15

**Notice Publication Date:** 6-1-2015

**Rules Amended:** 459-015-0020, 459-076-0020

**Subject:** These rules provide specific timeframes for a member to file an application for a disability retirement (Tier One/Tier Two) or benefit (OPSRP). The member cannot apply before they stop working, but they are not required to be terminated from employment. The definitions for “date of disability,” “date of separation from service,” and “date of termination” in OAR 459-015-0001 were updated and incorporated into the disability rules in October 2011. Given the way the rule was structured, the incorporation of the updated definitions did not cover all possible employment/membership scenarios. The current modifications restructure the rule and incorporate the definitions in a manner intended to cover all likely employment/membership scenarios.

The update to OAR 459-076-0020 incorporates the defined term “date of disability” in one place where it was missed in 2011 and makes other minor edits for clarification.

**Rules Coordinator:** Daniel Rivas—(503) 603-7713

### 459-015-0020

#### Application Required

(1) Application must be made on forms provided by PERS. PERS may require the member to provide any information that PERS considers

necessary to determine the applicant's eligibility for a disability retirement allowance.

(2) No disability retirement allowance will be paid unless the member files a timely and complete application.

(3) Application must be made by a member or the member's authorized representative. A representative must submit to PERS written proof of the representative's authority, such as a power of attorney, guardianship or conservatorship appointment.

(4) A member cannot apply for disability retirement before their date of disability.

(5) Upon the filing of an application for a disability retirement allowance, PERS will notify the applicant's current or most recent employer of the filing. Additionally, PERS may request of an employer information pertaining to current or previous employment.

(6) When an active member becomes disabled due to injury or disease, the member may make application immediately after the last day worked even though the member may be on a paid leave or on an official leave of absence without pay. Total disability must be continuous from the date of disability to the date the application is filed. If the member becomes an inactive member, the application must be submitted within the timelines outlined in section (8) of this rule.

(7)(a) For a member who becomes totally disabled due to injury or disease but does not terminate employment, an application for disability retirement must be filed no later than 90 calendar days from the earlier of:

(A) The date the member is medically released for work; or

(B) The date the member returns to work.

(b) Total disability must be continuous from the date of disability to the earlier of paragraph (a)(A) or (B) of this section.

(8) An application by an inactive member is considered filed in a timely manner when received by PERS as follows:

(a) For an inactive member who becomes totally disabled due to injury or disease before the date of separation from service from all PERS qualifying positions and has not withdrawn the amount credited to the account of the member in the system, the member must file an application for a disability retirement allowance within five calendar years of the date of separation from service. Total disability must be continuous from the date of separation from service to the date the application is filed.

(b) For an inactive member who becomes totally disabled due to injury or disease after the date of separation from service from all PERS qualifying positions and has not withdrawn the amount credited to the account of the member in the system, the member must file an application for a disability retirement allowance within six months (180 days) after the date of separation from service. Total disability must be continuous from the date of disability to the date the application is filed.

(9) In determining the effective date of a disability retirement allowance, PERS may allow up to 60 months of benefits retroactive from the date the application is filed with PERS, but in no case earlier than the first day of the month following the date of separation from service.

(10) When making application for a PERS disability retirement allowance, PERS will request the applicant authorize any physician, health practitioner, hospital, clinic, pharmacy, employer, employment agency, or government agency to release and disclose to PERS, or independent physicians and vocational consultants retained by PERS, any information within their records or knowledge, including that information otherwise protected under federal or state law, regarding the applicant's health and employment which PERS determines relates to the applicant's claim of disability and inability to perform any work for which qualified.

(11) When filing an application for disability retirement allowance, if the applicant wishes to authorize release and disclosure of protected health information, as defined in OAR 459-015-0001, the applicant must complete and sign a consent form which specifically authorizes the release and disclosure of such information.

(a) This authorization is voluntary. PERS is not a covered entity as defined in 45 CFR Parts 160 and 164, and the protected health information is not subject to federal and state health information privacy laws, but may be protected under Oregon State Public Record disclosure laws.

(b) This authorization may be revoked in writing at any time, except to the extent the entities named on the authorization form(s) have taken action in reliance of the authorization.

(c) If the applicant refuses to give or revokes authorization to disclose to PERS medical information that PERS determines it needs to evaluate the application, eligibility for a disability retirement allowance may be affected.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.320 - 238.345

# ADMINISTRATIVE RULES

Hist.: PERS 2-1992, f. & cert. ef. 1-14-92; PERS 15-2005, f. & cert. ef. 10-3-05; PERS 8-2011, f. & cert. ef. 10-5-11; PERS 11-2012, f. & cert. ef. 8-31-12; PERS 8-2015, f. & cert. ef. 7-31-15

## 459-076-0020

### Application Required

(1) Application must be made on forms provided by PERS. PERS may require the member to provide any information that PERS considers necessary to determine the member's eligibility for a disability benefit.

(2) No disability benefit will be paid unless the member files a timely and complete application with PERS.

(3) Application must be made by a member or the member's authorized representative. A representative must submit to PERS written proof of the representative's authority; such as a power of attorney, guardianship or conservatorship appointment.

(4) A member must file a timely application for disability benefits:

(a) An active member may file the application immediately after the last day worked even though the member may be on a paid leave or on an official leave of absence without pay. No application will be accepted that predates the last day the member was actually on the job, and:

(A) The application must be filed no later than 90 calendar days from:

(i) The date the member is medically released for work; or

(ii) The date the member returns to work, whichever is earlier.

(B) Total disability must be continuous from the date of disability to the earlier of paragraph (A)(i) or (ii) of this subsection.

(b) An inactive member who became totally disabled due to injury or disease while the applicant was an active member and has not terminated membership, must file an application for a disability benefit within five calendar years of the date of separation from service. Total disability must have arisen while the applicant was an active member and be continuous from the date of disability to the date the application is filed.

(c) A member cannot apply for disability benefits before their date of disability.

(5) In determining the effective date of a disability benefit, PERS may allow up to 60 months of benefits retroactive from the date the application is filed with PERS, but in no case earlier than the first day of the month following the date of separation from service.

(6) Upon the filing of an application for a disability benefit, PERS will notify the applicant's current or most recent employer of the filing. Additionally, PERS may request of an employer information pertaining to current or previous employment.

(7) When making application for a PERS disability benefit, PERS will request the applicant authorize any physician, health practitioner, hospital, clinic, pharmacy, employer, employment agency, or government agency to release and disclose to PERS, or independent physicians and vocational consultants retained by PERS, any information within their records or knowledge, including that information otherwise protected under federal or state law, regarding the applicant's health and employment which PERS determines relates to the applicant's claim of disability and inability to perform any work for which qualified.

(8) When filing an application for disability benefit, if the applicant wishes to authorize release and disclosure of protected health information, as defined in OAR 459-076-0001, the applicant must complete and sign a consent form which specifically authorizes the release and disclosure of such information.

(a) This authorization is voluntary. PERS is not a covered entity as defined in 45 CFR Parts 160 and 164, and the protected health information is not subject to federal and state health information privacy laws, but may be protected under Oregon State Public Record disclosure laws.

(b) This authorization may be revoked in writing at any time, except to the extent the entities named on the authorization form(s) have taken action in reliance of the authorization.

(c) If the applicant refuses to give or revokes authorization to disclose to PERS medical information that PERS determines it needs to evaluate the application, eligibility for a disability benefit may be affected.

Stat. Auth.: ORS 238A.450

Stats. Implemented: ORS 238A.235

Hist.: PERS 16-2005, f. & cert. ef. 10-3-05; PERS 7-2007, f. & cert. ef. 4-4-07; PERS 8-2011, f. & cert. ef. 10-5-11; PERS 11-2012, f. & cert. ef. 8-31-12; PERS 8-2015, f. & cert. ef. 7-31-15

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**Rule Caption:** Clarify return-to-work standards for OPSRP Pension Program and OPSRP IAP members.

**Adm. Order No.:** PERS 9-2015

**Filed with Sec. of State:** 7-31-2015

**Certified to be Effective:** 7-31-15

**Notice Publication Date:** 6-1-2015

**Rules Amended:** 459-075-0300, 459-080-0300

**Subject:** OPSRP Pension Program retired members who return to work for a PERS participating employer may continue to receive their pension payment so long as they are not working in a qualifying position, which is defined by ORS 238A.005(15) as "one or more jobs with one or more participating public employers in which an eligible employee performs 600 or more hours of service in a calendar year..." Under ORS 238A.245, when an OPSRP retired member works in a qualifying position, the retired member re-establishes active membership and PERS is required to stop their pension payments.

PERS has counted hours worked post-retirement separately from hours worked pre-retirement in the same calendar year when an OPSRP retired member returns to work. This practice was recently questioned during a review of ORS 238A.245: should hours worked in pre-retirement and post-retirement job segments be combined to count towards the 600 hours of the qualifying position, or can the hours worked post-retirement be counted separately? At the start of 2015, PERS informed employers that a narrow interpretation of the 600 hours standard would combine hours worked pre-retirement and post-retirement in the same calendar year for purposes of determining whether the 600 hours definition of a qualifying position had been met.

This direction was met with great concern by employers (and some members who had been informed by their employers), who requested that PERS review alternative interpretations and solutions to avoid such a result. The agency initiated this rulemaking to support a broader application of the statute that would allow hours worked by an OPSRP member pre-retirement to count separately from post-retirement hours.

In reviewing the applicable administrative rules, we also discovered that OAR 459-080-0300, regarding reemployed members of the IAP, has not been updated since the institution of the "retire from one, retire from all" standard established in 2011. This rulemaking also includes the necessary modifications to properly align the IAP return to work standard with the member's respective pension program and outlines the effect of the member returning to active membership on their IAP distributions.

**Rules Coordinator:** Daniel Rivas—(503) 603-7713

## 459-075-0300

### Reemployment of a Retired Member of the OPSRP Pension Program

(1) If a retired member of the OPSRP Pension Program who is receiving monthly pension payments is employed by a participating public employer in a qualifying position:

(a) The member's retirement is canceled effective the first of the month in which the member was hired.

(b) The last pension payment the member is entitled to receive is for the month before the calendar month in which the member was hired. A member who receives benefits to which he or she is not entitled must repay those benefits to PERS.

(c) The member reestablishes active membership effective the date the member was hired.

(2) If a retired member of the OPSRP Pension Program who received a lump sum benefit in lieu of a small pension under ORS 238A.195 is employed by a participating public employer in a qualifying position, the member reestablishes active membership effective the date of hire.

(a) If the member was hired after the date of the payment, the member is not required or permitted to repay the benefit amount.

(b) If the member was hired on or before the date of the payment, the member must repay the gross benefit amount.

(3) A retired member of the OPSRP Pension Program who is hired by a participating public employer in a non-qualifying position may receive pension payments or a lump sum payment under ORS 238A.195 without affecting the member's status as a retired member, provided the period or periods of employment worked as a retired member total less than 600 hours in a calendar year.

(a) If, by reason of hours of service performed by the retired member, the non-qualifying position becomes qualifying in a calendar year, the posi-

# ADMINISTRATIVE RULES

tion is qualifying effective the later of the first day of the calendar year or the date of hire.

(b) If a position becomes qualifying under subsection (a) of this section, the retired member is subject to the provisions of sections (1) and (2) of this rule.

(4) A retired member who reestablishes active membership may, at subsequent retirement, elect any option provided in ORS 238A.180 and 238A.190, subject to the provisions of ORS 238A.195.

(a) The member's subsequent retirement benefit will be calculated based on the member's periods of active membership before and after the member's initial effective retirement date if at the initial retirement:

(A) The member received a monthly pension; or

(B) The member received a lump sum payment under ORS 238A.195 and repaid the benefit amount under subsection (2)(b) of this rule.

(b) The member's subsequent retirement benefit will be calculated based on the member's periods of active membership after the member's initial effective retirement date if:

(A) At initial retirement, the member received a lump sum payment under ORS 238A.195 and was not required to repay the benefit amount under subsection (2)(b) of this rule; or

(B) The member is required to repay the benefit amount under subsection (2)(b) of this rule and, as of the effective retirement date of the member's subsequent retirement, the member has not repaid the benefit amount.

(c) The member's subsequent retirement benefit will be calculated using the actuarial equivalency factors in effect on the effective retirement date of the subsequent retirement.

Stat. Auth.: ORS 238A.450

Stats. Implemented: ORS 238A.245

Hist.: PERS 10-2009, f. & cert. ef. 7-21-09; PERS 9-2015, f. & cert. ef. 7-31-15

## 459-080-0300

### Receipt of Retirement Distribution Payments by an Active Member of the IAP

(1) A member of the IAP who received a distribution at retirement under ORS 238A.400 or OAR 459-080-0250 who reestablishes active membership in the PERS Chapter 238 Program as set forth in OAR 459-017-0060, or the OPSRP Pension Program as set forth in OAR 459-075-0300, shall also reestablish active membership in the IAP on the same date.

(2) A member is not entitled to receive any IAP payments once active membership is reestablished.

(a) If the member received a single lump sum payment, the member is entitled to the payment provided the payment was dated on or before the date the member reestablished active membership.

(b) If the member is receiving installment payments, the last installment payment to which the member is entitled is the last installment payment paid before the date the member reestablished active membership.

(3) A member who receives benefits to which he or she is not entitled must repay those benefits to PERS.

(4) A member of the IAP who reestablishes active membership may, at subsequent retirement, elect any payment option provided in ORS 238A.400, subject to the provisions of OAR 459-080-0250.

Stat. Auth.: 238A.450

Stats. Implemented: ORS 238 & 238A

Hist.: PERS 10-2009, f. & cert. ef. 7-21-09; PERS 9-2015, f. & cert. ef. 7-31-15

### Oregon State Marine Board Chapter 250

**Rule Caption:** Close North Umpqua River to boats from Baker Wayside Park downstream to Deadline Falls.

**Adm. Order No.:** OSMB 8-2015(Temp)

**Filed with Sec. of State:** 8-10-2015

**Certified to be Effective:** 8-10-15 thru 9-30-15

**Notice Publication Date:**

**Rules Amended:** 250-020-0102

**Subject:** It is necessary to close the North Umpqua River to boats until fire suppression efforts have subsided and fallen trees can be mitigated. This could take until the end of September 2015.

**Rules Coordinator:** June LeTarte—(503) 378-2617

## 250-020-0102

### Boat Operations in Douglas County

(1) No person shall operate a motorboat at a speed in excess of 10 MPH in the following areas:

(a) On Carter Lake;

(b) On Plat I Reservoir.

(c) Diamond Lake.

(2) No person shall operate a motorboat at a speed in excess of 5 MPH in the following areas:

(a) Within the Harbor limits of Salmon Harbor on Winchester Bay;

(b) On the Umpqua River in the vicinity of River Forks Park from a point 30 yards downstream (North) from the launching ramp to a point upstream 100 yards on each the North Fork and South Fork of the Umpqua River;

(c) On the Umpqua River within 300 feet of the boat launching ramp and designated swimming area at Scottsburg Park.

(3) Lemolo Lake:

(a) No person shall operate a motorboat in excess of a "slow — no wake" speed within 150 feet of the shore or pier line in a zone extending from the launch ramp at Lemolo Lake Resort south to Pool Creek Inlet, and from a point 200 feet south of Pool Creek Inlet south to the small unnamed island, and thence south from the south tip of the island across to the nearest peninsula;

(b) Boats shall not exceed a "slow — no wake" speed in the area from where U.S. Forest Service Road Number 2666 crosses the North Umpqua River, to a point 2,000 feet westward thereof;

(c) Boats shall not exceed a maximum speed of 40 MPH on all other waters of Lemolo Lake.

(4) No person shall operate a motorboat for any purpose on the following bodies of water:

(a) Amos and Andy Lakes;

(b) June Lake;

(c) Indigo Lake;

(d) Maidu Lake;

(e) Wolf Lake;

(f) Skookum Lake;

(g) Fish Lake;

(h) Buckeye Lake;

(i) Cliff Lake;

(j) Calamut Lake;

(k) Lucile Lake;

(l) Faller Lake;

(m) Lower Twin Lake;

(n) Upper Twin Lake;

(o) Lake in the Woods.

(5) Cooper Creek Reservoir: No person shall operate a motorboat in excess of:

(a) 40 MPH on the main body of the Reservoir;

(b) 5 MPH within the buoyed area of Rachele Inlet; Pierce Canyon Inlet; Sutherland Inlet and Douglas Inlet;

(c) 5 MPH within 200 feet of a boat launching ramp or designates swimming area.

(6) Ben Irving Reservoir: No person shall operate a motorboat in excess of:

(a) 35 MPH from the markers (identified by the letter "A") located where the reservoir narrows, downstream for approximately 1.2 miles to the dam;

(b) 5 MPH:

(A) From the markers (identified by the letter "A") located where the reservoir narrows, upstream for approximately one mile to the second set of markers (identified by the letter "B");

(B) Within 100 feet of the boat ramp as marked.

(c) No person shall operate a motorboat upstream from the second markers (identified by the letter "B") except that electric motors may be used;

(d) No boats shall be permitted within the log boomed area in the vicinity of the dam spillway.

(7) Galesville Reservoir: No person shall operate a motorboat in excess of:

(a) 40 MPH on the main body of the lake;

(b) 5 MPH along the north shore between the launch ramp and log boom, in the buoyed areas;

(c) 5 MPH between the buoy line at the upper end of the lake to the powerboat deadline as marked;

(d) Above the 5 MPH zone, as marked, no person shall operate a motorboat, except those propelled by electric motors;

(e) Persons operating a motorboat in excess of 5 MPH in the otherwise unrestricted portions of the lake shall proceed about the lake in a counter clockwise direction.

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(8) No person shall operate a motorboat on the North Umpqua River between the boat ramp at Lone Rock Camp (approximate RM 32) upstream to Lemolo Lake.

(9) Loon Lake:

(a) Except for safe take-offs and landings, no person shall operate a motorboat in excess of a "slow-no wake" speed within 200 feet of the designated swimming area and boat mooring area at the BLM day use area, as marked. Boats towing skiers may exceed 5 MPH to extent necessary to maintain the skier in a skiing position, within 200 feet from the designated swimming area and boat mooring area only under safe conditions as outlined in this section. A safe take-off or landing will not be considered "safe" unless it can be accomplished without risk to any swimmer or craft within 200 feet from designated swimming area and boat mooring area. If a safe landing as thus defined is not possible, skiers must be picked up by the boat before coming within 200 feet from the designated swimming area and boat mooring area and brought to shore under usual speed restrictions (5 MPH within 200 feet of the designated swimming area and boat mooring area). Take-offs and landings are required to be made following the mandatory counter-clockwise pattern.

(b) Persons operating a motorboat in excess of 10 MPH shall proceed in a counter-clockwise direction in the otherwise unrestricted portions of the lake.

(c) No person shall operate a motorboat in excess of a "slow—no wake" speed within the buoyed area extending from the north shore of the cove at Fish Haven Resort in a southwest direction across the lake to the end of the prominent point of land on the south shore of the lake, as marked.

(10) Hemlock Lake: No person shall operate a motorboat, except those propelled by electric motors.

(11) A person must not operate a boat for any purpose on the North Umpqua River from Baker Wayside Park downstream to Deadline Falls in Idleyld Park.

Stat. Auth.: ORS 830

Stats. Implemented: ORS 830.110, 830.175 & 830.185

Hist.: MB 20, f. 3-20-63; MB 29, f. 6-17-66; MB 32, f. 9-14-66; MB 34, f. & ef. 6-2-67; MB 41, f. 9-18-68; MB 47, f. 7-14-70, ef. 8-11-70; MB 74(Temp), f. 5-18-76, ef. 6-1-76 thru 9-28-76; MB 82, f. & ef. 4-19-77; Renumbered from 250-020-0083; MB 4-1981(Temp), f. & ef. 4-17-81; MB 7-1981, f. & ef. 11-16-81; MB 4-1987, f. 4-20-87, ef. 5-1-87; MB 21-1987, f. 12-31-87, ef. 1-1-88; MB 5-1995, f. & cert. ef. 7-14-95; OSMB 8-2000, f. & cert. ef. 12-1-00; OSMB 7-2002, f. & cert. ef. 10-15-02; OSMB 1-2006, f. & cert. ef. 3-28-06; OSMB 7-2006(Temp), f. 8-15-06, cert. ef. 9-5-06 thru 9-30-06; Administrative correction 10-16-06; OSMB 7-2007, f. & cert. ef. 7-2-07; OSMB 3-2008, f. 4-11-08, cert. ef. 4-26-08; OSMB 10-2012(Temp), f. 8-16-12, cert. ef. 8-19-12 thru 8-25-12; OSMB 11-2012(Temp), f. 8-24-12, cert. ef. 8-26-12 thru 8-31-12; Administrative correction 9-20-12; OSMB 4-2015, f. 4-30-15, cert. ef. 5-1-15; OSMB 8-2015(Temp), f. & cert. ef. 8-10-15 thru 9-30-15

## Oregon Youth Authority Chapter 416

**Rule Caption:** Adopting the January 2015 Interstate Commission for Juvenile rules by reference.

**Adm. Order No.:** OYA 3-2015(Temp)

**Filed with Sec. of State:** 8-5-2015

**Certified to be Effective:** 8-5-15 thru 1-21-16

**Notice Publication Date:**

**Rules Amended:** 416-115-0025

**Subject:** OYA is updating its Standards for Juvenile Interstate Transfer of Supervision by adopting the most current version of the Interstate Commission for Juveniles' rules that were effective January 1, 2015.

**Rules Coordinator:** Winifred Skinner—(503) 373-7570

### 416-115-0025

#### Standards for Juvenile Interstate Transfer of Supervision

The Oregon Youth Authority adopts by this reference standards for the interstate transfer of Youth Offender supervision and services set in the official ICJ rules, published by the Interstate Commission for Juveniles, as updated to reflect all amendments through January 1, 2015. The rules may be viewed at the Interstate Commission for Juveniles website at <http://juvenilecompact.org/>.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 417.010 - 417.080

Hist.: OYA 7-2011, f. 12-12-11, cert. ef. 12-14-11; OYA 5-2012, f. & cert. ef. 6-25-12; OYA 3-2015(Temp), f. & cert. ef. 8-15-15 thru 1-21-16

**Rule Caption:** OYA needs to ensure marijuana and marijuana use is controlled in youth offender foster homes.

**Adm. Order No.:** OYA 4-2015(Temp)

**Filed with Sec. of State:** 8-14-2015

**Certified to be Effective:** 8-14-15 thru 2-9-16

**Notice Publication Date:**

**Rules Amended:** 416-530-0060

**Subject:** Now that M91 is in effect, OYA needs to ensure marijuana and marijuana use is controlled in youth offender foster homes.

**Rules Coordinator:** Winifred Skinner—(503) 373-7570

### 416-530-0060

#### Foster Parent Duties and Responsibilities

(1) Governance:

(a) Foster parents must comply with the standards of these rules and OYA procedures, including rules applicable to applicants.

(b) Foster parents must abide by the responsibilities described in the OYA Youth Offender Foster Home Agreement. This agreement will be signed at the time of initial certification and annually, thereafter.

(c) Foster parents must provide care and supervision in accordance with the youth offender's individual case plan.

(d) Foster parents must not leave youth offenders unsupervised in the foster home, except with prior written approval by the youth offender's JPPO and Foster Home Certifier specifying circumstances and length of time youth offender may be unsupervised.

(e) Foster parents must allow OYA access to the home, youth offenders, and foster care records, for the purpose of ongoing compliance monitoring.

(2) Training:

(a) An applicant must complete an OYA-mandated pre-service training before the applicant is approved for certification.

(b) Foster parents must have a valid CPR/First Aid certificate. CPR/First Aid courses count toward the annual minimum training requirement.

(c) On an annual basis, thereafter, each foster parent must complete a minimum of 10 hours of training.

(d) All training must be provided or approved by OYA and must include educational opportunities designed to enhance the foster parent's knowledge, skills, and abilities to meet the special needs of youth offenders.

(A) If youth offenders are in the home and the annual training hours have not been completed, the youth offender foster home certification will be placed on inactive referral status. No additional youth offender referrals will be made until the training hours are completed.

(B) OYA may suspend a certificate if no youth offenders are currently in placement and the training requirements have not been met.

(3) Participating in Multidisciplinary Team (MDT) reviews;

(a) Participating in Multidisciplinary Team (MDT) reviews;

(b) Implementing changes in care and supervision only as guided by the supervising Juvenile Parole/Probation Officer (JPPO) and the youth offender's case plan;

(c) Providing a youth offender with the opportunity for regular contacts and private visits or telephone calls with the youth offender's JPPO; and

(d) Notifying the Foster Home Certifier, or designee, of changes likely to impact the life and circumstances of the foster family, including but not limited to the following situations:

(A) Immediate notification to OYA of any circumstance involving the youth offender, foster parent, or other members of the household which may have a serious impact on the health, safety, physical or emotional well being of the youth offender. This includes, but is not limited to, injury, illness, accident, law violation, or unauthorized absence;

(B) Immediate notification of any visitor remaining in the home overnight who has not received prior approval by OYA. Foster parents and the Foster Home Certifier will collaborate to ensure the safety of the youth offender and visitor(s);

(C) Prior notification when a change in address is anticipated. In the case of an emergency (e.g., fire), foster parents must provide this information as soon as possible after the change of address occurs; and

(D) Prior notification when a change in the membership of the household is anticipated. In the event of an emergency, foster parents must provide this information as soon as possible after the change occurs.

(e) Foster parents must have prior written approval from OYA to take a youth offender out of state.

(4) Foster parents will respect and support the youth offender's relationship with the youth offender's family by:

(a) Assisting OYA staff in planning and implementing visits between the youth offender and the youth offender's family as indicated by the youth offender's case plan;

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(b) Allowing a youth offender opportunities to have at least one phone call weekly with the youth offender's family; and

(c) Informing the JPPO if the youth offender chooses to decline family visits.

(5) Confidentiality:

(a) Youth offender information and records are confidential. Foster parents must maintain information relating to youth offenders including but not limited to information relating to a youth's health, education, and placement progress in a manner sufficient to prevent unauthorized access.

(b) Foster parents must not disclose youth offender records, or the names of persons involved in the youth offender's case plan, without authorization from OYA.

(c) Youth offender records may be disclosed only when necessary to provide for the safety and wellbeing of youth offenders and with prior approval of OYA.

(d) Unauthorized disclosure of youth offender records may lead to suspension of certification.

(6) Records:

(a) Foster parents must, for the duration of the youth offender's placement in the foster home, maintain records, including, but not limited to, information relating to the youth offender's health (including immunizations), education, and placement progress.

(b) All records pertaining to the youth offender belong to OYA. The foster parent must make all records available to OYA upon request. The foster parent must immediately provide all records to the youth offender's JPPO or designee when the youth offender leaves the foster home. Any records request by foster parents after the records have been returned to OYA will be handled in accordance with OAR chapter 416, division 105.

(7) Youth offender reformation and supervision:

(a) Foster parents must provide structure, accountability, and supervision designed to promote the physical, social, intellectual, spiritual, and emotional development of youth offenders, while providing for community protection.

(b) In accordance with a youth offender's case plan, foster parents must:

(A) Treat each youth offender with respect and dignity;

(B) Help the youth offender develop skills and perform tasks that promote independence and self-sufficiency; and

(C) Ask youth offenders to assume household chores appropriate to the youth offender's age and ability, and commensurate with those expected of the foster parent's own children.

(8) Household composition:

(a) No more than three OYA youth offenders may reside in any given foster home at one time. In addition, no more than five total children (including the foster parent's own children under the age of 18) may reside in one foster home.

(b) Children of foster parents age 18 and older will not be counted toward the limitation of five children in the foster home.

(c) Members of the household age 18 and older who remain in or return to the home after becoming 18 years of age are subject to a criminal records check, including a fingerprint records check. The foster parent must notify OYA when a member of the household remains in or returns to the home after becoming 18 years of age.

(d) Foster parents must not care for unrelated adults on a commercial basis, accept children for day care, or accept any person for placement from any source other than OYA without prior OYA written approval.

(9) Respite care:

(a) A respite care provider may not provide care to youth offenders in the respite provider's own home without a current and valid OYA Certificate that specifically authorizes the respite care provider to provide respite care to youth offenders in the respite care provider's home.

(b) When all foster parents are absent from providing supervision of youth offenders in a foster home, an OYA-certified respite provider at least 21 years of age, capable of assuming foster care responsibilities, must be present. Other adults at least 21 years of age may provide supervision for three hours or less with prior approval from the foster parent, JPPO and Foster Home Certifier.

(c) When all foster parents anticipate being absent from providing supervision of youth offenders for overnight or longer, the foster parents must give OYA advance notice and the foster parents must receive approval from OYA before the foster parents may be absent. The foster parents must provide the following information: the dates of absence; the telephone number where the foster parents can be reached; and the name, telephone number, and home address of the OYA-certified respite provider who will provide care during the foster parent's authorized absence.

(d) The total number of youth offenders per foster home may be increased to no more than five to provide foster parents short-term respite from foster care responsibilities.

(e) Any respite care exceeding 10 days requires prior review and approval by the OYA Community Resources Manager.

(10) Food and nutrition:

(a) On a daily basis, foster parents must provide each youth offender three well-balanced meals and appropriate snacks.

(b) Foster parents must accommodate a youth offender's special and cultural dietary needs, including those ordered by a physician.

(11) Clothing and personal belongings:

(a) Foster parents must provide each youth offender with clean clothing that is appropriate to the youth offender's age, gender, and individual needs.

(b) Youth offenders must be allowed to participate in choosing their own clothing.

(c) Youth offenders may bring and acquire appropriate personal belongings as approved by the JPPO.

(d) Foster parents must provide a weekly allowance to youth offenders in a fair and consistent manner.

(e) Foster parents must develop house rules that include, but are not limited to, youth offender money and youth offender accounts.

(f) Foster parents must provide each youth offender with individual items necessary for personal hygiene and grooming.

(12) Discipline and guidance:

(a) Foster parents must work with a youth offender's JPPO to develop a behavior management plan that sets clear expectations, limits, and consequences of behavior through use of adequate and appropriate structure and supervision.

(A) Foster parents must provide clearly-stated basic rules, a system of incentives and rewards, graduated sanctions when necessary to hold youth offenders accountable, supervision, and guidance.

(B) Discipline must be designed to guide youth offenders with kindness and understanding, while holding the youth offender accountable for personal behaviors.

(b) No youth offender or other person(s) in a foster home will be subjected to physical abuse, sexual abuse, sexual exploitation, neglect, emotional abuse, mental injury or threats of harm.

(13) Health care:

(a) Foster parents must work with OYA to ensure that a youth offender's physical and mental health care needs are met, including but not limited to:

(A) Scheduling appointments and arranging transportation to medical, dental, or counseling appointments or assisting youth offenders in doing so if age appropriate.

(B) Ensuring that immunizations are current.

(C) Reporting to OYA when a youth offender needs corrective or follow-up medical, mental health or dental care, and arranging necessary care.

(D) Arranging for necessary consents from OYA for a youth offender's medical treatment that is not routine, including surgery.

(E) Obtaining emergency medical care, when necessary.

(b) Medication Administration:

(A) Foster parents must comply with applicable provisions of OAR chapter 416, division 340.

(B) A youth offender may refuse any medication. When this occurs, the foster parent must document the refusal and immediately notify the youth offender's JPPO.

(C) A foster parent may administer prescription medications to a youth offender only when ordered by a physician.

(D) All medications must be stored in locked storage sufficient to prevent unauthorized access.

(E) Foster parents must inform a youth offender's JPPO within one working day if any psychotropic medication is prescribed or changed for the youth offender.

(c) Medical information:

(A) Youth offender medical information must be kept confidential and in a secure location.

(B) Medical information may be shared only in compliance with Oregon Revised Statutes, and OYA administrative rules.

(C) Foster parents must provide OYA with copies of youth offender medical information.

(14) Religious, cultural, and ethnic heritage: Foster parents must respect the ethnic heritage, religion, cultural identity, and language of a youth offender and the youth offender's family by:

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(a) Providing reasonable and meaningful opportunities for a youth offender to develop relationships with others of like cultural and ethnic background;

(b) Providing a youth offender opportunities to attend religious services of the youth offender's choice; and

(c) Not requiring a youth offender to participate in religious activities or events contrary to the youth offender's beliefs.

(15) Education:

(a) Within five days of placement in the foster home, the foster parent must enroll a youth offender in an appropriate educational or vocational program, as outlined in the youth offender's case plan.

(b) Foster parents must be actively involved in a youth offender's educational or vocational programs.

(c) Foster parents must allow a youth offender adequate time each evening to complete homework in a location conducive to study and provide assistance as needed.

(d) Foster parents will work with school personnel when issues arise at school, and report to a youth offender's JPPO any situation that may require OYA involvement.

(16) Recreation:

(a) Foster parents must provide recreational activities appropriate to the age and abilities of a youth offender, as described in OAR chapter 416, division 500.

(b) Foster parents must encourage a youth offender to participate in community activities both with the foster family and on the youth offender's own, in accordance with the case plan.

(c) Foster parents must provide opportunities for a youth offender to pay restitution and perform community service obligations as directed by the case plan.

(17) Restrictions:

(a) No mechanical restraints, other than car seat belts, may be used on OYA youth offenders by foster parents.

(b) Foster parents and members of the household may not provide tobacco products in any form to youth offenders.

(c) Youth offenders may use private home swimming pools and hot tubs only under supervision of a foster parent or certified respite provider.

(d) All alcoholic beverages must be stored and locked in a manner sufficient to prevent access by youth offenders.

(e) All marijuana and marijuana-related paraphernalia must be stored and locked in a manner sufficient to prevent access by youth offenders. Marijuana may not be consumed in the presence of, or within sight of, youth offenders.

(18) Safety: Foster parents must:

(a) Be aware of a youth offender's location at home and in the community at all times;

(b) Have an adequate system for monitoring youth offenders during the night;

(c) Ensure that keys to locked storage and motor vehicles are secured at all times;

(d) Inspect a youth offender's room on regular basis to prevent the offender from possessing contraband;

(e) Comply with OYA health and safety requirements for the prevention of accidents and injuries;

(f) Understand and implement suicide prevention techniques and reporting requirements; and

(g) Be knowledgeable about boundaries, inappropriate sexual behavior, monitoring and other aspects of youth offender care at the level appropriate for supervising youth offenders that are placed in the home.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420.888 - 420.892

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 15-2004, f. & cert. ef. 11-12-04; OYA 2-2007, f. & cert. ef. 7-13-07; OYA 1-2014, f. & cert. ef. 1-15-14; OYA 4-2015(Temp), f. & cert. ef. 8-14-15 thru 2-9-16

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## Public Utility Commission Chapter 860

**Rule Caption:** In the Matter of Depreciation Study Requirements for Energy Utilities.

**Adm. Order No.:** PUC 3-2015

**Filed with Sec. of State:** 8-11-2015

**Certified to be Effective:** 8-11-15

**Notice Publication Date:** 7-1-2015

**Rules Adopted:** 860-027-0350

**Subject:** This new rule requires each regulated energy utility to file a depreciation study no less frequently than once every five years.

**Rules Coordinator:** Diane Davis—(503) 378-4372

### 860-027-0350

#### Depreciation Study Requirements for Energy Utilities

(1) As used in this rule, a "depreciation study" means a study by an energy utility sufficient to allow the Commission to determine the proper and adequate rates of depreciation of the several classes of property of the public utility.

(2) Each energy utility must file a new depreciation study with the Commission no less frequently than once every five years.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 756.105, 757.140

Hist.: PUC 3-2015, f. & cert. ef. 8-11-15

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**Rule Caption:** In the Matter of Housekeeping Changes to OAR 860-036-0245 Disconnections Procedures for Water Utility Customers.

**Adm. Order No.:** PUC 4-2015

**Filed with Sec. of State:** 8-11-2015

**Certified to be Effective:** 8-11-15

**Notice Publication Date:** 7-1-2015

**Rules Amended:** 860-036-0245

**Subject:** The changes to the 15-day notice language make the rule consistent with the disconnection rules for other utilities regulated by the PUC and with current industry practice. Other changes update language to provide clarity.

**Rules Coordinator:** Diane Davis—(503) 378-4372

### 860-036-0245

#### Disconnection Procedures for All Customers of Water Utility Services

(1) Involuntary termination of water utility service for all customers must be under the provisions of this rule.

(2) Notice Requirements:

(a) At least five business days before a water utility disconnects service, a written disconnect notice must be provided to the customer to be disconnected;

(b) Before a water utility disconnects service due to a customer's failure to abide by a time-payment agreement, the water utility will provide the customer with a written 15-calendar-day disconnect notice and a written five-business -day disconnect notice;

(c) The disconnection notice must inform the customer that service will be disconnected on or after a specific date and must explain the alternatives. The specified date must conform to OAR 860-036-0220, disconnection of service on Fridays, weekends and holidays.

(3) The water utility may serve the notice of disconnection in person or send it by first class mail to the last known addresses of the customer and the customer's designated representative. Service is complete on the date of mailing or personal delivery. If notification is made by delivery to the residence, the water utility must attempt personal contact. If personal contact cannot be made with the customer or an adult resident, the water utility must leave the notice in a conspicuous place at the residence.

(4) When a written notice is given under these rules:

(a) The notice must conform to the requirements of OAR 860-036-0235 concerning multilingual requirements and service on any designated representative; and

(b) The notice must conform to the requirements of OAR 860-036-0230 if the water utility's records show that the billing address is different than the service address or that the premises is a master-metered multi-unit dwelling. The notice may be addressed to "Tenant." The envelope must bear a bold notice stating, "Important notice regarding disconnection of utility service," or words to that effect.

(5) The notice must be printed in bold face type and must state in easy to understand language:

(a) The reason for the proposed disconnection;

(b) The amount to be paid to avoid disconnection;

(c) The earliest date for disconnection;

(d) An explanation of the time-payment agreement provisions of OAR 860-036-0125; and

(e) An explanation of the Commission's dispute resolution process and toll-free number.

(6) A notice of disconnection may not be sent prior to the due date for payment of a bill.

# ADMINISTRATIVE RULES

(7) At least five-business-days before the proposed disconnection date, the water utility must mail or deliver a written disconnection notice to the customer.

(8) A fee in an amount approved by the Commission may be charged whenever a water utility is required to visit a residential service address in order to serve a disconnection notice.

(9) On the day that the water utility expects to disconnect service and prior to disconnection, the water utility must make a good faith effort to personally contact the customer or an adult at the residence to be disconnected.

(a) If the contact is made, the water utility must advise the person of the proposed disconnection; or

(b) If contact is not made, the water utility must leave a notice in a conspicuous place at the residence informing the customer that service has been, or is about to be, disconnected.

(10) Where personal contact is made by a water utility under this rule, and the circumstances are such that a reasonable person would conclude that the customer does not understand the consequences of disconnection, the water utility must:

(a) Notify the Department of Human Services and the Commission; and

(b) Delay the proposed disconnection date for five additional business days.

(11) When personal contact is made by the water utility under this rule, the representative of the water utility making contact shall be authorized to accept reasonable partial payment of the overdue balance in accordance with the time-payment provisions.

(12) A water utility must document its efforts to provide notice under this rule and must make that documentation available to the customer and the Commission upon request.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040, 757.750 & 757.755

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 9-1999(Temp), f. 10-22-99, cert. ef. 10-23-99 thru 4-19-00; PUC 6-2000, f. 4-18-00, cert. ef. 4-20-00; PUC 4-2001, f. & cert. ef. 1-24-01; PUC 18-2003, f. & cert. ef. 10-6-03; PUC 4-2015, f. & cert. ef. 8-11-15

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**Rule Caption:** Rulemaking to Implement 2015 Senate Bill 286 - Gas Pipeline Safety Violations Civil Penalties Changes

**Adm. Order No.:** PUC 5-2015

**Filed with Sec. of State:** 8-11-2015

**Certified to be Effective:** 8-11-15

**Notice Publication Date:** 7-1-2015

**Rules Amended:** 860-031-0035

**Subject:** This rule implements 2015 Senate Bill 286 changes to ORS 757.991, increasing the amount of the maximum civil penalties for gas storage and pipeline safety violations to comport with the federal standards and allow the PUC to directly assess and collect any such penalty. The maximum civil penalty is increased from \$10,000 to \$200,000 per event per day, and the maximum penalty for a series of failures is raised from \$500,000 to \$2,000,000.

**Rules Coordinator:** Diane Davis—(503) 378-4372

**860-031-0035**

**Civil Penalties**

(1) Civil penalties for failure to comply with gas pipeline safety rules or regulations are based on the gravity of the violation, the extent of the operators' past violations, and other matters as justice may require.

(2) ORS 757.991 provides for penalties for failure to comply with gas pipeline safety rules or regulations of \$200,000 per day, to a maximum of \$2,000,000 for any related series of failures.

Stat. Auth.: ORS 183, 756, 757

Stats. Implemented: ORS 756.040, 757.039, 756.991

Hist.: PUC 18-1984, f. & ef. 9-4-84 (Order No. 84-685); PUC 1-1998, f. & cert. ef. 1-12-98; PUC 12-1999, f. & cert. ef. 11-18-99; PUC 9-2001, f. & cert. ef. 3-21-01; PUC 5-2015, f. & cert. ef. 8-11-15

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

**Rule Caption:** Adjusts pilot license fee by percentage change in consumer price index for previous 24 months.

**Adm. Order No.:** BMP 3-2015

**Filed with Sec. of State:** 7-22-2015

**Certified to be Effective:** 7-22-15

**Notice Publication Date:** 7-1-2015

**Rules Amended:** 856-010-0016

**Subject:** The Board is statutorily required to adjust the amount of the maximum annual license fee for a maritime pilot for each subsequent biennium by a proportional amount equal to the percentage change in the 24-month period prior to the beginning of the biennium in the Portland-Salem, OR-WA, Consumer Price Index for All Urban Consumers for All Items, as published by the Bureau of Labor Statistics of the United States Department of Labor. The cumulative CPI for the previous period will increase the license fee from \$2,858 to \$2,995 annually.

**Rules Coordinator:** Susan Johnson—(971) 673-1530

**856-010-0016**

**License Fees**

The annual license fee for pilots shall be \$2,995.

Stat. Auth.: ORS 776

Stats. Implemented: ORS 776.115 & 776.355

Hist.: MP 1-1991(Temp), f. 6-19-91, cert. ef. 7-1-91; MP 2-1991, f. & cert. ef. 12-27-91; MP 3-1992(Temp), f. 6-26-92, cert. ef. 7-1-92; MP 4-1992, f. 11-13-92, cert. ef. 12-28-92; BMP 3-2007(Temp), f. & cert. ef. 7-26-07 thru 1-21-08; BMP 1-2008, f. & cert. ef. 1-24-08; BMP 6-2009, f. & cert. ef. 8-24-09; BMP 6-2011, f. 10-31-11, cert. ef. 11-1-11; BMP 2-2013, f. & cert. ef. 7-1-13; BMP 3-2015, f. & cert. ef. 7-22-15

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## Secretary of State, Archives Division Chapter 166

**Rule Caption:** Adopting Attorney General Model Rules by reference

**Adm. Order No.:** OSA 2-2015

**Filed with Sec. of State:** 8-3-2015

**Certified to be Effective:** 8-3-15

**Notice Publication Date:**

**Rules Amended:** 166-001-0005, 166-500-0005

**Subject:** Amending rules to adopt the Attorney General's most current Model Rules of Procedure under the Administrative Procedures Act.

**Rules Coordinator:** Julie Yamaka—(503) 378-5199

**166-001-0005**

**Model Rules of Procedure**

The State Archivist adopts the Attorney General's Model Rules of Procedure under the Administrative Procedures Act, dated July 1, 2014.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or Archives Division.]

Stat. Auth.: ORS 183

Stats. Implemented: ORS 183

Hist.: OSA 4, f. & ef. 4-21-76; OSA 2-1986, f. & ef. 3-17-86; OSA 1-1988, f. & cert. ef. 8-10-88; OSA 1-1991, f. & cert. ef. 12-5-91; OSA 3-1994, f. 7-14-94, cert. ef. 7-15-94; OSA 4-2001, f. & cert. ef. 5-22-01; OSA 5-2004, f. & cert. ef. 11-1-04; OSA 4-2006, f. & cert. ef. 10-12-06; OSA 9-2009, f. & cert. ef. 10-15-09; OSA 2-2015, f. & cert. ef. 8-3-15

**166-500-0005**

**Model Rules of Procedure**

The Attorney General's Model Rules of Procedure under the Administrative Procedures Act, dated July 1, 2014, are adopted as the rules of procedure for the Administrative Rules Unit.

[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 Archives Division.]

Stat. Auth.: ORS 183.360

Stats. Implemented: ORS 183.335

Hist.: PRD 2-1988, f. & cert. ef. 2-5-88; PRD 6-1988, f. & cert. ef. 8-10-88; SOS-AD 1-1990, f. & cert. ef. 5-9-90; SOS-AD 2-1991, f. & cert. ef. 12-3-91; OSA 4-1993, f. & cert. ef. 11-10-93, Renumbered from 164-001-0005; OSA 8-1997, f. & cert. ef. 10-6-97; OSA 5-2001, f. & cert. ef. 7-5-01; OSA 5-2004, f. & cert. ef. 11-1-04; OSA 4-2006, f. & cert. ef. 10-12-06; OSA 9-2009, f. & cert. ef. 10-15-09; OSA 2-2012, f. & cert. ef. 9-12-12; OSA 2-2015, f. & cert. ef. 8-3-15

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## Secretary of State, Elections Division Chapter 165

**Rule Caption:** Adopts requirements necessary to attain Oregon voting system certification

**Adm. Order No.:** ELECT 6-2015

**Filed with Sec. of State:** 8-7-2015

**Certified to be Effective:** 8-7-15

**Notice Publication Date:** 7-1-2015

## ADMINISTRATIVE RULES

**Rules Adopted:** 165-007-0350

**Subject:** This rule requires any voting machine or vote tally system submitted for certification be certified by the Elections Assistance Commission or be examined by a federally accredited voting systems testing laboratory. The report generated by the voting systems testing laboratory must be submitted to the Secretary of State prior to certification and include specified technical review. The report must also reflect that the voting machine or vote tally system meets or exceeds the Voluntary Voting System Guidelines Version 1.0 promulgated by the US Election Assistance Commission.

**Rules Coordinator:** Brenda Bayes—(503) 986-1518

### 165-007-0350

#### Oregon Voting System Certification

(1) All voting machines or vote tally systems submitted for certification pursuant to ORS 246.550 must be certified by the Elections Assistance Commission (EAC) or be examined by a federally accredited voting systems testing laboratory (VSTL).

(2) The cost of the examination by the VSTL shall be paid by the person or company requesting the examination.

(3) A person or company applying for certification of a voting machine or vote tally system in Oregon must submit the test reports generated by the VSTL documenting, at a minimum that the machine or vote tally system meets or exceeds the Voluntary Voting System Guidelines Version 1.0 promulgated by the U.S. Election Assistance Commission in the following areas:

(a) Technical Data Package (TDP) Review. The TDP provides information that defines the voting system design, method of operation and related resources. It provides a system overview and documents the system's functionality;

(b) Source Code Review. A voting system's source code is its operating instructions in the original programming language;

(c) System Integration. System integration tests focus on the functionality of integrated hardware and software components, internal and external system interfaces, usability and accessibility and security. Election management functions, ballot-counting logic and system capacity are also tested;

(d) Physical Configuration Audit (PCA). The PCA compares the voting system components submitted against vendor's technical documentation and establishes a configuration baseline of the software and hardware. The audit also includes witnessing the build of the executable system to verify that it matches the build in the documentation; and

(e) Functional Configuration Audit (FCA). The FCA is an exhaustive verification of every system function and combination of functions cited in the vendor's documentation and is used to verify the accuracy and completeness of the Technical Data Package. This portion of the testing process will also verify the accuracy of the counting logic for the system.

(4) The report must be submitted to the Secretary of State prior to certification.

(5) This rule applies to applications for certification submitted on or after the effective date of this rule.

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 246.550

Hist.: ELECT 6-2015, f. & cert. ef. 8-7-15

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137-047-0265	2-3-2015	Amend	3-1-2015	150-308.149(6)	1-1-2015	Amend	2-1-2015
137-047-0270	2-3-2015	Amend	3-1-2015	150-309.115(2)(b)	1-1-2015	Am. & Ren.	2-1-2015
137-047-0300	2-3-2015	Amend	3-1-2015	150-311.670(1)	1-1-2015	Am. & Ren.	2-1-2015
137-047-0450	2-3-2015	Amend	3-1-2015	150-311.672(1)(a)	1-1-2015	Amend	2-1-2015
137-047-0560	2-3-2015	Amend	3-1-2015	150-314.515(2)	1-1-2015	Amend	2-1-2015
137-048-0130	2-3-2015	Amend	3-1-2015	150-317.131	1-1-2015	Adopt	2-1-2015
137-048-0210	2-3-2015	Amend	3-1-2015	150-457.440(9)-(B)	1-1-2015	Adopt	2-1-2015
137-048-0220	2-3-2015	Amend	3-1-2015	161-001-0010	1-1-2015	Amend	2-1-2015
137-049-0100	2-3-2015	Amend	3-1-2015	161-006-0025	1-1-2015	Amend	2-1-2015
137-049-0120	2-3-2015	Amend	3-1-2015	161-006-0025	7-20-2015	Amend(T)	7-1-2015
137-049-0130	2-3-2015	Amend	3-1-2015	161-006-0025	7-24-2015	Amend	9-1-2015
137-049-0380	2-3-2015	Amend	3-1-2015	161-006-0155	1-1-2015	Amend	2-1-2015
137-049-0600	2-3-2015	Amend	3-1-2015	161-006-0160	1-1-2015	Amend	2-1-2015
137-049-0610	2-3-2015	Amend	3-1-2015	161-008-0010	1-1-2015	Amend	2-1-2015
137-049-0620	2-3-2015	Amend	3-1-2015	161-010-0010	1-1-2015	Amend	2-1-2015
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137-049-0660	2-3-2015	Amend	3-1-2015	161-010-0080	1-1-2015	Amend	2-1-2015
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137-049-0820	2-3-2015	Amend	3-1-2015	161-010-0000	1-1-2015	Amend	2-1-2015
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137-055-2160	3-30-2015	Amend	5-1-2015	161-020-0005	1-1-2015	Amend	2-1-2015
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137-130-0005(T)	2-23-2015	Repeal	4-1-2015	161-020-0110	1-1-2015	Amend	2-1-2015
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137-130-0210(T)	2-23-2015	Repeal	4-1-2015	161-025-0025	1-1-2015	Amend	2-1-2015
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170-061-0015	7-10-2015	Amend	8-1-2015	250-013-0020	7-1-2015	Am. & Ren.	8-1-2015
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213-060-0020	1-1-2015	Adopt	1-1-2015	250-016-0050	7-1-2015	Amend	8-1-2015
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213-060-0050	1-1-2015	Adopt	1-1-2015	250-020-0033	5-1-2015	Amend	6-1-2015
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213-060-0070	1-1-2015	Adopt	1-1-2015	250-020-0043	5-1-2015	Amend	6-1-2015
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213-060-0140	1-1-2015	Adopt	1-1-2015	250-020-0091	5-1-2015	Amend	6-1-2015
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259-008-0005	3-24-2015	Amend	5-1-2015	259-061-0260	1-5-2015	Repeal	2-1-2015
259-008-0005	7-1-2015	Amend	8-1-2015	259-061-0300	3-24-2015	Amend	5-1-2015
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259-008-0010	3-24-2015	Amend	5-1-2015	259-070-0010(T)	12-30-2014	Repeal	2-1-2015
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259-008-0025	7-1-2015	Amend	8-1-2015	291-016-0020	12-3-2014	Amend	1-1-2015
259-008-0035	7-1-2015	Amend	8-1-2015	291-016-0020	7-1-2015	Amend(T)	8-1-2015
259-008-0040	7-1-2015	Amend	8-1-2015	291-016-0020(T)	12-3-2014	Repeal	1-1-2015
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259-009-0005	12-31-2014	Amend	2-1-2015	291-055-0010	12-29-2014	Amend	2-1-2015
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259-009-0015	1-15-2015	Amend(T)	2-1-2015	291-055-0014	12-29-2014	Amend	2-1-2015
259-009-0015	6-23-2015	Amend	8-1-2015	291-055-0014(T)	12-29-2014	Repeal	2-1-2015
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259-009-0070	12-31-2014	Amend	2-1-2015	291-055-0020(T)	12-29-2014	Repeal	2-1-2015
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259-060-0020	6-23-2015	Amend	8-1-2015	291-078-0020(T)	2-25-2015	Repeal	4-1-2015
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291-082-0120(T)	5-21-2015	Repeal	7-1-2015	325-005-0015	7-10-2015	Amend	8-1-2015
291-082-0130	1-6-2015	Amend(T)	2-1-2015	325-010-0001	7-10-2015	Amend	8-1-2015
291-082-0130	5-21-2015	Amend	7-1-2015	325-010-0005	7-10-2015	Amend	8-1-2015
291-082-0130(T)	5-21-2015	Repeal	7-1-2015	325-010-0010	7-10-2015	Amend	8-1-2015
291-082-0135	1-6-2015	Amend(T)	2-1-2015	325-010-0015	7-10-2015	Amend	8-1-2015
291-082-0135	5-21-2015	Amend	7-1-2015	325-010-0020	7-10-2015	Amend	8-1-2015
291-082-0135(T)	5-21-2015	Repeal	7-1-2015	325-010-0030	7-10-2015	Amend	8-1-2015
291-082-0140	1-6-2015	Amend(T)	2-1-2015	325-010-0035	7-10-2015	Amend	8-1-2015
291-082-0140	5-21-2015	Amend	7-1-2015	325-010-0040	7-10-2015	Amend	8-1-2015
291-082-0140(T)	5-21-2015	Repeal	7-1-2015	325-010-0045	7-10-2015	Amend	8-1-2015
291-082-0145	1-6-2015	Amend(T)	2-1-2015	325-010-0050	7-10-2015	Amend	8-1-2015
291-082-0145	5-21-2015	Amend	7-1-2015	325-010-0055	7-10-2015	Amend	8-1-2015
291-082-0145(T)	5-21-2015	Repeal	7-1-2015	325-010-0060	7-10-2015	Amend	8-1-2015
291-104-0111	1-6-2015	Amend(T)	2-1-2015	325-015-0001	7-10-2015	Amend	8-1-2015
291-104-0111	5-21-2015	Amend	7-1-2015	325-015-0005	7-10-2015	Amend	8-1-2015
291-104-0111(T)	5-21-2015	Repeal	7-1-2015	325-015-0010	7-10-2015	Amend	8-1-2015
291-104-0116	1-6-2015	Amend(T)	2-1-2015	325-015-0015	7-10-2015	Amend	8-1-2015
291-104-0116	5-21-2015	Amend	7-1-2015	325-015-0020	7-10-2015	Amend	8-1-2015
291-104-0116(T)	5-21-2015	Repeal	7-1-2015	325-015-0025	7-10-2015	Amend	8-1-2015
291-104-0125	1-6-2015	Amend(T)	2-1-2015	325-015-0030	7-10-2015	Amend	8-1-2015
291-104-0125	5-21-2015	Amend	7-1-2015	325-015-0035	7-10-2015	Amend	8-1-2015
291-104-0125(T)	5-21-2015	Repeal	7-1-2015	325-015-0040	7-10-2015	Amend	8-1-2015
291-104-0135	1-6-2015	Amend(T)	2-1-2015	325-015-0045	7-10-2015	Amend	8-1-2015
291-104-0135	5-21-2015	Amend	7-1-2015	325-015-0050	7-10-2015	Amend	8-1-2015
291-104-0135(T)	5-21-2015	Repeal	7-1-2015	325-015-0055	7-10-2015	Amend	8-1-2015
291-104-0140	1-6-2015	Amend(T)	2-1-2015	325-015-0060	7-10-2015	Amend	8-1-2015
291-104-0140	5-21-2015	Amend	7-1-2015	325-020-0001	7-10-2015	Amend	8-1-2015
291-104-0140(T)	5-21-2015	Repeal	7-1-2015	325-020-0005	7-10-2015	Amend	8-1-2015
291-109-0120	11-19-2014	Amend	1-1-2015	325-020-0010	7-10-2015	Amend	8-1-2015
291-109-0140	11-19-2014	Amend	1-1-2015	325-020-0015	7-10-2015	Amend	8-1-2015
291-109-0150	11-19-2014	Amend	1-1-2015	325-020-0020	7-10-2015	Amend	8-1-2015
291-109-0160	11-19-2014	Amend	1-1-2015	325-020-0025	7-10-2015	Amend	8-1-2015
291-109-0170	11-19-2014	Amend	1-1-2015	325-020-0026	7-10-2015	Amend	8-1-2015
291-109-0180	11-19-2014	Amend	1-1-2015	325-020-0030	7-10-2015	Amend	8-1-2015
291-109-0200	11-19-2014	ReNUMBER	1-1-2015	325-020-0035	7-10-2015	Amend	8-1-2015
291-130-0005	1-1-2015	Amend(T)	2-1-2015	325-020-0040	7-10-2015	Amend	8-1-2015
291-130-0006	1-1-2015	Amend(T)	2-1-2015	325-020-0045	7-10-2015	Amend	8-1-2015
291-130-0011	1-1-2015	Amend(T)	2-1-2015	325-020-0050	7-10-2015	Amend	8-1-2015
291-130-0016	1-1-2015	Amend(T)	2-1-2015	325-020-0055	7-10-2015	Amend	8-1-2015
291-130-0019	1-1-2015	Adopt(T)	2-1-2015	325-025-0001	7-10-2015	Amend	8-1-2015
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325-025-0020	7-10-2015	Amend	8-1-2015	331-810-0025	1-1-2015	Adopt	1-1-2015
325-025-0025	7-10-2015	Amend	8-1-2015	331-810-0030	1-1-2015	Repeal	1-1-2015
325-025-0030	7-10-2015	Amend	8-1-2015	331-810-0031	1-1-2015	Adopt	1-1-2015
325-025-0035	7-10-2015	Amend	8-1-2015	331-810-0038	1-1-2015	Repeal	1-1-2015
325-025-0040	7-10-2015	Amend	8-1-2015	331-810-0040	1-1-2015	Amend	1-1-2015
325-025-0045	7-10-2015	Amend	8-1-2015	331-810-0050	1-1-2015	Repeal	1-1-2015
325-025-0050	7-10-2015	Amend	8-1-2015	331-810-0055	1-1-2015	Amend	1-1-2015
325-025-0055	7-10-2015	Amend	8-1-2015	331-810-0060	1-1-2015	Adopt	1-1-2015
325-025-0060	7-10-2015	Amend	8-1-2015	331-820-0010	1-1-2015	Repeal	1-1-2015
325-030-0001	7-10-2015	Amend	8-1-2015	331-820-0020	1-1-2015	Amend	1-1-2015
325-030-0005	7-10-2015	Amend	8-1-2015	331-830-0005	1-1-2015	Repeal	1-1-2015
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325-030-0025	7-10-2015	Amend	8-1-2015	331-840-0020	1-1-2015	Amend	1-1-2015
325-030-0030	7-10-2015	Amend	8-1-2015	331-840-0030	1-1-2015	Repeal	1-1-2015
325-030-0035	7-10-2015	Amend	8-1-2015	331-840-0040	1-1-2015	Amend	1-1-2015
325-030-0040	7-10-2015	Amend	8-1-2015	331-840-0050	1-1-2015	Repeal	1-1-2015
325-030-0045	7-10-2015	Amend	8-1-2015	331-840-0060	1-1-2015	Amend	1-1-2015
325-030-0050	7-10-2015	Amend	8-1-2015	331-840-0070	1-1-2015	Amend	1-1-2015
325-030-0055	7-10-2015	Amend	8-1-2015	331-850-0010	1-1-2015	Amend	1-1-2015
325-030-0060	7-10-2015	Amend	8-1-2015	332-015-0000	1-1-2015	Amend	2-1-2015
330-070-0010	1-1-2015	Amend	1-1-2015	332-015-0025	1-1-2015	Adopt	2-1-2015
330-070-0013	1-1-2015	Amend	1-1-2015	332-015-0030	1-1-2015	Amend	2-1-2015
330-070-0014	1-1-2015	Amend	2-1-2015	332-015-0030	1-2-2015	Amend(T)	2-1-2015
330-070-0020	1-1-2015	Amend	1-1-2015	332-015-0030	7-1-2015	Amend	8-1-2015
330-070-0021	1-1-2015	Amend	1-1-2015	332-015-0070	1-1-2015	Repeal	2-1-2015
330-070-0022	1-1-2015	Amend	1-1-2015	332-020-0000	1-1-2015	Amend	2-1-2015
330-070-0025	1-1-2015	Amend	1-1-2015	332-020-0010	1-1-2015	Amend	2-1-2015
330-070-0026	1-1-2015	Amend	1-1-2015	332-020-0010	7-1-2015	Amend	8-1-2015
330-070-0027	1-1-2015	Amend	1-1-2015	332-025-0020	1-2-2015	Amend(T)	2-1-2015
330-070-0029	1-1-2015	Amend	1-1-2015	332-025-0020	7-1-2015	Amend	8-1-2015
330-070-0040	1-1-2015	Amend	1-1-2015	332-025-0110	1-2-2015	Amend(T)	2-1-2015
330-070-0045	1-1-2015	Amend	1-1-2015	332-025-0110	7-1-2015	Amend	8-1-2015
330-070-0059	1-1-2015	Amend	1-1-2015	332-025-0125	1-1-2015	Adopt	2-1-2015
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330-070-0062	1-1-2015	Amend	1-1-2015	332-026-0010	7-1-2015	Amend	8-1-2015
330-070-0063	1-1-2015	Amend	1-1-2015	332-030-0000	1-1-2015	Repeal	2-1-2015
330-070-0064	1-1-2015	Amend	1-1-2015	332-040-0000	7-8-2015	Amend	8-1-2015
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330-070-0073	1-1-2015	Amend	1-1-2015	333-008-1020	1-28-2015	Amend	3-1-2015
330-070-0073(T)	1-1-2015	Repeal	1-1-2015	333-008-1040	1-28-2015	Amend	3-1-2015
330-070-0076	1-1-2015	Adopt	1-1-2015	333-008-1050	1-28-2015	Amend	3-1-2015
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330-070-0089	1-1-2015	Amend	1-1-2015	333-008-1070	1-28-2015	Amend	3-1-2015
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330-230-0150	3-23-2015	Amend(T)	5-1-2015	333-008-1100	1-28-2015	Amend	3-1-2015
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331-410-0050	12-1-2014	Amend	1-1-2015	333-008-1120	1-28-2015	Amend	3-1-2015
331-440-0000	7-8-2015	Amend	8-1-2015	333-008-1150	1-28-2015	Amend	3-1-2015
331-601-0010	7-1-2015	Amend	8-1-2015	333-008-1160	1-28-2015	Amend	3-1-2015
331-800-0010	1-1-2015	Amend	1-1-2015	333-008-1170	1-28-2015	Amend	3-1-2015
331-800-0020	1-1-2015	Amend	1-1-2015	333-008-1180	1-28-2015	Amend	3-1-2015

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333-008-1210	1-28-2015	Amend	3-1-2015	333-119-0010	1-1-2015	Amend	2-1-2015
333-008-1220	1-28-2015	Amend	3-1-2015	333-119-0020	1-1-2015	Amend	2-1-2015
333-008-1225	1-28-2015	Amend	3-1-2015	333-119-0030	1-1-2015	Amend	2-1-2015
333-008-1230	1-28-2015	Amend	3-1-2015	333-119-0040	1-1-2015	Amend	2-1-2015
333-008-1260	1-28-2015	Amend	3-1-2015	333-119-0041	1-1-2015	Amend	2-1-2015
333-008-1275	1-28-2015	Amend	3-1-2015	333-119-0050	1-1-2015	Amend	2-1-2015
333-008-1280	1-28-2015	Amend	3-1-2015	333-119-0060	1-1-2015	Amend	2-1-2015
333-014-0040	12-17-2014	Amend	2-1-2015	333-119-0070	1-1-2015	Amend	2-1-2015
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333-014-0042(T)	12-17-2014	Repeal	2-1-2015	333-119-0100	1-1-2015	Amend	2-1-2015
333-014-0080	12-17-2014	Adopt	2-1-2015	333-119-0110	1-1-2015	Amend	2-1-2015
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333-014-0090	12-17-2014	Adopt	2-1-2015	333-119-0130	1-1-2015	Amend	2-1-2015
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333-014-0100	12-17-2014	Adopt	2-1-2015	333-120-0670	1-1-2015	Amend	2-1-2015
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333-017-0000	7-3-2015	Amend	8-1-2015	333-121-0010	1-1-2015	Amend	2-1-2015
333-018-0010	7-3-2015	Amend	8-1-2015	333-121-0020	1-1-2015	Amend	2-1-2015
333-018-0015	7-3-2015	Amend	8-1-2015	333-122-0005	1-1-2015	Amend	2-1-2015
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333-028-0220	5-6-2015	Amend(T)	6-1-2015	333-500-0025	8-13-2015	Amend	9-1-2015
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333-106-0005	1-1-2015	Amend	2-1-2015	333-700-0004	2-1-2015	Amend	3-1-2015
333-106-0025	1-1-2015	Amend	2-1-2015	333-700-0017	2-1-2015	Amend	3-1-2015
333-106-0040	1-1-2015	Amend	2-1-2015	333-700-0120	2-1-2015	Amend	3-1-2015
333-106-0045	1-1-2015	Amend	2-1-2015	333-700-0130	2-1-2015	Amend	3-1-2015
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340-041-0028	1-7-2015	Amend	2-1-2015	340-204-0060	4-16-2015	Amend	6-1-2015
340-041-0033	1-7-2015	Amend	2-1-2015	340-204-0070	4-16-2015	Amend	6-1-2015
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340-041-8033	1-7-2015	Adopt	2-1-2015	340-204-0310	4-16-2015	Adopt	6-1-2015
340-071-0140	2-3-2015	Amend	3-1-2015	340-204-0320	4-16-2015	Adopt	6-1-2015
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340-100-0003	4-15-2015	Amend	5-1-2015	340-206-0030	4-16-2015	Amend	6-1-2015
340-100-0004	4-15-2015	Amend	5-1-2015	340-206-0040	4-16-2015	Amend	6-1-2015
340-100-0010	4-15-2015	Amend	5-1-2015	340-206-0050	4-16-2015	Amend	6-1-2015
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340-101-0030	4-15-2015	Amend	5-1-2015	340-206-8010	4-16-2015	Adopt	6-1-2015
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340-102-0011	4-15-2015	Amend	5-1-2015	340-206-8030	4-16-2015	Adopt	6-1-2015
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340-103-0010	4-15-2015	Amend	5-1-2015	340-208-0100	4-16-2015	Repeal	6-1-2015
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340-104-0145	4-15-2015	Amend	5-1-2015	340-208-0200	4-16-2015	Repeal	6-1-2015
340-104-0149	4-15-2015	Amend	5-1-2015	340-208-0210	4-16-2015	Amend	6-1-2015
340-105-0001	4-15-2015	Amend	5-1-2015	340-208-0300	4-16-2015	Amend	6-1-2015
340-105-0140	4-15-2015	Amend	5-1-2015	340-208-0310	4-16-2015	Amend	6-1-2015
340-106-0001	4-15-2015	Amend	5-1-2015	340-208-0320	4-16-2015	Amend	6-1-2015
340-109-0001	4-15-2015	Amend	5-1-2015	340-208-0450	4-16-2015	Amend	6-1-2015
340-111-0010	4-15-2015	Amend	5-1-2015	340-208-0600	4-16-2015	Repeal	6-1-2015
340-111-0070	4-15-2015	Amend	5-1-2015	340-209-0010	4-16-2015	Amend	6-1-2015
340-200-0010	4-16-2015	Amend	6-1-2015	340-209-0020	4-16-2015	Amend	6-1-2015
340-200-0020	4-16-2015	Amend	6-1-2015	340-209-0030	4-16-2015	Amend	6-1-2015
340-200-0025	4-16-2015	Amend	6-1-2015	340-209-0040	4-16-2015	Amend	6-1-2015
340-200-0030	4-16-2015	Amend	6-1-2015	340-209-0050	4-16-2015	Amend	6-1-2015
340-200-0035	4-16-2015	Adopt	6-1-2015	340-209-0060	4-16-2015	Amend	6-1-2015
340-200-0040	4-16-2015	Amend	6-1-2015	340-209-0070	4-16-2015	Amend	6-1-2015
340-200-0040	4-16-2015	Amend	6-1-2015	340-209-0080	4-16-2015	Amend	6-1-2015
340-200-0050	4-16-2015	Amend	6-1-2015	340-210-0010	4-16-2015	Amend	6-1-2015
340-200-0100	4-16-2015	Amend	6-1-2015	340-210-0020	4-16-2015	Amend	6-1-2015
340-200-0110	4-16-2015	Amend	6-1-2015	340-210-0100	4-16-2015	Amend	6-1-2015
340-200-0120	4-16-2015	Amend	6-1-2015	340-210-0110	4-16-2015	Amend	6-1-2015
340-202-0010	4-16-2015	Amend	6-1-2015	340-210-0120	4-16-2015	Amend	6-1-2015
340-202-0020	4-16-2015	Amend	6-1-2015	340-210-0205	4-16-2015	Amend	6-1-2015
340-202-0050	4-16-2015	Amend	6-1-2015	340-210-0215	4-16-2015	Amend	6-1-2015
340-202-0070	4-16-2015	Amend	6-1-2015	340-210-0225	4-16-2015	Amend	6-1-2015
340-202-0100	4-16-2015	Amend	6-1-2015	340-210-0230	4-16-2015	Amend	6-1-2015
340-202-0110	4-16-2015	Amend	6-1-2015	340-210-0240	4-16-2015	Amend	6-1-2015
340-202-0130	4-16-2015	Amend	6-1-2015	340-210-0250	4-16-2015	Amend	6-1-2015
340-202-0200	4-16-2015	Amend	6-1-2015	340-212-0005	4-16-2015	Adopt	6-1-2015
340-202-0210	4-16-2015	Amend	6-1-2015	340-212-0010	4-16-2015	Amend	6-1-2015
340-202-0220	4-16-2015	Amend	6-1-2015	340-212-0110	4-16-2015	Amend	6-1-2015
340-202-0225	4-16-2015	Adopt	6-1-2015	340-212-0120	4-16-2015	Amend	6-1-2015
340-204-0010	4-16-2015	Amend	6-1-2015	340-212-0130	4-16-2015	Amend	6-1-2015
340-204-0020	4-16-2015	Amend	6-1-2015	340-212-0140	4-16-2015	Amend	6-1-2015

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340-212-0150	4-16-2015	Amend	6-1-2015	340-218-0070	4-16-2015	Amend	6-1-2015
340-212-0200	4-16-2015	Amend	6-1-2015	340-218-0080	4-16-2015	Amend	6-1-2015
340-212-0210	4-16-2015	Amend	6-1-2015	340-218-0090	4-16-2015	Amend	6-1-2015
340-212-0220	4-16-2015	Amend	6-1-2015	340-218-0100	4-16-2015	Amend	6-1-2015
340-212-0230	4-16-2015	Amend	6-1-2015	340-218-0110	4-16-2015	Amend	6-1-2015
340-212-0240	4-16-2015	Amend	6-1-2015	340-218-0120	4-16-2015	Amend	6-1-2015
340-212-0250	4-16-2015	Amend	6-1-2015	340-218-0140	4-16-2015	Amend	6-1-2015
340-212-0260	4-16-2015	Amend	6-1-2015	340-218-0150	4-16-2015	Amend	6-1-2015
340-212-0270	4-16-2015	Amend	6-1-2015	340-218-0160	4-16-2015	Amend	6-1-2015
340-212-0280	4-16-2015	Amend	6-1-2015	340-218-0170	4-16-2015	Amend	6-1-2015
340-214-0005	4-16-2015	Adopt	6-1-2015	340-218-0180	4-16-2015	Amend	6-1-2015
340-214-0010	4-16-2015	Amend	6-1-2015	340-218-0190	4-16-2015	Amend	6-1-2015
340-214-0100	4-16-2015	Amend	6-1-2015	340-218-0200	4-16-2015	Amend	6-1-2015
340-214-0110	4-16-2015	Amend	6-1-2015	340-218-0210	4-16-2015	Amend	6-1-2015
340-214-0114	4-16-2015	Amend	6-1-2015	340-218-0220	4-16-2015	Amend	6-1-2015
340-214-0130	4-16-2015	Amend	6-1-2015	340-218-0230	4-16-2015	Amend	6-1-2015
340-214-0200	4-16-2015	Amend	6-1-2015	340-218-0240	4-16-2015	Amend	6-1-2015
340-214-0210	4-16-2015	Amend	6-1-2015	340-218-0250	4-16-2015	Repeal	6-1-2015
340-214-0220	4-16-2015	Amend	6-1-2015	340-220-0010	4-16-2015	Amend	6-1-2015
340-214-0300	4-16-2015	Amend	6-1-2015	340-220-0020	4-16-2015	Amend	6-1-2015
340-214-0310	4-16-2015	Amend	6-1-2015	340-220-0030	1-7-2015	Amend	2-1-2015
340-214-0320	4-16-2015	Amend	6-1-2015	340-220-0040	1-7-2015	Amend	2-1-2015
340-214-0330	4-16-2015	Amend	6-1-2015	340-220-0050	1-7-2015	Amend	2-1-2015
340-214-0340	4-16-2015	Amend	6-1-2015	340-220-0060	4-16-2015	Amend	6-1-2015
340-214-0350	4-16-2015	Amend	6-1-2015	340-220-0070	4-16-2015	Amend	6-1-2015
340-214-0360	4-16-2015	Amend	6-1-2015	340-220-0080	4-16-2015	Amend	6-1-2015
340-214-0400	4-16-2015	Repeal	6-1-2015	340-220-0090	4-16-2015	Amend	6-1-2015
340-214-0410	4-16-2015	Repeal	6-1-2015	340-220-0100	4-16-2015	Amend	6-1-2015
340-214-0420	4-16-2015	Repeal	6-1-2015	340-220-0110	4-16-2015	Amend	6-1-2015
340-214-0430	4-16-2015	Repeal	6-1-2015	340-220-0120	4-16-2015	Amend	6-1-2015
340-216-0010	4-16-2015	Amend	6-1-2015	340-220-0130	4-16-2015	Amend	6-1-2015
340-216-0020	4-16-2015	Amend	6-1-2015	340-220-0140	4-16-2015	Amend	6-1-2015
340-216-0025	4-16-2015	Amend	6-1-2015	340-220-0150	4-16-2015	Amend	6-1-2015
340-216-0030	4-16-2015	Amend	6-1-2015	340-220-0160	4-16-2015	Amend	6-1-2015
340-216-0040	4-16-2015	Amend	6-1-2015	340-220-0170	4-16-2015	Amend	6-1-2015
340-216-0052	4-16-2015	Amend	6-1-2015	340-220-0180	4-16-2015	Amend	6-1-2015
340-216-0054	4-16-2015	Amend	6-1-2015	340-220-0190	4-16-2015	Amend	6-1-2015
340-216-0056	4-16-2015	Amend	6-1-2015	340-222-0010	4-16-2015	Amend	6-1-2015
340-216-0060	4-16-2015	Amend	6-1-2015	340-222-0020	4-16-2015	Amend	6-1-2015
340-216-0062	4-16-2015	Amend	6-1-2015	340-222-0030	4-16-2015	Amend	6-1-2015
340-216-0064	4-16-2015	Amend	6-1-2015	340-222-0040	4-16-2015	Amend	6-1-2015
340-216-0066	4-16-2015	Amend	6-1-2015	340-222-0041	4-16-2015	Amend	6-1-2015
340-216-0068	4-16-2015	Amend	6-1-2015	340-222-0042	4-16-2015	Amend	6-1-2015
340-216-0070	4-16-2015	Amend	6-1-2015	340-222-0043	4-16-2015	Am. & Ren.	6-1-2015
340-216-0082	4-16-2015	Amend	6-1-2015	340-222-0045	4-16-2015	Am. & Ren.	6-1-2015
340-216-0084	4-16-2015	Amend	6-1-2015	340-222-0046	4-16-2015	Adopt	6-1-2015
340-216-0090	4-16-2015	Amend	6-1-2015	340-222-0048	4-16-2015	Adopt	6-1-2015
340-216-0094	4-16-2015	Amend	6-1-2015	340-222-0051	4-16-2015	Adopt	6-1-2015
340-216-8010	4-16-2015	Amend	6-1-2015	340-222-0060	4-16-2015	Amend	6-1-2015
340-216-8020	4-16-2015	Amend	6-1-2015	340-222-0070	4-16-2015	Repeal	6-1-2015
340-218-0010	4-16-2015	Amend	6-1-2015	340-222-0080	4-16-2015	Amend	6-1-2015
340-218-0020	4-16-2015	Amend	6-1-2015	340-222-0090	4-16-2015	Amend	6-1-2015
340-218-0030	4-16-2015	Amend	6-1-2015	340-224-0010	4-16-2015	Amend	6-1-2015
340-218-0040	4-16-2015	Amend	6-1-2015	340-224-0020	4-16-2015	Amend	6-1-2015
340-218-0050	4-16-2015	Amend	6-1-2015	340-224-0025	4-16-2015	Adopt	6-1-2015
340-218-0060	4-16-2015	Amend	6-1-2015	340-224-0030	4-16-2015	Amend	6-1-2015

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340-224-0045	4-16-2015	Adopt	6-1-2015	340-228-0490	4-16-2015	Repeal	6-1-2015
340-224-0050	4-16-2015	Amend	6-1-2015	340-228-0500	4-16-2015	Repeal	6-1-2015
340-224-0055	4-16-2015	Adopt	6-1-2015	340-228-0510	4-16-2015	Repeal	6-1-2015
340-224-0060	4-16-2015	Amend	6-1-2015	340-228-0520	4-16-2015	Repeal	6-1-2015
340-224-0070	4-16-2015	Amend	6-1-2015	340-228-0530	4-16-2015	Repeal	6-1-2015
340-224-0080	4-16-2015	Am. & Ren.	6-1-2015	340-230-0010	4-17-2015	Amend	6-1-2015
340-224-0245	4-16-2015	Adopt	6-1-2015	340-230-0020	4-17-2015	Amend	6-1-2015
340-224-0250	4-16-2015	Adopt	6-1-2015	340-230-0030	4-17-2015	Amend	6-1-2015
340-224-0255	4-16-2015	Adopt	6-1-2015	340-230-0415	4-17-2015	Adopt	6-1-2015
340-224-0260	4-16-2015	Adopt	6-1-2015	340-230-0500	4-17-2015	Adopt	6-1-2015
340-224-0270	4-16-2015	Adopt	6-1-2015	340-232-0010	4-16-2015	Amend	6-1-2015
340-224-0500	4-16-2015	Adopt	6-1-2015	340-232-0020	4-16-2015	Amend	6-1-2015
340-224-0510	4-16-2015	Adopt	6-1-2015	340-232-0030	4-16-2015	Amend	6-1-2015
340-224-0520	4-16-2015	Adopt	6-1-2015	340-232-0040	4-16-2015	Amend	6-1-2015
340-224-0530	4-16-2015	Adopt	6-1-2015	340-232-0050	4-16-2015	Amend	6-1-2015
340-224-0540	4-16-2015	Adopt	6-1-2015	340-232-0060	4-16-2015	Amend	6-1-2015
340-225-0010	4-16-2015	Amend	6-1-2015	340-232-0080	4-16-2015	Amend	6-1-2015
340-225-0020	4-16-2015	Amend	6-1-2015	340-232-0090	4-16-2015	Amend	6-1-2015
340-225-0030	4-16-2015	Amend	6-1-2015	340-232-0100	4-16-2015	Amend	6-1-2015
340-225-0040	4-16-2015	Amend	6-1-2015	340-232-0110	4-16-2015	Amend	6-1-2015
340-225-0045	4-16-2015	Amend	6-1-2015	340-232-0130	4-16-2015	Amend	6-1-2015
340-225-0050	4-16-2015	Amend	6-1-2015	340-232-0140	4-16-2015	Amend	6-1-2015
340-225-0060	4-16-2015	Amend	6-1-2015	340-232-0150	4-16-2015	Amend	6-1-2015
340-225-0070	4-16-2015	Amend	6-1-2015	340-232-0160	4-16-2015	Amend	6-1-2015
340-225-0090	4-16-2015	Repeal	6-1-2015	340-232-0170	4-16-2015	Amend	6-1-2015
340-226-0005	4-16-2015	Adopt	6-1-2015	340-232-0180	4-16-2015	Amend	6-1-2015
340-226-0010	4-16-2015	Amend	6-1-2015	340-232-0190	4-16-2015	Amend	6-1-2015
340-226-0100	4-16-2015	Amend	6-1-2015	340-232-0200	4-16-2015	Amend	6-1-2015
340-226-0110	4-16-2015	Amend	6-1-2015	340-232-0210	4-16-2015	Amend	6-1-2015
340-226-0120	4-16-2015	Amend	6-1-2015	340-232-0220	4-16-2015	Amend	6-1-2015
340-226-0130	4-16-2015	Amend	6-1-2015	340-232-0230	4-16-2015	Amend	6-1-2015
340-226-0140	4-16-2015	Amend	6-1-2015	340-234-0005	4-16-2015	Adopt	6-1-2015
340-226-0200	4-16-2015	Repeal	6-1-2015	340-234-0010	4-16-2015	Amend	6-1-2015
340-226-0210	4-16-2015	Amend	6-1-2015	340-234-0100	4-16-2015	Amend	6-1-2015
340-226-0310	4-16-2015	Amend	6-1-2015	340-234-0140	4-16-2015	Amend	6-1-2015
340-226-0320	4-16-2015	Amend	6-1-2015	340-234-0200	4-16-2015	Amend	6-1-2015
340-226-0400	4-16-2015	Amend	6-1-2015	340-234-0210	4-16-2015	Amend	6-1-2015
340-226-8010	4-16-2015	Adopt	6-1-2015	340-234-0220	4-16-2015	Amend	6-1-2015
340-228-0010	4-16-2015	Amend	6-1-2015	340-234-0240	4-16-2015	Amend	6-1-2015
340-228-0020	4-16-2015	Amend	6-1-2015	340-234-0250	4-16-2015	Amend	6-1-2015
340-228-0100	4-16-2015	Amend	6-1-2015	340-234-0270	4-16-2015	Amend	6-1-2015
340-228-0110	4-16-2015	Amend	6-1-2015	340-234-0300	4-16-2015	Repeal	6-1-2015
340-228-0120	4-16-2015	Amend	6-1-2015	340-234-0310	4-16-2015	Repeal	6-1-2015
340-228-0130	4-16-2015	Amend	6-1-2015	340-234-0320	4-16-2015	Repeal	6-1-2015
340-228-0200	4-16-2015	Amend	6-1-2015	340-234-0330	4-16-2015	Repeal	6-1-2015
340-228-0210	4-16-2015	Amend	6-1-2015	340-234-0340	4-16-2015	Repeal	6-1-2015
340-228-0300	4-16-2015	Amend	6-1-2015	340-234-0350	4-16-2015	Repeal	6-1-2015
340-228-0400	4-16-2015	Repeal	6-1-2015	340-234-0360	4-16-2015	Repeal	6-1-2015
340-228-0410	4-16-2015	Repeal	6-1-2015	340-234-0400	4-16-2015	Repeal	6-1-2015
340-228-0420	4-16-2015	Repeal	6-1-2015	340-234-0410	4-16-2015	Repeal	6-1-2015
340-228-0430	4-16-2015	Repeal	6-1-2015	340-234-0420	4-16-2015	Repeal	6-1-2015
340-228-0440	4-16-2015	Repeal	6-1-2015	340-234-0430	4-16-2015	Repeal	6-1-2015
340-228-0450	4-16-2015	Repeal	6-1-2015	340-234-0500	4-16-2015	Amend	6-1-2015
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340-234-0540	4-16-2015	Adopt	6-1-2015	340-240-0510	4-16-2015	Amend	6-1-2015
340-236-0005	4-16-2015	Adopt	6-1-2015	340-240-0550	4-16-2015	Amend	6-1-2015
340-236-0010	4-16-2015	Amend	6-1-2015	340-240-0560	4-16-2015	Amend	6-1-2015
340-236-0100	4-16-2015	Repeal	6-1-2015	340-240-0610	4-16-2015	Amend	6-1-2015
340-236-0110	4-16-2015	Repeal	6-1-2015	340-242-0400	4-16-2015	Amend	6-1-2015
340-236-0120	4-16-2015	Repeal	6-1-2015	340-242-0410	4-16-2015	Amend	6-1-2015
340-236-0130	4-16-2015	Repeal	6-1-2015	340-242-0420	4-16-2015	Amend	6-1-2015
340-236-0140	4-16-2015	Repeal	6-1-2015	340-242-0430	4-16-2015	Amend	6-1-2015
340-236-0150	4-16-2015	Repeal	6-1-2015	340-242-0440	4-16-2015	Amend	6-1-2015
340-236-0200	4-16-2015	Repeal	6-1-2015	340-242-0500	4-16-2015	Amend	6-1-2015
340-236-0210	4-16-2015	Repeal	6-1-2015	340-242-0510	4-16-2015	Amend	6-1-2015
340-236-0220	4-16-2015	Repeal	6-1-2015	340-242-0520	4-16-2015	Amend	6-1-2015
340-236-0230	4-16-2015	Repeal	6-1-2015	340-242-0600	4-16-2015	Amend	6-1-2015
340-236-0310	4-16-2015	Amend	6-1-2015	340-242-0610	4-16-2015	Amend	6-1-2015
340-236-0320	4-16-2015	Amend	6-1-2015	340-242-0620	4-16-2015	Amend	6-1-2015
340-236-0330	4-16-2015	Amend	6-1-2015	340-242-0630	4-16-2015	Amend	6-1-2015
340-236-0400	4-16-2015	Amend	6-1-2015	340-242-0700	4-16-2015	Repeal	6-1-2015
340-236-0410	4-16-2015	Amend	6-1-2015	340-242-0710	4-16-2015	Repeal	6-1-2015
340-236-0420	4-16-2015	Amend	6-1-2015	340-242-0720	4-16-2015	Repeal	6-1-2015
340-236-0430	4-16-2015	Repeal	6-1-2015	340-242-0730	4-16-2015	Repeal	6-1-2015
340-236-0440	4-16-2015	Amend	6-1-2015	340-242-0740	4-16-2015	Repeal	6-1-2015
340-236-0500	4-16-2015	Amend	6-1-2015	340-242-0750	4-16-2015	Repeal	6-1-2015
340-236-8010	4-16-2015	Adopt	6-1-2015	340-242-0760	4-16-2015	Repeal	6-1-2015
340-238-0040	4-17-2015	Amend	6-1-2015	340-242-0770	4-16-2015	Repeal	6-1-2015
340-238-0060	4-17-2015	Amend	6-1-2015	340-242-0780	4-16-2015	Repeal	6-1-2015
340-238-0090	4-17-2015	Amend	6-1-2015	340-242-0790	4-16-2015	Repeal	6-1-2015
340-240-0010	4-16-2015	Amend	6-1-2015	340-244-0020	4-17-2015	Amend	6-1-2015
340-240-0020	4-16-2015	Amend	6-1-2015	340-244-0030	4-17-2015	Amend	6-1-2015
340-240-0030	4-16-2015	Amend	6-1-2015	340-244-0040	4-16-2015	Amend	6-1-2015
340-240-0050	4-16-2015	Adopt	6-1-2015	340-244-0220	4-17-2015	Amend	6-1-2015
340-240-0100	4-16-2015	Amend	6-1-2015	340-244-0232	4-16-2015	Amend	6-1-2015
340-240-0110	4-16-2015	Amend	6-1-2015	340-244-0234	4-16-2015	Amend	6-1-2015
340-240-0120	4-16-2015	Amend	6-1-2015	340-244-0236	4-16-2015	Amend	6-1-2015
340-240-0130	4-16-2015	Amend	6-1-2015	340-244-0238	4-16-2015	Amend	6-1-2015
340-240-0140	4-16-2015	Amend	6-1-2015	340-244-0239	4-16-2015	Amend	6-1-2015
340-240-0150	4-16-2015	Amend	6-1-2015	340-244-0240	4-16-2015	Amend	6-1-2015
340-240-0160	4-16-2015	Amend	6-1-2015	340-244-0242	4-16-2015	Amend	6-1-2015
340-240-0170	4-16-2015	Repeal	6-1-2015	340-244-0244	4-16-2015	Amend	6-1-2015
340-240-0180	4-16-2015	Amend	6-1-2015	340-244-0246	4-16-2015	Amend	6-1-2015
340-240-0190	4-16-2015	Amend	6-1-2015	340-244-0248	4-16-2015	Amend	6-1-2015
340-240-0210	4-16-2015	Amend	6-1-2015	340-244-0250	4-16-2015	Amend	6-1-2015
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340-240-0250	4-16-2015	Amend	6-1-2015	340-253-0040	2-1-2015	Amend	2-1-2015
340-240-0300	4-16-2015	Amend	6-1-2015	340-253-0060	2-1-2015	Amend	2-1-2015
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340-240-0360	4-16-2015	Amend	6-1-2015	340-253-0330	2-1-2015	Amend	2-1-2015
340-240-0400	4-16-2015	Amend	6-1-2015	340-253-0340	2-1-2015	Amend	2-1-2015
340-240-0410	4-16-2015	Amend	6-1-2015	340-253-0400	2-1-2015	Amend	2-1-2015
340-240-0420	4-16-2015	Amend	6-1-2015	340-253-0450	2-1-2015	Amend	2-1-2015

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340-253-0630	2-1-2015	Amend	2-1-2015	407-007-0290(T)	8-1-2015	Repeal	9-1-2015
340-253-0650	2-1-2015	Amend	2-1-2015	407-007-0300	12-1-2014	Amend	1-1-2015
340-253-1000	2-1-2015	Amend	2-1-2015	407-007-0315	12-1-2014	Amend	1-1-2015
340-253-1010	2-1-2015	Amend	2-1-2015	407-007-0330	12-1-2014	Amend	1-1-2015
340-253-1020	2-1-2015	Amend	2-1-2015	407-007-0335	12-1-2014	Amend	1-1-2015
340-253-1030	2-1-2015	Amend	2-1-2015	407-007-0340	12-1-2014	Amend	1-1-2015
340-253-1050	2-1-2015	Adopt	2-1-2015	407-007-0350	12-1-2014	Amend	1-1-2015
340-253-2000	2-1-2015	Adopt	2-1-2015	407-007-0600	12-1-2014	Adopt	1-1-2015
340-253-2100	2-1-2015	Adopt	2-1-2015	407-007-0610	12-1-2014	Adopt	1-1-2015
340-253-2200	2-1-2015	Adopt	2-1-2015	407-007-0620	12-1-2014	Adopt	1-1-2015
340-253-3010	2-1-2015	Am. & Ren.	2-1-2015	407-007-0630	12-1-2014	Adopt	1-1-2015
340-253-3020	2-1-2015	Am. & Ren.	2-1-2015	407-007-0640	12-1-2014	Adopt	1-1-2015
340-253-3030	2-1-2015	Am. & Ren.	2-1-2015	407-025-0000	2-11-2015	Amend(T)	3-1-2015
340-253-3040	2-1-2015	Am. & Ren.	2-1-2015	407-025-0000	8-9-2015	Amend	9-1-2015
340-253-3050	2-1-2015	Am. & Ren.	2-1-2015	407-025-0000(T)	8-9-2015	Repeal	9-1-2015
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340-253-8020	2-1-2015	Adopt	2-1-2015	407-025-0010	8-9-2015	Amend	9-1-2015
340-253-8050	2-1-2015	Adopt	2-1-2015	407-025-0010(T)	8-9-2015	Repeal	9-1-2015
340-262-0450	4-16-2015	Amend	6-1-2015	407-025-0020	2-11-2015	Amend(T)	3-1-2015
340-264-0010	4-16-2015	Amend	6-1-2015	407-025-0020	8-9-2015	Amend	9-1-2015
340-264-0020	4-16-2015	Amend	6-1-2015	407-025-0020(T)	8-9-2015	Repeal	9-1-2015
340-264-0030	4-16-2015	Amend	6-1-2015	407-025-0030	2-11-2015	Amend(T)	3-1-2015
340-264-0040	4-16-2015	Amend	6-1-2015	407-025-0030	8-9-2015	Amend	9-1-2015
340-264-0050	4-16-2015	Amend	6-1-2015	407-025-0030(T)	8-9-2015	Repeal	9-1-2015
340-264-0060	4-16-2015	Amend	6-1-2015	407-025-0040	2-11-2015	Amend(T)	3-1-2015
340-264-0070	4-16-2015	Amend	6-1-2015	407-025-0040	8-9-2015	Amend	9-1-2015
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340-264-0078	4-16-2015	Amend	6-1-2015	407-025-0050	2-11-2015	Amend(T)	3-1-2015
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340-264-0130	4-16-2015	Amend	6-1-2015	407-025-0060(T)	8-9-2015	Repeal	9-1-2015
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340-264-0160	4-16-2015	Amend	6-1-2015	407-025-0070(T)	8-9-2015	Repeal	9-1-2015
340-264-0170	4-16-2015	Amend	6-1-2015	407-025-0080	2-11-2015	Amend(T)	3-1-2015
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340-264-0180	4-16-2015	Amend	6-1-2015	407-025-0080(T)	8-9-2015	Repeal	9-1-2015
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409-030-0110	7-1-2015	Amend	8-1-2015	410-121-2050	2-18-2015	Renumber	4-1-2015
409-030-0140	7-1-2015	Amend	8-1-2015	410-121-2065	2-18-2015	Renumber	4-1-2015
409-030-0150	7-1-2015	Amend	8-1-2015	410-122-0080	1-1-2015	Amend	2-1-2015
409-030-0160	7-1-2015	Amend	8-1-2015	410-122-0187	1-29-2015	Adopt(T)	3-1-2015
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409-030-0230	7-1-2015	Amend	8-1-2015	410-123-1220	2-17-2015	Amend(T)	4-1-2015
409-035-0020	2-1-2015	Amend	2-1-2015	410-123-1220	5-1-2015	Amend	6-1-2015
409-035-0040	2-1-2015	Amend	2-1-2015	410-123-1220(T)	5-1-2015	Repeal	6-1-2015
409-055-0010	2-1-2015	Amend	3-1-2015	410-123-1260	2-17-2015	Amend(T)	4-1-2015
409-055-0030	2-1-2015	Amend	3-1-2015	410-123-1260	5-1-2015	Amend	6-1-2015
409-055-0040	2-1-2015	Amend	3-1-2015	410-123-1260(T)	5-1-2015	Repeal	6-1-2015
409-055-0045	2-1-2015	Adopt	3-1-2015	410-130-0160	1-1-2015	Amend(T)	1-1-2015
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410-050-0861(T)	12-1-2014	Repeal	1-1-2015	410-130-0160(T)	4-1-2015	Repeal	5-1-2015
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410-120-0000	5-29-2015	Amend	7-1-2015	410-130-0200(T)	3-10-2015	Repeal	4-1-2015
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410-120-0006	7-1-2015	Amend	8-1-2015	410-130-0220	3-10-2015	Amend	4-1-2015
410-120-0006(T)	7-1-2015	Repeal	8-1-2015	410-130-0220	5-29-2015	Amend(T)	7-1-2015
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410-120-1340(T)	3-4-2015	Repeal	4-1-2015	410-141-0060(T)	3-1-2015	Repeal	4-1-2015
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410-121-0030	12-12-2014	Amend(T)	1-1-2015	410-141-0300	4-15-2015	Amend	5-1-2015
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410-121-0040	2-3-2015	Amend(T)	3-1-2015	410-141-3060	1-1-2015	Amend(T)	1-1-2015
410-121-0040	4-18-2015	Amend(T)	6-1-2015	410-141-3060	3-1-2015	Amend	4-1-2015
410-121-0040	6-26-2015	Amend	8-1-2015	410-141-3060(T)	1-1-2015	Repeal	1-1-2015
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410-141-3280	4-15-2015	Amend	5-1-2015	410-172-0130	6-26-2015	Repeal	8-1-2015
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410-141-3300	4-15-2015	Amend	5-1-2015	410-172-0150	1-1-2015	Suspend	2-1-2015
410-141-3300	4-15-2015	Amend	5-1-2015	410-172-0150	6-26-2015	Repeal	8-1-2015
410-141-3420	1-1-2015	Amend	1-1-2015	410-172-0160	1-1-2015	Suspend	2-1-2015
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410-143-0020	3-10-2015	Repeal	4-1-2015	410-172-0170	1-1-2015	Suspend	2-1-2015
410-143-0040	3-10-2015	Repeal	4-1-2015	410-172-0170	6-26-2015	Repeal	8-1-2015
410-143-0060	3-10-2015	Repeal	4-1-2015	410-172-0180	1-1-2015	Suspend	2-1-2015
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410-165-0040	4-8-2015	Amend	5-1-2015	410-172-0220	1-1-2015	Suspend	2-1-2015
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410-165-0060	4-8-2015	Amend	5-1-2015	410-172-0230	6-26-2015	Repeal	8-1-2015
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410-172-0010	1-1-2015	Suspend	2-1-2015	410-172-0290	1-1-2015	Suspend	2-1-2015
410-172-0010	6-26-2015	Repeal	8-1-2015	410-172-0290	6-26-2015	Repeal	8-1-2015
410-172-0020	1-1-2015	Suspend	2-1-2015	410-172-0300	1-1-2015	Suspend	2-1-2015
410-172-0020	6-26-2015	Repeal	8-1-2015	410-172-0300	6-26-2015	Repeal	8-1-2015
410-172-0030	1-1-2015	Suspend	2-1-2015	410-172-0310	1-1-2015	Suspend	2-1-2015
410-172-0030	6-26-2015	Repeal	8-1-2015	410-172-0310	6-26-2015	Repeal	8-1-2015
410-172-0040	1-1-2015	Suspend	2-1-2015	410-172-0320	1-1-2015	Suspend	2-1-2015
410-172-0040	6-26-2015	Repeal	8-1-2015	410-172-0320	6-26-2015	Repeal	8-1-2015
410-172-0050	1-1-2015	Suspend	2-1-2015	410-172-0330	1-1-2015	Suspend	2-1-2015
410-172-0050	6-26-2015	Repeal	8-1-2015	410-172-0330	6-26-2015	Repeal	8-1-2015
410-172-0060	1-1-2015	Suspend	2-1-2015	410-172-0340	1-1-2015	Suspend	2-1-2015
410-172-0060	6-26-2015	Repeal	8-1-2015	410-172-0340	6-26-2015	Repeal	8-1-2015
410-172-0070	1-1-2015	Suspend	2-1-2015	410-172-0350	1-1-2015	Suspend	2-1-2015
410-172-0070	6-26-2015	Repeal	8-1-2015	410-172-0350	6-26-2015	Repeal	8-1-2015
410-172-0080	1-1-2015	Suspend	2-1-2015	410-172-0360	1-1-2015	Suspend	2-1-2015
410-172-0080	6-26-2015	Repeal	8-1-2015	410-172-0360	6-26-2015	Repeal	8-1-2015
410-172-0090	1-1-2015	Suspend	2-1-2015	410-172-0370	1-1-2015	Suspend	2-1-2015
410-172-0090	6-26-2015	Repeal	8-1-2015	410-172-0370	6-26-2015	Repeal	8-1-2015
410-172-0100	1-1-2015	Suspend	2-1-2015	410-172-0380	1-1-2015	Suspend	2-1-2015
410-172-0100	6-26-2015	Repeal	8-1-2015	410-172-0380	6-26-2015	Repeal	8-1-2015

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410-172-0390	6-26-2015	Repeal	8-1-2015	410-172-0700(T)	6-26-2015	Repeal	8-1-2015
410-172-0400	1-1-2015	Suspend	2-1-2015	410-172-0710	1-1-2015	Adopt(T)	2-1-2015
410-172-0400	6-26-2015	Repeal	8-1-2015	410-172-0710	6-26-2015	Adopt	8-1-2015
410-172-0410	1-1-2015	Suspend	2-1-2015	410-172-0710(T)	6-26-2015	Repeal	8-1-2015
410-172-0410	6-26-2015	Repeal	8-1-2015	410-172-0720	1-1-2015	Adopt(T)	2-1-2015
410-172-0420	1-1-2015	Suspend	2-1-2015	410-172-0720	6-26-2015	Adopt	8-1-2015
410-172-0420	6-26-2015	Repeal	8-1-2015	410-172-0720(T)	6-26-2015	Repeal	8-1-2015
410-172-0430	1-1-2015	Suspend	2-1-2015	410-172-0730	1-1-2015	Adopt(T)	2-1-2015
410-172-0430	6-26-2015	Repeal	8-1-2015	410-172-0730	6-26-2015	Adopt	8-1-2015
410-172-0440	1-1-2015	Suspend	2-1-2015	410-172-0730(T)	6-26-2015	Repeal	8-1-2015
410-172-0440	6-26-2015	Repeal	8-1-2015	410-172-0740	1-1-2015	Adopt(T)	2-1-2015
410-172-0450	1-1-2015	Suspend	2-1-2015	410-172-0740	6-26-2015	Adopt	8-1-2015
410-172-0450	6-26-2015	Repeal	8-1-2015	410-172-0740(T)	6-26-2015	Repeal	8-1-2015
410-172-0460	1-1-2015	Suspend	2-1-2015	410-172-0750	1-1-2015	Adopt(T)	2-1-2015
410-172-0460	6-26-2015	Repeal	8-1-2015	410-172-0750	6-26-2015	Adopt	8-1-2015
410-172-0470	1-1-2015	Suspend	2-1-2015	410-172-0750(T)	6-26-2015	Repeal	8-1-2015
410-172-0470	6-26-2015	Repeal	8-1-2015	410-172-0760	1-1-2015	Adopt(T)	2-1-2015
410-172-0480	1-1-2015	Suspend	2-1-2015	410-172-0760	6-26-2015	Adopt	8-1-2015
410-172-0480	6-26-2015	Repeal	8-1-2015	410-172-0760(T)	6-26-2015	Repeal	8-1-2015
410-172-0490	1-1-2015	Suspend	2-1-2015	410-172-0770	1-1-2015	Adopt(T)	2-1-2015
410-172-0490	6-26-2015	Repeal	8-1-2015	410-172-0770	6-26-2015	Adopt	8-1-2015
410-172-0500	1-1-2015	Suspend	2-1-2015	410-172-0770(T)	6-26-2015	Repeal	8-1-2015
410-172-0500	6-26-2015	Repeal	8-1-2015	410-172-0780	1-1-2015	Adopt(T)	2-1-2015
410-172-0510	1-1-2015	Suspend	2-1-2015	410-172-0780	6-26-2015	Adopt	8-1-2015
410-172-0510	6-26-2015	Repeal	8-1-2015	410-172-0780(T)	6-26-2015	Repeal	8-1-2015
410-172-0600	1-1-2015	Adopt(T)	2-1-2015	410-172-0790	1-1-2015	Adopt(T)	2-1-2015
410-172-0600	6-26-2015	Adopt	8-1-2015	410-172-0790	6-26-2015	Adopt	8-1-2015
410-172-0600(T)	6-26-2015	Repeal	8-1-2015	410-172-0790(T)	6-26-2015	Repeal	8-1-2015
410-172-0610	1-1-2015	Adopt(T)	2-1-2015	410-172-0800	1-1-2015	Adopt(T)	2-1-2015
410-172-0610	6-26-2015	Adopt	8-1-2015	410-172-0800	6-26-2015	Adopt	8-1-2015
410-172-0620	1-1-2015	Adopt(T)	2-1-2015	410-172-0800(T)	6-26-2015	Repeal	8-1-2015
410-172-0620	6-26-2015	Adopt	8-1-2015	410-172-0810	1-1-2015	Adopt(T)	2-1-2015
410-172-0620(T)	6-26-2015	Repeal	8-1-2015	410-172-0810	6-26-2015	Adopt	8-1-2015
410-172-0630	1-1-2015	Adopt(T)	2-1-2015	410-172-0810(T)	6-26-2015	Repeal	8-1-2015
410-172-0630	6-26-2015	Adopt	8-1-2015	410-172-0820	1-1-2015	Adopt(T)	2-1-2015
410-172-0630(T)	6-26-2015	Repeal	8-1-2015	410-172-0820	6-26-2015	Adopt	8-1-2015
410-172-0640	1-1-2015	Adopt(T)	2-1-2015	410-172-0820(T)	6-26-2015	Repeal	8-1-2015
410-172-0640	6-26-2015	Adopt	8-1-2015	410-172-0830	1-1-2015	Adopt(T)	2-1-2015
410-172-0640(T)	6-26-2015	Repeal	8-1-2015	410-172-0830	6-26-2015	Adopt	8-1-2015
410-172-0650	1-1-2015	Adopt(T)	2-1-2015	410-172-0830(T)	6-26-2015	Repeal	8-1-2015
410-172-0650	6-26-2015	Adopt	8-1-2015	410-172-0840	1-1-2015	Adopt(T)	2-1-2015
410-172-0650(T)	6-26-2015	Repeal	8-1-2015	410-172-0840	6-26-2015	Adopt	8-1-2015
410-172-0660	1-1-2015	Adopt(T)	2-1-2015	410-172-0840(T)	6-26-2015	Repeal	8-1-2015
410-172-0660	6-26-2015	Adopt	8-1-2015	410-172-0850	1-1-2015	Adopt(T)	2-1-2015
410-172-0660(T)	6-26-2015	Repeal	8-1-2015	410-172-0850	6-26-2015	Adopt	8-1-2015
410-172-0670	1-1-2015	Adopt(T)	2-1-2015	410-172-0850(T)	6-26-2015	Repeal	8-1-2015
410-172-0670	6-26-2015	Adopt	8-1-2015	410-172-0860	6-26-2015	Adopt	8-1-2015
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410-172-0680(T)	6-26-2015	Repeal	8-1-2015	410-200-0015(T)	1-30-2015	Repeal	3-1-2015
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410-172-0690	6-26-2015	Adopt	8-1-2015	410-200-0100(T)	1-30-2015	Repeal	3-1-2015
410-172-0690(T)	6-26-2015	Repeal	8-1-2015	410-200-0105	1-30-2015	Amend	3-1-2015
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410-200-0111	1-30-2015	Amend	3-1-2015	410-200-0425(T)	1-30-2015	Repeal	3-1-2015
410-200-0111(T)	1-30-2015	Repeal	3-1-2015	410-200-0435	1-30-2015	Amend	3-1-2015
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410-200-0115(T)	1-30-2015	Repeal	3-1-2015	410-200-0440	1-30-2015	Amend	3-1-2015
410-200-0120	1-30-2015	Amend	3-1-2015	410-200-0440	4-2-2015	Amend(T)	5-1-2015
410-200-0120(T)	1-30-2015	Repeal	3-1-2015	410-200-0440	6-16-2015	Amend(T)	8-1-2015
410-200-0125	1-30-2015	Amend	3-1-2015	410-200-0440(T)	1-30-2015	Repeal	3-1-2015
410-200-0125(T)	1-30-2015	Repeal	3-1-2015	410-200-0500	1-30-2015	Amend	3-1-2015
410-200-0130	1-30-2015	Amend	3-1-2015	410-200-0500(T)	1-30-2015	Repeal	3-1-2015
410-200-0130(T)	1-30-2015	Repeal	3-1-2015	410-200-0505	1-30-2015	Amend	3-1-2015
410-200-0135	1-30-2015	Amend	3-1-2015	410-200-0505(T)	1-30-2015	Repeal	3-1-2015
410-200-0135(T)	1-30-2015	Repeal	3-1-2015	410-200-0510	1-30-2015	Amend	3-1-2015
410-200-0140	1-30-2015	Amend	3-1-2015	410-200-0510(T)	1-30-2015	Repeal	3-1-2015
410-200-0140(T)	1-30-2015	Repeal	3-1-2015	411-015-0100	1-1-2015	Amend(T)	2-1-2015
410-200-0145	1-30-2015	Amend	3-1-2015	411-015-0100	4-3-2015	Amend	5-1-2015
410-200-0145(T)	1-30-2015	Repeal	3-1-2015	411-015-0100(T)	4-3-2015	Repeal	5-1-2015
410-200-0146	1-30-2015	Amend	3-1-2015	411-020-0000	1-1-2015	Amend	1-1-2015
410-200-0146(T)	1-30-2015	Repeal	3-1-2015	411-020-0002	1-1-2015	Amend	1-1-2015
410-200-0200	1-30-2015	Amend	3-1-2015	411-020-0010	1-1-2015	Amend	1-1-2015
410-200-0200(T)	1-30-2015	Repeal	3-1-2015	411-020-0015	1-1-2015	Amend	1-1-2015
410-200-0205	1-30-2015	Amend	3-1-2015	411-020-0020	1-1-2015	Amend	1-1-2015
410-200-0205(T)	1-30-2015	Repeal	3-1-2015	411-020-0025	1-1-2015	Amend	1-1-2015
410-200-0210	1-30-2015	Amend	3-1-2015	411-020-0030	1-1-2015	Amend	1-1-2015
410-200-0210(T)	1-30-2015	Repeal	3-1-2015	411-020-0040	1-1-2015	Amend	1-1-2015
410-200-0215	1-30-2015	Amend	3-1-2015	411-020-0060	1-1-2015	Amend	1-1-2015
410-200-0215(T)	1-30-2015	Repeal	3-1-2015	411-020-0080	1-1-2015	Amend	1-1-2015
410-200-0220	1-30-2015	Amend	3-1-2015	411-020-0085	1-1-2015	Amend	1-1-2015
410-200-0220(T)	1-30-2015	Repeal	3-1-2015	411-020-0090	1-1-2015	Amend	1-1-2015
410-200-0225	1-30-2015	Amend	3-1-2015	411-020-0100	1-1-2015	Amend	1-1-2015
410-200-0225(T)	1-30-2015	Repeal	3-1-2015	411-020-0110	1-1-2015	Amend	1-1-2015
410-200-0230	1-30-2015	Amend	3-1-2015	411-020-0120	1-1-2015	Amend	1-1-2015
410-200-0230(T)	1-30-2015	Repeal	3-1-2015	411-020-0123	1-1-2015	Amend	1-1-2015
410-200-0235	1-30-2015	Amend	3-1-2015	411-020-0130	1-1-2015	Amend	1-1-2015
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410-200-0315	1-30-2015	Amend	3-1-2015	411-035-0010(T)	3-9-2015	Repeal	4-1-2015
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410-200-0315	4-22-2015	Amend	6-1-2015	411-035-0015	4-3-2015	Amend	5-1-2015
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410-200-0315(T)	4-22-2015	Repeal	6-1-2015	411-035-0025	1-1-2015	Amend(T)	2-1-2015
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410-200-0400(T)	1-30-2015	Repeal	3-1-2015	411-035-0025(T)	4-3-2015	Repeal	5-1-2015
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410-200-0410	1-30-2015	Amend	3-1-2015	411-035-0040(T)	4-3-2015	Repeal	5-1-2015
410-200-0410(T)	1-30-2015	Repeal	3-1-2015	411-035-0055	1-1-2015	Amend(T)	2-1-2015
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411-050-0615	6-28-2015	Amend	8-1-2015	411-085-0060	6-28-2015	Amend	8-1-2015
411-050-0620	6-28-2015	Amend	8-1-2015	411-085-0060(T)	6-28-2015	Repeal	8-1-2015
411-050-0625	1-1-2015	Amend(T)	2-1-2015	411-085-0310	1-1-2015	Amend(T)	2-1-2015
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411-050-0640	1-1-2015	Amend(T)	2-1-2015	411-085-0350(T)	6-28-2015	Repeal	8-1-2015
411-050-0640	6-28-2015	Amend	8-1-2015	411-085-0360	1-1-2015	Amend(T)	2-1-2015
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411-050-0645	1-1-2015	Amend(T)	2-1-2015	411-085-0360(T)	6-28-2015	Repeal	8-1-2015
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411-050-0645(T)	6-28-2015	Repeal	8-1-2015	411-085-0370	6-28-2015	Amend	8-1-2015
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411-054-0012	1-15-2015	Amend	2-1-2015	411-089-0020	1-1-2015	Amend(T)	2-1-2015
411-054-0090	1-15-2015	Amend	2-1-2015	411-089-0020	6-28-2015	Amend	8-1-2015
411-054-0093	1-15-2015	Amend	2-1-2015	411-089-0020(T)	6-28-2015	Repeal	8-1-2015
411-054-0120	1-29-2015	Amend(T)	3-1-2015	411-089-0030	1-1-2015	Amend(T)	2-1-2015
411-054-0120	6-28-2015	Amend	8-1-2015	411-089-0030	6-28-2015	Amend	8-1-2015
411-054-0120(T)	6-28-2015	Repeal	8-1-2015	411-089-0030(T)	6-28-2015	Repeal	8-1-2015
411-054-0200	1-15-2015	Amend	2-1-2015	411-089-0040	1-1-2015	Amend(T)	2-1-2015
411-054-0200	6-24-2015	Amend	8-1-2015	411-089-0040	6-28-2015	Amend	8-1-2015
411-054-0300	1-15-2015	Amend	2-1-2015	411-089-0040(T)	6-28-2015	Repeal	8-1-2015
411-070-0005	3-9-2015	Amend	4-1-2015	411-089-0050	1-1-2015	Amend(T)	2-1-2015
411-070-0027	3-9-2015	Amend	4-1-2015	411-089-0050	6-28-2015	Amend	8-1-2015
411-070-0035	3-9-2015	Amend	4-1-2015	411-089-0050(T)	6-28-2015	Repeal	8-1-2015
411-070-0043	3-9-2015	Amend	4-1-2015	411-089-0070	1-1-2015	Amend(T)	2-1-2015
411-070-0091	3-9-2015	Amend	4-1-2015	411-089-0070	6-28-2015	Amend	8-1-2015
411-085-0005	1-1-2015	Amend(T)	2-1-2015	411-089-0070(T)	6-28-2015	Repeal	8-1-2015
411-085-0005	6-28-2015	Amend	8-1-2015	411-089-0075	1-1-2015	Amend(T)	2-1-2015
411-085-0005(T)	6-28-2015	Repeal	8-1-2015	411-089-0075	6-28-2015	Amend	8-1-2015
411-085-0010	1-1-2015	Amend(T)	2-1-2015	411-089-0075(T)	6-28-2015	Repeal	8-1-2015
411-085-0010	6-28-2015	Amend	8-1-2015	411-089-0100	1-1-2015	Amend(T)	2-1-2015
411-085-0010(T)	6-28-2015	Repeal	8-1-2015	411-089-0100	6-28-2015	Amend	8-1-2015
411-085-0013	1-1-2015	Amend(T)	2-1-2015	411-089-0100(T)	6-28-2015	Repeal	8-1-2015
411-085-0013	6-28-2015	Amend	8-1-2015	411-089-0110	1-1-2015	Amend(T)	2-1-2015
411-085-0013(T)	6-28-2015	Repeal	8-1-2015	411-089-0110	6-28-2015	Amend	8-1-2015
411-085-0015	1-1-2015	Amend(T)	2-1-2015	411-089-0110(T)	6-28-2015	Repeal	8-1-2015

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411-089-0120	6-28-2015	Amend	8-1-2015	411-308-0090	12-28-2014	Amend	2-1-2015
411-089-0120(T)	6-28-2015	Repeal	8-1-2015	411-308-0090	1-29-2015	Amend	3-1-2015
411-089-0130	1-1-2015	Amend(T)	2-1-2015	411-308-0100	12-28-2014	Amend	2-1-2015
411-089-0130	6-28-2015	Amend	8-1-2015	411-308-0100	1-29-2015	Amend	3-1-2015
411-089-0130(T)	6-28-2015	Repeal	8-1-2015	411-308-0100(T)	12-28-2014	Repeal	2-1-2015
411-089-0140	1-1-2015	Amend(T)	2-1-2015	411-308-0110	12-28-2014	Amend	2-1-2015
411-089-0140	6-28-2015	Amend	8-1-2015	411-308-0110	1-29-2015	Amend	3-1-2015
411-089-0140(T)	6-28-2015	Repeal	8-1-2015	411-308-0120	12-28-2014	Amend	2-1-2015
411-300-0100	2-16-2015	Amend	3-1-2015	411-308-0120	1-29-2015	Amend	3-1-2015
411-300-0110	2-16-2015	Amend	3-1-2015	411-308-0120(T)	12-28-2014	Repeal	2-1-2015
411-300-0110(T)	2-16-2015	Repeal	3-1-2015	411-308-0130	12-28-2014	Amend	2-1-2015
411-300-0120	2-16-2015	Amend	3-1-2015	411-308-0130	1-29-2015	Amend	3-1-2015
411-300-0120	3-12-2015	Amend	4-1-2015	411-308-0130(T)	12-28-2014	Repeal	2-1-2015
411-300-0120	4-10-2015	Amend(T)	5-1-2015	411-308-0135	12-28-2014	Adopt	2-1-2015
411-300-0120(T)	2-16-2015	Repeal	3-1-2015	411-308-0135	1-29-2015	Amend	3-1-2015
411-300-0130	2-16-2015	Amend	3-1-2015	411-308-0135(T)	12-28-2014	Repeal	2-1-2015
411-300-0130(T)	2-16-2015	Repeal	3-1-2015	411-308-0140	12-28-2014	Amend	2-1-2015
411-300-0140	2-16-2015	Repeal	3-1-2015	411-308-0140	1-29-2015	Amend	3-1-2015
411-300-0150	2-16-2015	Amend	3-1-2015	411-308-0150	12-28-2014	Amend	2-1-2015
411-300-0150(T)	2-16-2015	Repeal	3-1-2015	411-308-0150	1-29-2015	Amend	3-1-2015
411-300-0155	2-16-2015	Amend	3-1-2015	411-317-0000	12-28-2014	Adopt	2-1-2015
411-300-0165	2-16-2015	Adopt	3-1-2015	411-317-0000(T)	12-28-2014	Repeal	2-1-2015
411-300-0165(T)	2-16-2015	Repeal	3-1-2015	411-318-0000	12-28-2014	Adopt	2-1-2015
411-300-0170	2-16-2015	Amend	3-1-2015	411-318-0000(T)	12-28-2014	Repeal	2-1-2015
411-300-0170(T)	2-16-2015	Repeal	3-1-2015	411-318-0005	12-28-2014	Adopt	2-1-2015
411-300-0175	2-16-2015	Adopt	3-1-2015	411-318-0005(T)	12-28-2014	Repeal	2-1-2015
411-300-0190	2-16-2015	Amend	3-1-2015	411-318-0010	12-28-2014	Adopt	2-1-2015
411-300-0190(T)	2-16-2015	Repeal	3-1-2015	411-318-0010(T)	12-28-2014	Repeal	2-1-2015
411-300-0200	2-16-2015	Amend	3-1-2015	411-318-0015	12-28-2014	Adopt	2-1-2015
411-300-0200(T)	2-16-2015	Repeal	3-1-2015	411-318-0015(T)	12-28-2014	Repeal	2-1-2015
411-300-0205	2-16-2015	Amend	3-1-2015	411-318-0020(T)	12-28-2014	Repeal	2-1-2015
411-300-0205(T)	2-16-2015	Repeal	3-1-2015	411-318-0025	12-28-2014	Adopt	2-1-2015
411-300-0210	2-16-2015	Repeal	3-1-2015	411-318-0025(T)	12-28-2014	Repeal	2-1-2015
411-300-0220	2-16-2015	Repeal	3-1-2015	411-318-0030	12-28-2014	Adopt	2-1-2015
411-308-0010	12-28-2014	Amend	2-1-2015	411-318-0030(T)	12-28-2014	Repeal	2-1-2015
411-308-0010	1-29-2015	Amend	3-1-2015	411-320-0020	12-28-2014	Amend	2-1-2015
411-308-0020	12-28-2014	Amend	2-1-2015	411-320-0020(T)	12-28-2014	Repeal	2-1-2015
411-308-0020	1-29-2015	Amend	3-1-2015	411-320-0040	12-28-2014	Amend	2-1-2015
411-308-0020(T)	12-28-2014	Repeal	2-1-2015	411-320-0040(T)	12-28-2014	Repeal	2-1-2015
411-308-0030	12-28-2014	Amend	2-1-2015	411-320-0060	12-28-2014	Amend	2-1-2015
411-308-0030	1-29-2015	Amend	3-1-2015	411-320-0060(T)	12-28-2014	Repeal	2-1-2015
411-308-0030(T)	12-28-2014	Repeal	2-1-2015	411-320-0070	12-28-2014	Amend	2-1-2015
411-308-0040	12-28-2014	Amend	2-1-2015	411-320-0080	12-28-2014	Amend	2-1-2015
411-308-0040	1-29-2015	Amend	3-1-2015	411-320-0080(T)	12-28-2014	Repeal	2-1-2015
411-308-0050	12-28-2014	Amend	2-1-2015	411-320-0090	12-28-2014	Amend	2-1-2015
411-308-0050	1-29-2015	Amend	3-1-2015	411-320-0090(T)	12-28-2014	Repeal	2-1-2015
411-308-0050(T)	12-28-2014	Repeal	2-1-2015	411-320-0100	12-28-2014	Amend	2-1-2015
411-308-0060	12-28-2014	Amend	2-1-2015	411-320-0100(T)	12-28-2014	Repeal	2-1-2015
411-308-0060	1-29-2015	Amend	3-1-2015	411-320-0110	12-28-2014	Amend	2-1-2015
411-308-0060(T)	12-28-2014	Repeal	2-1-2015	411-320-0110(T)	12-28-2014	Repeal	2-1-2015
411-308-0070	12-28-2014	Amend	2-1-2015	411-320-0120	12-28-2014	Amend	2-1-2015
411-308-0070	1-29-2015	Amend	3-1-2015	411-320-0120(T)	12-28-2014	Repeal	2-1-2015
411-308-0070(T)	12-28-2014	Repeal	2-1-2015	411-320-0130	12-28-2014	Amend	2-1-2015
411-308-0080	12-28-2014	Amend	2-1-2015	411-320-0130(T)	12-28-2014	Repeal	2-1-2015
411-308-0080	1-29-2015	Amend	3-1-2015	411-320-0160	12-28-2014	Amend	2-1-2015

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411-320-0170(T)	12-28-2014	Repeal	2-1-2015	411-328-0710	12-28-2014	Amend	2-1-2015
411-320-0175	12-28-2014	Amend	2-1-2015	411-328-0715	12-28-2014	Amend	2-1-2015
411-320-0175(T)	12-28-2014	Repeal	2-1-2015	411-328-0720	12-28-2014	Amend	2-1-2015
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411-320-0200	12-28-2014	Amend	2-1-2015	411-328-0740	12-28-2014	Repeal	2-1-2015
411-323-0010	12-28-2014	Amend	2-1-2015	411-328-0750	12-28-2014	Amend	2-1-2015
411-323-0010(T)	12-28-2014	Repeal	2-1-2015	411-328-0750(T)	12-28-2014	Repeal	2-1-2015
411-323-0020	12-28-2014	Amend	2-1-2015	411-328-0760	12-28-2014	Amend	2-1-2015
411-323-0020(T)	12-28-2014	Repeal	2-1-2015	411-328-0760(T)	12-28-2014	Repeal	2-1-2015
411-323-0030	12-28-2014	Amend	2-1-2015	411-328-0770	12-28-2014	Amend	2-1-2015
411-323-0030(T)	12-28-2014	Repeal	2-1-2015	411-328-0770(T)	12-28-2014	Repeal	2-1-2015
411-323-0035	12-28-2014	Amend	2-1-2015	411-328-0780	12-28-2014	Amend	2-1-2015
411-323-0035(T)	12-28-2014	Repeal	2-1-2015	411-328-0790	12-28-2014	Amend	2-1-2015
411-323-0040	12-28-2014	Amend	2-1-2015	411-328-0790(T)	12-28-2014	Repeal	2-1-2015
411-323-0050	12-28-2014	Amend	2-1-2015	411-328-0800	12-28-2014	Repeal	2-1-2015
411-323-0050(T)	12-28-2014	Repeal	2-1-2015	411-330-0020	12-28-2014	Amend	2-1-2015
411-323-0060	12-28-2014	Amend	2-1-2015	411-330-0020(T)	12-28-2014	Repeal	2-1-2015
411-323-0060(T)	12-28-2014	Repeal	2-1-2015	411-330-0030	12-28-2014	Amend	2-1-2015
411-323-0070	12-28-2014	Amend	2-1-2015	411-330-0030(T)	12-28-2014	Repeal	2-1-2015
411-323-0070(T)	12-28-2014	Repeal	2-1-2015	411-330-0040	12-28-2014	Amend	2-1-2015
411-325-0020	12-28-2014	Amend	2-1-2015	411-330-0040(T)	12-28-2014	Repeal	2-1-2015
411-325-0020(T)	12-28-2014	Repeal	2-1-2015	411-330-0050	12-28-2014	Amend	2-1-2015
411-325-0060	12-28-2014	Amend	2-1-2015	411-330-0050(T)	12-28-2014	Repeal	2-1-2015
411-325-0060(T)	12-28-2014	Repeal	2-1-2015	411-330-0060	12-28-2014	Amend	2-1-2015
411-325-0110	12-28-2014	Amend	2-1-2015	411-330-0060(T)	12-28-2014	Repeal	2-1-2015
411-325-0110(T)	12-28-2014	Repeal	2-1-2015	411-330-0065	12-28-2014	Amend	2-1-2015
411-325-0120	12-28-2014	Amend	2-1-2015	411-330-0070	12-28-2014	Amend	2-1-2015
411-325-0120(T)	12-28-2014	Repeal	2-1-2015	411-330-0070(T)	12-28-2014	Repeal	2-1-2015
411-325-0180	12-28-2014	Amend	2-1-2015	411-330-0080	12-28-2014	Amend	2-1-2015
411-325-0185	12-28-2014	Amend	2-1-2015	411-330-0080(T)	12-28-2014	Repeal	2-1-2015
411-325-0230	12-28-2014	Amend	2-1-2015	411-330-0090	12-28-2014	Amend	2-1-2015
411-325-0300	12-28-2014	Amend	2-1-2015	411-330-0090(T)	12-28-2014	Repeal	2-1-2015
411-325-0300(T)	12-28-2014	Repeal	2-1-2015	411-330-0100	12-28-2014	Amend	2-1-2015
411-325-0320	12-28-2014	Repeal	2-1-2015	411-330-0100(T)	12-28-2014	Repeal	2-1-2015
411-325-0330	12-28-2014	Repeal	2-1-2015	411-330-0110	12-28-2014	Amend	2-1-2015
411-325-0360	12-28-2014	Amend	2-1-2015	411-330-0110(T)	12-28-2014	Repeal	2-1-2015
411-325-0390	12-28-2014	Amend	2-1-2015	411-330-0130	12-28-2014	Amend	2-1-2015
411-325-0390(T)	12-28-2014	Repeal	2-1-2015	411-330-0130(T)	12-28-2014	Repeal	2-1-2015
411-325-0400	12-28-2014	Repeal	2-1-2015	411-330-0140	12-28-2014	Amend	2-1-2015
411-325-0430	12-28-2014	Amend	2-1-2015	411-340-0020	12-28-2014	Amend	2-1-2015
411-325-0430(T)	12-28-2014	Repeal	2-1-2015	411-340-0020(T)	12-28-2014	Repeal	2-1-2015
411-325-0460	12-28-2014	Amend	2-1-2015	411-340-0050	12-28-2014	Amend	2-1-2015
411-325-0460(T)	12-28-2014	Repeal	2-1-2015	411-340-0060	12-28-2014	Amend	2-1-2015
411-328-0550	12-28-2014	Amend	2-1-2015	411-340-0060(T)	12-28-2014	Repeal	2-1-2015
411-328-0560	12-28-2014	Amend	2-1-2015	411-340-0080	12-28-2014	Amend	2-1-2015
411-328-0560(T)	12-28-2014	Repeal	2-1-2015	411-340-0090	12-28-2014	Amend	2-1-2015
411-328-0570	12-28-2014	Amend	2-1-2015	411-340-0100	12-28-2014	Amend	2-1-2015
411-328-0620	12-28-2014	Amend	2-1-2015	411-340-0100(T)	12-28-2014	Repeal	2-1-2015
411-328-0630	12-28-2014	Amend	2-1-2015	411-340-0110	12-28-2014	Amend	2-1-2015
411-328-0640	12-28-2014	Amend	2-1-2015	411-340-0110(T)	12-28-2014	Repeal	2-1-2015
411-328-0650	12-28-2014	Amend	2-1-2015	411-340-0120	12-28-2014	Amend	2-1-2015
411-328-0660	12-28-2014	Amend	2-1-2015	411-340-0120(T)	12-28-2014	Repeal	2-1-2015
411-328-0680	12-28-2014	Amend	2-1-2015	411-340-0125	12-28-2014	Amend	2-1-2015
411-328-0690	12-28-2014	Amend	2-1-2015	411-340-0130	12-28-2014	Amend	2-1-2015
411-328-0700	12-28-2014	Amend	2-1-2015	411-340-0130(T)	12-28-2014	Repeal	2-1-2015

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411-340-0135(T)	12-28-2014	Repeal	2-1-2015	411-346-0150	12-28-2014	Amend	2-1-2015
411-340-0140	12-28-2014	Amend	2-1-2015	411-346-0150(T)	12-28-2014	Repeal	2-1-2015
411-340-0150	12-28-2014	Amend	2-1-2015	411-346-0180	12-28-2014	Amend	2-1-2015
411-340-0150(T)	12-28-2014	Repeal	2-1-2015	411-346-0180(T)	12-28-2014	Repeal	2-1-2015
411-340-0160	12-28-2014	Amend	2-1-2015	411-346-0190	12-28-2014	Amend	2-1-2015
411-340-0160(T)	12-28-2014	Repeal	2-1-2015	411-346-0190(T)	12-28-2014	Repeal	2-1-2015
411-340-0170	12-28-2014	Amend	2-1-2015	411-346-0210	12-28-2014	Amend	2-1-2015
411-340-0170(T)	12-28-2014	Repeal	2-1-2015	411-350-0010	2-16-2015	Amend	3-1-2015
411-340-0180	12-28-2014	Amend	2-1-2015	411-350-0020	2-16-2015	Amend	3-1-2015
411-345-0010	12-28-2014	Amend	2-1-2015	411-350-0020(T)	2-16-2015	Repeal	3-1-2015
411-345-0010(T)	12-28-2014	Repeal	2-1-2015	411-350-0030	2-16-2015	Amend	3-1-2015
411-345-0020	12-28-2014	Amend	2-1-2015	411-350-0030	3-12-2015	Amend	4-1-2015
411-345-0020(T)	12-28-2014	Repeal	2-1-2015	411-350-0030	4-10-2015	Amend(T)	5-1-2015
411-345-0025	12-28-2014	Amend	2-1-2015	411-350-0030(T)	2-16-2015	Repeal	3-1-2015
411-345-0025(T)	12-28-2014	Repeal	2-1-2015	411-350-0040	2-16-2015	Amend	3-1-2015
411-345-0027	12-28-2014	Adopt	2-1-2015	411-350-0040(T)	2-16-2015	Repeal	3-1-2015
411-345-0027(T)	12-28-2014	Repeal	2-1-2015	411-350-0050	2-16-2015	Amend	3-1-2015
411-345-0030	12-28-2014	Amend	2-1-2015	411-350-0050	3-12-2015	Amend	4-1-2015
411-345-0030(T)	12-28-2014	Repeal	2-1-2015	411-350-0050(T)	2-16-2015	Repeal	3-1-2015
411-345-0050	12-28-2014	Amend	2-1-2015	411-350-0075	2-16-2015	Adopt	3-1-2015
411-345-0050(T)	12-28-2014	Repeal	2-1-2015	411-350-0075(T)	2-16-2015	Repeal	3-1-2015
411-345-0085	12-28-2014	Adopt	2-1-2015	411-350-0080	2-16-2015	Amend	3-1-2015
411-345-0085(T)	12-28-2014	Repeal	2-1-2015	411-350-0080(T)	2-16-2015	Repeal	3-1-2015
411-345-0090	12-28-2014	Amend	2-1-2015	411-350-0085	2-16-2015	Adopt	3-1-2015
411-345-0090(T)	12-28-2014	Repeal	2-1-2015	411-350-0100	2-16-2015	Amend	3-1-2015
411-345-0095	12-28-2014	Amend	2-1-2015	411-350-0100(T)	2-16-2015	Repeal	3-1-2015
411-345-0095(T)	12-28-2014	Repeal	2-1-2015	411-350-0110	2-16-2015	Amend	3-1-2015
411-345-0100	12-28-2014	Repeal	2-1-2015	411-350-0110(T)	2-16-2015	Repeal	3-1-2015
411-345-0110	12-28-2014	Amend	2-1-2015	411-350-0115	2-16-2015	Amend	3-1-2015
411-345-0110(T)	12-28-2014	Repeal	2-1-2015	411-350-0115(T)	2-16-2015	Repeal	3-1-2015
411-345-0130	12-28-2014	Amend	2-1-2015	411-350-0118	2-16-2015	Repeal	3-1-2015
411-345-0130(T)	12-28-2014	Repeal	2-1-2015	411-350-0120	2-16-2015	Repeal	3-1-2015
411-345-0140	12-28-2014	Amend	2-1-2015	411-355-0000	8-1-2015	Amend(T)	9-1-2015
411-345-0140(T)	12-28-2014	Repeal	2-1-2015	411-355-0010	8-1-2015	Amend(T)	9-1-2015
411-345-0160	12-28-2014	Amend	2-1-2015	411-355-0020	8-1-2015	Amend(T)	9-1-2015
411-345-0160(T)	12-28-2014	Repeal	2-1-2015	411-355-0030	8-1-2015	Amend(T)	9-1-2015
411-345-0170	12-28-2014	Amend	2-1-2015	411-355-0040	8-1-2015	Amend(T)	9-1-2015
411-345-0170(T)	12-28-2014	Repeal	2-1-2015	411-355-0045	8-1-2015	Adopt(T)	9-1-2015
411-345-0180	12-28-2014	Amend	2-1-2015	411-355-0050	8-1-2015	Amend(T)	9-1-2015
411-345-0180(T)	12-28-2014	Repeal	2-1-2015	411-355-0060	8-1-2015	Suspend	9-1-2015
411-345-0190	12-28-2014	Amend	2-1-2015	411-355-0070	8-1-2015	Suspend	9-1-2015
411-345-0190(T)	12-28-2014	Repeal	2-1-2015	411-355-0075	8-1-2015	Adopt(T)	9-1-2015
411-345-0200	12-28-2014	Amend	2-1-2015	411-355-0080	8-1-2015	Amend(T)	9-1-2015
411-345-0200(T)	12-28-2014	Repeal	2-1-2015	411-355-0090	8-1-2015	Amend(T)	9-1-2015
411-345-0230	12-28-2014	Amend	2-1-2015	411-355-0100	8-1-2015	Amend(T)	9-1-2015
411-345-0230(T)	12-28-2014	Repeal	2-1-2015	411-355-0110	8-1-2015	Suspend	9-1-2015
411-345-0240	12-28-2014	Amend	2-1-2015	411-355-0120	8-1-2015	Suspend	9-1-2015
411-345-0240(T)	12-28-2014	Repeal	2-1-2015	411-360-0020	12-28-2014	Amend	2-1-2015
411-345-0250	12-28-2014	Amend	2-1-2015	411-360-0020(T)	12-28-2014	Repeal	2-1-2015
411-345-0250(T)	12-28-2014	Repeal	2-1-2015	411-360-0030	12-28-2014	Amend	2-1-2015
411-345-0260	12-28-2014	Amend	2-1-2015	411-360-0130	12-28-2014	Amend	2-1-2015
411-345-0260(T)	12-28-2014	Repeal	2-1-2015	411-360-0140	12-28-2014	Amend	2-1-2015
411-345-0270	12-28-2014	Amend	2-1-2015	411-360-0140(T)	12-28-2014	Repeal	2-1-2015
411-345-0270(T)	12-28-2014	Repeal	2-1-2015	411-360-0170	12-28-2014	Amend	2-1-2015
411-346-0110	12-28-2014	Amend	2-1-2015	411-360-0170(T)	12-28-2014	Repeal	2-1-2015

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411-360-0250	12-28-2014	Amend	2-1-2015	413-015-9030	12-24-2014	Amend	2-1-2015
411-360-0250(T)	12-28-2014	Repeal	2-1-2015	413-015-9040	12-24-2014	Amend	2-1-2015
411-360-0275	12-28-2014	Amend	2-1-2015	413-015-9040(T)	12-24-2014	Repeal	2-1-2015
411-360-0275(T)	12-28-2014	Repeal	2-1-2015	413-030-0405	5-22-2015	Amend(T)	7-1-2015
411-375-0000	12-28-2014	Adopt	2-1-2015	413-070-0000	7-17-2015	Amend	9-1-2015
411-375-0000(T)	12-28-2014	Repeal	2-1-2015	413-070-0010	7-17-2015	Amend	9-1-2015
411-375-0010	12-28-2014	Adopt	2-1-2015	413-070-0015	7-17-2015	Amend	9-1-2015
411-375-0010(T)	12-28-2014	Repeal	2-1-2015	413-070-0020	7-17-2015	Amend	9-1-2015
411-375-0020	12-28-2014	Adopt	2-1-2015	413-070-0022	7-17-2015	Amend	9-1-2015
411-375-0020(T)	12-28-2014	Repeal	2-1-2015	413-070-0027	7-17-2015	Amend	9-1-2015
411-375-0030	12-28-2014	Adopt	2-1-2015	413-070-0030	7-17-2015	Amend	9-1-2015
411-375-0030(T)	12-28-2014	Repeal	2-1-2015	413-070-0060	7-17-2015	Amend	9-1-2015
411-375-0040	12-28-2014	Adopt	2-1-2015	413-070-0063	2-1-2015	Amend	3-1-2015
411-375-0040(T)	12-28-2014	Repeal	2-1-2015	413-070-0063	5-22-2015	Amend(T)	7-1-2015
411-375-0050	12-28-2014	Adopt	2-1-2015	413-070-0063	7-17-2015	Repeal	9-1-2015
411-375-0050(T)	12-28-2014	Repeal	2-1-2015	413-070-0066	7-17-2015	Repeal	9-1-2015
411-375-0060	12-28-2014	Adopt	2-1-2015	413-070-0069	1-21-2015	Amend(T)	3-1-2015
411-375-0060(T)	12-28-2014	Repeal	2-1-2015	413-070-0069	7-17-2015	Amend	9-1-2015
411-375-0070	12-28-2014	Adopt	2-1-2015	413-070-0069(T)	7-17-2015	Repeal	9-1-2015
411-375-0070(T)	12-28-2014	Repeal	2-1-2015	413-070-0072	1-21-2015	Amend(T)	3-1-2015
411-375-0080	12-28-2014	Adopt	2-1-2015	413-070-0072	7-17-2015	Amend	9-1-2015
411-375-0080(T)	12-28-2014	Repeal	2-1-2015	413-070-0072(T)	7-17-2015	Repeal	9-1-2015
413-010-0000	8-4-2015	Amend	9-1-2015	413-070-0075	7-17-2015	Amend	9-1-2015
413-010-0010	8-4-2015	Amend	9-1-2015	413-070-0078	7-17-2015	Amend	9-1-2015
413-010-0081	8-4-2015	Repeal	9-1-2015	413-070-0081	7-17-2015	Amend	9-1-2015
413-010-0082	8-4-2015	Repeal	9-1-2015	413-070-0087	7-17-2015	Amend	9-1-2015
413-010-0083	8-4-2015	Repeal	9-1-2015	413-070-0120	7-17-2015	Repeal	9-1-2015
413-010-0085	8-4-2015	Repeal	9-1-2015	413-070-0130	7-17-2015	Amend	9-1-2015
413-010-0175	8-4-2015	Amend	9-1-2015	413-070-0140	7-17-2015	Amend	9-1-2015
413-010-0180	1-1-2015	Amend	2-1-2015	413-070-0150	7-17-2015	Amend	9-1-2015
413-010-0185	1-1-2015	Amend	2-1-2015	413-070-0160	7-17-2015	Amend	9-1-2015
413-010-0310	2-1-2015	Amend	3-1-2015	413-070-0170	7-17-2015	Amend	9-1-2015
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413-010-0310	8-4-2015	Amend	9-1-2015	413-070-0190	7-17-2015	Amend	9-1-2015
413-010-0310(T)	8-4-2015	Repeal	9-1-2015	413-070-0200	7-17-2015	Amend	9-1-2015
413-010-0410	8-4-2015	Amend	9-1-2015	413-070-0210	7-17-2015	Amend	9-1-2015
413-010-0501	8-4-2015	Amend	9-1-2015	413-070-0220	7-17-2015	Amend	9-1-2015
413-010-0705	8-4-2015	Amend	9-1-2015	413-070-0230	7-17-2015	Amend	9-1-2015
413-015-0115	12-24-2014	Amend	2-1-2015	413-070-0240	7-17-2015	Amend	9-1-2015
413-015-0115(T)	12-24-2014	Repeal	2-1-2015	413-070-0300	7-17-2015	Amend	9-1-2015
413-015-0400	12-24-2014	Amend	2-1-2015	413-070-0310	7-17-2015	Repeal	9-1-2015
413-015-0409	12-24-2014	Amend	2-1-2015	413-070-0320	7-17-2015	Amend	9-1-2015
413-015-0409(T)	12-24-2014	Repeal	2-1-2015	413-070-0350	7-17-2015	Amend	9-1-2015
413-015-0415	12-24-2014	Amend	2-1-2015	413-070-0360	7-17-2015	Amend	9-1-2015
413-015-0415(T)	12-24-2014	Repeal	2-1-2015	413-070-0370	7-17-2015	Amend	9-1-2015
413-015-0420	12-24-2014	Amend	2-1-2015	413-070-0400	7-17-2015	Amend	9-1-2015
413-015-0420(T)	12-24-2014	Repeal	2-1-2015	413-070-0410	1-1-2015	Amend	2-1-2015
413-015-0432	12-24-2014	Amend	2-1-2015	413-070-0410	7-17-2015	Repeal	9-1-2015
413-015-0432(T)	12-24-2014	Repeal	2-1-2015	413-070-0430	1-1-2015	Amend	2-1-2015
413-015-0450	12-24-2014	Amend	2-1-2015	413-070-0430	7-17-2015	Amend	9-1-2015
413-015-0540	12-24-2014	Amend	2-1-2015	413-070-0450	1-1-2015	Amend	2-1-2015
413-015-0540(T)	12-24-2014	Repeal	2-1-2015	413-070-0470	1-1-2015	Amend	2-1-2015
413-015-1105	12-24-2014	Amend	2-1-2015	413-070-0480	1-1-2015	Amend	2-1-2015
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413-070-0505	5-22-2015	Amend(T)	7-1-2015	413-090-0070	8-4-2015	Amend	9-1-2015
413-070-0505	7-17-2015	Repeal	9-1-2015	413-090-0080	8-4-2015	Amend	9-1-2015
413-070-0512	7-17-2015	Amend	9-1-2015	413-090-0110	1-1-2015	Amend	2-1-2015
413-070-0514	7-17-2015	Amend	9-1-2015	413-090-0110	8-4-2015	Amend	9-1-2015
413-070-0516	7-17-2015	Amend	9-1-2015	413-090-0120	1-1-2015	Amend	2-1-2015
413-070-0518	7-17-2015	Amend	9-1-2015	413-090-0133	1-1-2015	Amend	2-1-2015
413-070-0519	7-17-2015	Amend	9-1-2015	413-090-0133	2-5-2015	Amend(T)	3-1-2015
413-070-0524	7-17-2015	Repeal	9-1-2015	413-090-0133	8-4-2015	Amend	9-1-2015
413-070-0570	7-17-2015	Amend	9-1-2015	413-090-0135	1-1-2015	Amend	2-1-2015
413-070-0572	7-17-2015	Repeal	9-1-2015	413-090-0136	1-1-2015	Amend	2-1-2015
413-070-0574	7-17-2015	Amend	9-1-2015	413-090-0140	1-1-2015	Amend	2-1-2015
413-070-0600	7-17-2015	Amend	9-1-2015	413-090-0150	1-1-2015	Amend	2-1-2015
413-070-0620	2-1-2015	Amend	3-1-2015	413-090-0150	2-5-2015	Amend(T)	3-1-2015
413-070-0620	5-22-2015	Amend(T)	7-1-2015	413-090-0150	8-4-2015	Amend	9-1-2015
413-070-0620	7-17-2015	Repeal	9-1-2015	413-090-0210	1-1-2015	Amend	2-1-2015
413-070-0651	7-17-2015	Amend	9-1-2015	413-090-0300	8-4-2015	Amend	9-1-2015
413-070-0655	2-1-2015	Amend	3-1-2015	413-090-0310	8-4-2015	Amend	9-1-2015
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413-070-0655	7-17-2015	Amend	9-1-2015	413-090-0400	8-4-2015	Amend	9-1-2015
413-070-0655(T)	7-17-2015	Repeal	9-1-2015	413-090-0405	8-4-2015	Amend	9-1-2015
413-070-0665	7-17-2015	Amend	9-1-2015	413-090-0410	8-4-2015	Amend	9-1-2015
413-070-0670	7-17-2015	Amend	9-1-2015	413-090-0500	8-4-2015	Amend	9-1-2015
413-070-0810	5-22-2015	Amend(T)	7-1-2015	413-090-0510	8-4-2015	Amend	9-1-2015
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413-070-0860	7-17-2015	Amend	9-1-2015	413-110-0110	5-22-2015	Amend(T)	7-1-2015
413-070-0900	7-17-2015	Amend	9-1-2015	413-120-0010	2-1-2015	Amend	3-1-2015
413-070-0905	1-21-2015	Amend(T)	3-1-2015	413-120-0010	5-22-2015	Amend(T)	7-1-2015
413-070-0905	2-1-2015	Amend	3-1-2015	413-120-0195	2-1-2015	Amend	3-1-2015
413-070-0905	2-1-2015	Amend(T)	3-1-2015	413-120-0195	5-22-2015	Amend(T)	7-1-2015
413-070-0905	5-22-2015	Amend(T)	7-1-2015	413-120-0510	2-1-2015	Amend	3-1-2015
413-070-0905	7-17-2015	Amend	9-1-2015	413-120-0510	5-22-2015	Amend(T)	7-1-2015
413-070-0905(T)	1-21-2015	Suspend	3-1-2015	413-120-0710	2-1-2015	Amend	3-1-2015
413-070-0905(T)	2-1-2015	Repeal	3-1-2015	413-120-0710	5-22-2015	Amend(T)	7-1-2015
413-070-0905(T)	5-22-2015	Suspend	7-1-2015	413-130-0010	5-22-2015	Amend(T)	7-1-2015
413-070-0905(T)	7-17-2015	Repeal	9-1-2015	413-200-0414	12-24-2014	Amend	2-1-2015
413-070-0909	7-17-2015	Amend	9-1-2015	413-200-0414(T)	12-24-2014	Repeal	2-1-2015
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413-070-0917	7-17-2015	Amend	9-1-2015	413-300-0210	3-6-2015	Repeal	4-1-2015
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413-070-0939	7-17-2015	Amend	9-1-2015	413-300-0260	3-6-2015	Repeal	4-1-2015
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413-070-0969	7-17-2015	Amend	9-1-2015	414-061-0020	2-3-2015	Amend	3-1-2015
413-070-0970	7-17-2015	Amend	9-1-2015	414-061-0030	2-3-2015	Amend	3-1-2015
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414-061-0110	2-3-2015	Amend	3-1-2015	416-260-0020	2-19-2015	Amend	4-1-2015
414-061-0120	2-3-2015	Amend	3-1-2015	416-260-0030	2-19-2015	Amend	4-1-2015
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414-205-0035	2-3-2015	Amend	3-1-2015	416-260-0070	2-19-2015	Amend	4-1-2015
414-205-0040	2-3-2015	Amend	3-1-2015	416-530-0060	8-14-2015	Amend(T)	9-1-2015
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414-205-0065	2-3-2015	Amend	3-1-2015	418-010-0020	12-1-2014	Adopt	1-1-2015
414-205-0075	2-3-2015	Amend	3-1-2015	418-010-0030	12-1-2014	Adopt	1-1-2015
414-205-0085	2-3-2015	Amend	3-1-2015	418-010-0040	12-1-2014	Adopt	1-1-2015
414-205-0090	2-3-2015	Amend	3-1-2015	418-020-0010	12-1-2014	Adopt	1-1-2015
414-205-0100	2-3-2015	Amend	3-1-2015	418-020-0020	12-1-2014	Adopt	1-1-2015
414-205-0110	2-3-2015	Amend	3-1-2015	418-020-0030	12-1-2014	Adopt	1-1-2015
414-205-0120	2-3-2015	Amend	3-1-2015	418-020-0040	12-1-2014	Adopt	1-1-2015
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414-350-0050	2-3-2015	Amend	3-1-2015	436-009-0005	3-1-2015	Amend	3-1-2015
414-350-0090	2-3-2015	Amend	3-1-2015	436-009-0005	4-1-2015	Amend	4-1-2015
414-400-0000	11-25-2014	Amend	1-1-2015	436-009-0008	4-1-2015	Amend	4-1-2015
414-400-0010	11-25-2014	Amend	1-1-2015	436-009-0010	4-1-2015	Amend	4-1-2015
414-400-0020	11-25-2014	Amend	1-1-2015	436-009-0018	4-1-2015	Amend	4-1-2015
414-400-0031	11-25-2014	Amend	1-1-2015	436-009-0020	4-1-2015	Amend	4-1-2015
414-400-0033	11-25-2014	Renumber	1-1-2015	436-009-0023	4-1-2015	Amend	4-1-2015
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414-400-0060	11-25-2014	Amend	1-1-2015	436-009-0035	4-1-2015	Amend	4-1-2015
414-400-0080	11-25-2014	Amend	1-1-2015	436-009-0040	4-1-2015	Amend	4-1-2015
414-400-0090	11-25-2014	Adopt	1-1-2015	436-009-0060	4-1-2015	Amend	4-1-2015
414-400-0095	11-25-2014	Adopt	1-1-2015	436-009-0080	4-1-2015	Amend	4-1-2015
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414-700-0010	11-25-2014	Amend	1-1-2015	436-009-0110	4-1-2015	Amend	4-1-2015
414-700-0020	11-25-2014	Amend	1-1-2015	436-009-0998	4-1-2015	Amend	4-1-2015
414-700-0030	11-25-2014	Amend	1-1-2015	436-010-0005	3-1-2015	Amend	3-1-2015
414-700-0040	11-25-2014	Amend	1-1-2015	436-010-0280	3-1-2015	Amend	3-1-2015
414-700-0050	11-25-2014	Amend	1-1-2015	436-030-0003	3-1-2015	Amend	3-1-2015
414-700-0060	11-25-2014	Amend	1-1-2015	436-030-0005	3-1-2015	Amend	3-1-2015
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414-700-0090	11-25-2014	Amend	1-1-2015	436-030-0020	3-1-2015	Amend	3-1-2015
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416-070-0020	2-19-2015	Amend	4-1-2015	436-030-0023	5-21-2015	Amend(T)	7-1-2015
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416-070-0050	2-19-2015	Amend	4-1-2015	436-030-0065	3-1-2015	Amend	3-1-2015
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436-030-0135	5-21-2015	Amend(T)	7-1-2015	459-007-0320	3-30-2015	Amend	5-1-2015
436-030-0145	5-21-2015	Amend(T)	7-1-2015	459-007-0330	3-30-2015	Amend	5-1-2015
436-030-0165	3-1-2015	Amend	3-1-2015	459-015-0020	7-31-2015	Amend	9-1-2015
436-035-0005	3-1-2015	Amend	3-1-2015	459-017-0060	5-29-2015	Amend	7-1-2015
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436-035-0007	3-1-2015	Amend	3-1-2015	459-045-0070	5-29-2015	Adopt	7-1-2015
436-035-0008	3-1-2015	Amend	3-1-2015	459-050-0076	11-21-2014	Amend	1-1-2015
436-035-0012	3-1-2015	Amend	3-1-2015	459-050-0076	1-8-2015	Amend	2-1-2015
436-035-0013	3-1-2015	Amend	3-1-2015	459-050-0120	11-21-2014	Amend	1-1-2015
436-035-0014	3-1-2015	Amend	3-1-2015	459-050-0120	1-8-2015	Amend	2-1-2015
436-035-0016	3-1-2015	Amend	3-1-2015	459-070-0001	1-30-2015	Amend	3-1-2015
436-035-0018	3-1-2015	Amend	3-1-2015	459-075-0300	7-31-2015	Amend	9-1-2015
436-035-0250	3-1-2015	Amend	3-1-2015	459-076-0020	7-31-2015	Amend	9-1-2015
436-050-0003	1-1-2015	Amend	1-1-2015	459-080-0250	3-30-2015	Amend	5-1-2015
436-050-0175	1-1-2015	Amend	1-1-2015	459-080-0300	7-31-2015	Amend	9-1-2015
436-105-0500	3-1-2015	Amend	3-1-2015	459-080-0500	5-29-2015	Amend	7-1-2015
436-105-0520	3-1-2015	Amend	3-1-2015	461-001-0000	4-1-2015	Amend	4-1-2015
436-110-0350	3-1-2015	Amend	3-1-2015	461-001-0025	7-1-2015	Amend(T)	8-1-2015
436-120-0005	3-1-2015	Amend	3-1-2015	461-101-0010	4-1-2015	Amend	4-1-2015
437-001-0015	1-1-2016	Amend	5-1-2015	461-110-0210	4-1-2015	Amend	4-1-2015
437-001-0700	1-1-2016	Amend	5-1-2015	461-110-0210	6-30-2015	Amend	8-1-2015
437-001-0704	1-1-2016	Adopt	5-1-2015	461-110-0430	4-1-2015	Amend	4-1-2015
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438-006-0020	1-1-2015	Amend	1-1-2015	461-115-0030	6-30-2015	Amend	8-1-2015
438-013-0025	1-1-2015	Amend	1-1-2015	461-115-0030	7-23-2015	Amend(T)	9-1-2015
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441-035-0070	1-15-2015	Adopt	2-1-2015	461-115-0040	7-23-2015	Amend(T)	9-1-2015
441-035-0080	1-15-2015	Adopt	2-1-2015	461-115-0050	4-1-2015	Amend	5-1-2015
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441-035-0110	1-15-2015	Adopt	2-1-2015	461-115-0071(T)	1-1-2015	Repeal	2-1-2015
441-035-0120	1-15-2015	Adopt	2-1-2015	461-120-0010	6-30-2015	Amend	8-1-2015
441-035-0130	1-15-2015	Adopt	2-1-2015	461-125-0190	1-1-2015	Repeal	2-1-2015
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441-035-0170	1-15-2015	Adopt	2-1-2015	461-135-0405	4-1-2015	Amend	5-1-2015
441-035-0180	1-15-2015	Adopt	2-1-2015	461-135-0407	4-1-2015	Amend	5-1-2015
441-035-0190	1-15-2015	Adopt	2-1-2015	461-135-0780	1-1-2015	Amend	2-1-2015
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459-005-0545	5-29-2015	Amend	7-1-2015	461-145-0930	4-1-2015	Amend	4-1-2015
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461-155-0295	3-1-2015	Amend	4-1-2015	578-033-0230	6-30-2015	Repeal	8-1-2015
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461-160-0580	1-1-2015	Amend	2-1-2015	578-033-0252	6-30-2015	Repeal	8-1-2015
461-160-0620	1-1-2015	Amend	2-1-2015	578-033-0260	6-30-2015	Repeal	8-1-2015
461-160-0620	7-1-2015	Amend	8-1-2015	578-034-0010	6-30-2015	Repeal	8-1-2015
461-165-0010	7-1-2015	Amend	8-1-2015	578-034-0020	6-30-2015	Repeal	8-1-2015
461-165-0030	4-1-2015	Amend	5-1-2015	578-034-0025	6-30-2015	Repeal	8-1-2015
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461-165-0180	6-30-2015	Amend	8-1-2015	578-034-0040	6-30-2015	Repeal	8-1-2015
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461-180-0070	7-23-2015	Amend(T)	9-1-2015	578-034-0075	6-30-2015	Repeal	8-1-2015
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581-020-0080	12-4-2014	Renumber	1-1-2015	583-050-0016	3-17-2015	Amend	5-1-2015
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581-020-0085	12-4-2014	Renumber	1-1-2015	583-050-0027	3-17-2015	Amend	5-1-2015
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581-022-1723	7-15-2015	Amend(T)	8-1-2015	584-017-1030	2-10-2015	Amend	3-1-2015
581-026-0065	12-17-2014	Amend	2-1-2015	584-017-1032	2-10-2015	Amend	3-1-2015
581-026-0130	12-17-2014	Amend	2-1-2015	584-017-1035	2-10-2015	Amend	3-1-2015
581-026-0210	12-17-2014	Amend	2-1-2015	584-018-0110	2-10-2015	Amend	3-1-2015
581-026-0505	12-17-2014	Amend	2-1-2015	584-018-0115	2-10-2015	Amend	3-1-2015
581-045-0586	4-15-2015	Amend	5-1-2015	584-018-0120	2-10-2015	Amend	3-1-2015
582-001-0003	1-1-2015	Repeal	2-1-2015	584-018-0130	2-10-2015	Amend	3-1-2015
582-001-0005	1-1-2015	Repeal	2-1-2015	584-018-0140	2-10-2015	Amend	3-1-2015
582-001-0010	1-1-2015	Amend	2-1-2015	584-018-0150	2-10-2015	Amend	3-1-2015
582-050-0000	1-1-2015	Amend	2-1-2015	584-018-0165	2-10-2015	Adopt	3-1-2015
583-001-0000	3-17-2015	Amend	5-1-2015	584-018-0305	2-10-2015	Amend	3-1-2015
583-001-0005	3-17-2015	Amend	5-1-2015	584-018-1070	4-15-2015	Adopt	5-1-2015

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584-019-0003	2-10-2015	Amend	3-1-2015	584-065-0001	2-10-2015	Amend	3-1-2015
584-020-0060	2-10-2015	Adopt	3-1-2015	584-065-0060	2-10-2015	Amend	3-1-2015
584-023-0005	2-10-2015	Amend	3-1-2015	584-065-0070	2-10-2015	Amend	3-1-2015
584-036-0055	2-10-2015	Amend	3-1-2015	584-065-0080	2-10-2015	Amend	3-1-2015
584-036-0070	2-10-2015	Amend	3-1-2015	584-065-0090	2-10-2015	Amend	3-1-2015
584-036-0080	2-10-2015	Amend	3-1-2015	584-065-0120	2-10-2015	Amend	3-1-2015
584-036-0080	7-1-2015	Amend(T)	8-1-2015	584-066-0010	2-10-2015	Amend	3-1-2015
584-036-0083	2-10-2015	Amend	3-1-2015	584-066-0020	2-10-2015	Amend	3-1-2015
584-038-0003	2-10-2015	Amend	3-1-2015	584-066-0025	2-10-2015	Adopt	3-1-2015
584-038-0003	7-1-2015	Amend(T)	8-1-2015	584-066-0030	4-15-2015	Adopt	5-1-2015
584-038-0325	7-1-2015	Suspend	8-1-2015	584-070-0012	7-1-2015	Amend(T)	8-1-2015
584-042-0008	2-10-2015	Amend(T)	3-1-2015	584-070-0120	2-10-2015	Amend	3-1-2015
584-042-0008	4-15-2015	Amend	5-1-2015	584-070-0132	2-10-2015	Amend	3-1-2015
584-042-0021	2-10-2015	Amend	3-1-2015	584-070-0310	2-10-2015	Amend	3-1-2015
584-042-0022	2-10-2015	Amend	3-1-2015	584-070-0310	7-1-2015	Amend(T)	8-1-2015
584-042-0031	7-1-2015	Amend(T)	8-1-2015	584-080-0152	2-10-2015	Amend	3-1-2015
584-042-0036	2-10-2015	Amend(T)	3-1-2015	584-080-0171	2-10-2015	Amend	3-1-2015
584-042-0036	4-15-2015	Amend	5-1-2015	584-090-0100	2-10-2015	Amend	3-1-2015
584-042-0044	2-10-2015	Amend	3-1-2015	584-090-0100	4-15-2015	Amend	5-1-2015
584-042-0051	2-10-2015	Amend	3-1-2015	584-090-0100	7-1-2015	Amend(T)	8-1-2015
584-042-0081	7-1-2015	Amend(T)	8-1-2015	584-090-0115	2-10-2015	Amend	3-1-2015
584-050-0021	2-10-2015	Amend	3-1-2015	584-090-0115	7-1-2015	Amend(T)	8-1-2015
584-052-0027	2-10-2015	Amend	3-1-2015	584-090-0120	4-15-2015	Amend	5-1-2015
584-060-0006	7-1-2015	Suspend	8-1-2015	584-100-0006	2-10-2015	Amend	3-1-2015
584-060-0012	7-1-2015	Suspend	8-1-2015	584-100-0007	2-10-2015	Amend	3-1-2015
584-060-0013	7-1-2015	Suspend	8-1-2015	584-100-0016	2-10-2015	Amend	3-1-2015
584-060-0014	7-1-2015	Amend(T)	8-1-2015	584-100-0026	2-10-2015	Amend	3-1-2015
584-060-0014	7-10-2015	Amend(T)	8-1-2015	584-100-0036	2-10-2015	Amend	3-1-2015
584-060-0014(T)	7-10-2015	Suspend	8-1-2015	584-300-0170	7-1-2015	Adopt(T)	8-1-2015
584-060-0051	7-1-2015	Suspend	8-1-2015	584-300-0170	7-10-2015	Adopt(T)	8-1-2015
584-060-0052	7-1-2015	Suspend	8-1-2015	584-300-0170(T)	7-10-2015	Suspend	8-1-2015
584-060-0062	4-15-2015	Amend	5-1-2015	589-002-0120	6-15-2015	Amend	7-1-2015
584-060-0181	2-10-2015	Amend	3-1-2015	589-006-0100	5-18-2015	Amend	7-1-2015
584-060-0181	4-15-2015	Amend	5-1-2015	603-011-0610	2-23-2015	Amend	4-1-2015
584-060-0181	7-1-2015	Suspend	8-1-2015	603-011-0615	2-23-2015	Amend	4-1-2015
584-060-0200	7-1-2015	Amend(T)	8-1-2015	603-011-0620	2-23-2015	Amend	4-1-2015
584-060-0210	2-10-2015	Amend	3-1-2015	603-011-0630	2-23-2015	Amend	4-1-2015
584-060-0220	7-1-2015	Amend(T)	8-1-2015	603-011-0800	12-30-2014	Adopt(T)	2-1-2015
584-060-0250	7-1-2015	Amend(T)	8-1-2015	603-011-0810	12-30-2014	Adopt(T)	2-1-2015
584-060-0525	7-1-2015	Suspend	8-1-2015	603-011-0820	12-30-2014	Adopt(T)	2-1-2015
584-060-0530	7-1-2015	Suspend	8-1-2015	603-011-0830	12-30-2014	Adopt(T)	2-1-2015
584-060-0600	7-1-2015	Suspend	8-1-2015	603-011-0840	12-30-2014	Adopt(T)	2-1-2015
584-060-0635	2-10-2015	Amend	3-1-2015	603-011-0900	1-28-2015	Adopt(T)	3-1-2015
584-060-0682	4-23-2015	Amend(T)	6-1-2015	603-011-0910	1-28-2015	Adopt(T)	3-1-2015
584-060-0682	5-15-2015	Amend(T)	6-1-2015	603-011-0920	1-28-2015	Adopt(T)	3-1-2015
584-060-0682	7-1-2015	Amend(T)	8-1-2015	603-011-0930	1-28-2015	Adopt(T)	3-1-2015
584-060-0682(T)	5-15-2015	Suspend	6-1-2015	603-011-0940	1-28-2015	Adopt(T)	3-1-2015
584-060-0700	7-1-2015	Adopt(T)	8-1-2015	603-024-0017	4-3-2015	Amend	5-1-2015
584-060-0710	7-1-2015	Adopt(T)	8-1-2015	603-024-0211	4-3-2015	Amend	5-1-2015
584-060-0710	7-10-2015	Adopt(T)	8-1-2015	603-048-0010	1-29-2015	Adopt	3-1-2015
584-060-0710(T)	7-10-2015	Suspend	8-1-2015	603-048-0050	1-29-2015	Adopt	3-1-2015
584-060-0715	7-1-2015	Adopt(T)	8-1-2015	603-048-0100	1-29-2015	Adopt	3-1-2015
584-060-0715	7-10-2015	Adopt(T)	8-1-2015	603-048-0110	1-29-2015	Adopt	3-1-2015
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603-048-0500	1-29-2015	Adopt	3-1-2015	635-004-0420	6-29-2015	Repeal	8-1-2015
603-048-0600	1-29-2015	Adopt	3-1-2015	635-004-0430	5-27-2015	Amend(T)	7-1-2015
603-048-0700	1-29-2015	Adopt	3-1-2015	635-004-0430	6-29-2015	Amend	8-1-2015
603-048-0800	1-29-2015	Adopt	3-1-2015	635-004-0430(T)	6-29-2015	Repeal	8-1-2015
603-048-0900	1-29-2015	Adopt	3-1-2015	635-004-0500	5-27-2015	Suspend	7-1-2015
603-048-1000	1-29-2015	Adopt	3-1-2015	635-004-0500	6-29-2015	Repeal	8-1-2015
603-052-0051	5-29-2015	Amend	7-1-2015	635-004-0505	1-16-2015	Amend(T)	3-1-2015
603-052-0385	5-29-2015	Amend	7-1-2015	635-004-0520	5-27-2015	Suspend	7-1-2015
603-052-0860	1-13-2015	Amend	2-1-2015	635-004-0520	6-29-2015	Repeal	8-1-2015
603-052-0861	1-13-2015	Amend	2-1-2015	635-004-0535	5-27-2015	Suspend	7-1-2015
603-052-0862	1-13-2015	Amend	2-1-2015	635-004-0535	6-29-2015	Repeal	8-1-2015
603-052-0870	1-13-2015	Amend	2-1-2015	635-004-0585	4-28-2015	Amend	6-1-2015
603-052-0880	1-13-2015	Amend	2-1-2015	635-005-0355	2-6-2015	Amend(T)	3-1-2015
603-052-0882	1-13-2015	Amend	2-1-2015	635-005-0465	11-25-2014	Amend(T)	1-1-2015
603-052-0884	1-13-2015	Amend	2-1-2015	635-005-0480	3-16-2015	Amend(T)	5-1-2015
603-052-0886	1-13-2015	Amend	2-1-2015	635-005-0485	11-25-2014	Amend(T)	1-1-2015
603-052-0888	1-13-2015	Amend	2-1-2015	635-005-0920	5-27-2015	Amend(T)	7-1-2015
603-052-0921	1-13-2015	Amend	2-1-2015	635-006-0209	1-1-2015	Amend(T)	1-1-2015
603-052-1230	7-23-2015	Amend	9-1-2015	635-006-0209	1-15-2015	Amend	2-1-2015
603-057-0388	2-27-2015	Adopt	4-1-2015	635-006-0209(T)	1-15-2015	Repeal	2-1-2015
603-095-0100	1-29-2015	Amend	3-1-2015	635-006-0210	8-4-2015	Amend(T)	9-1-2015
603-095-0120	1-29-2015	Amend	3-1-2015	635-006-0212	4-27-2015	Amend	6-1-2015
603-095-0140	1-29-2015	Amend	3-1-2015	635-006-0212	5-1-2015	Amend(T)	5-1-2015
603-095-0160	1-29-2015	Repeal	3-1-2015	635-006-0212	5-1-2015	Amend(T)	6-1-2015
603-095-0180	1-29-2015	Amend	3-1-2015	635-006-0212(T)	4-27-2015	Repeal	6-1-2015
632-030-0025	1-7-2015	Amend	2-1-2015	635-006-0213	4-27-2015	Amend	6-1-2015
635-001-0110	7-24-2015	Adopt(T)	9-1-2015	635-006-0215	1-15-2015	Amend	2-1-2015
635-001-0341	8-14-2015	Adopt(T)	9-1-2015	635-006-0215	5-1-2015	Amend(T)	5-1-2015
635-003-0003	4-27-2015	Amend	6-1-2015	635-006-0225	5-1-2015	Amend(T)	5-1-2015
635-003-0085	4-27-2015	Amend	6-1-2015	635-006-0232	1-13-2015	Amend	2-1-2015
635-004-0215	1-15-2015	Amend	2-1-2015	635-008-0040	8-12-2015	Amend	9-1-2015
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635-004-0275	3-10-2015	Amend	4-1-2015	635-008-0068	8-12-2015	Adopt	9-1-2015
635-004-0275	6-12-2015	Amend(T)	7-1-2015	635-008-0115	8-12-2015	Amend	9-1-2015
635-004-0275(T)	3-10-2015	Repeal	4-1-2015	635-011-0100	1-1-2015	Amend	2-1-2015
635-004-0350	1-15-2015	Amend	2-1-2015	635-011-0104	1-1-2015	Amend	2-1-2015
635-004-0355	1-1-2015	Amend(T)	1-1-2015	635-012-0090	5-27-2015	Amend(T)	7-1-2015
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635-004-0370	6-29-2015	Amend	8-1-2015	635-014-0080	1-1-2015	Amend	2-1-2015
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635-004-0375	4-25-2015	Amend(T)	6-1-2015	635-014-0090	4-1-2015	Amend(T)	5-1-2015
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635-004-0375(T)	5-27-2015	Suspend	7-1-2015	635-014-0090	8-1-2015	Amend(T)	9-1-2015
635-004-0375(T)	6-29-2015	Repeal	8-1-2015	635-014-0090(T)	6-23-2015	Repeal	8-1-2015
635-004-0376	5-27-2015	Adopt(T)	7-1-2015	635-014-0090(T)	7-18-2015	Suspend	9-1-2015
635-004-0376	6-29-2015	Adopt	8-1-2015	635-014-0090(T)	8-1-2015	Suspend	9-1-2015
635-004-0376(T)	6-29-2015	Repeal	8-1-2015	635-016-0080	1-1-2015	Amend	2-1-2015
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635-016-0090(T)	7-18-2015	Suspend	9-1-2015	635-023-0125(T)	5-2-2015	Suspend	6-1-2015
635-016-0090(T)	8-13-2015	Suspend	9-1-2015	635-023-0125(T)	5-6-2015	Suspend	6-1-2015
635-017-0080	1-1-2015	Amend	2-1-2015	635-023-0125(T)	5-28-2015	Suspend	7-1-2015
635-017-0090	1-1-2015	Amend	2-1-2015	635-023-0125(T)	6-3-2015	Suspend	7-1-2015
635-017-0090	5-27-2015	Amend(T)	7-1-2015	635-023-0128	1-1-2015	Amend	2-1-2015
635-017-0090	6-12-2015	Amend(T)	7-1-2015	635-023-0128	6-16-2015	Amend(T)	7-1-2015
635-017-0090	7-18-2015	Amend(T)	9-1-2015	635-023-0128	7-3-2015	Amend(T)	8-1-2015
635-017-0090(T)	6-12-2015	Suspend	7-1-2015	635-023-0128(T)	7-3-2015	Suspend	8-1-2015
635-017-0090(T)	7-18-2015	Suspend	9-1-2015	635-023-0130	1-1-2015	Amend	2-1-2015
635-017-0095	1-1-2015	Amend	2-1-2015	635-023-0130	8-1-2015	Amend(T)	9-1-2015
635-017-0095	7-18-2015	Amend(T)	9-1-2015	635-023-0134	1-1-2015	Amend	2-1-2015
635-018-0080	1-1-2015	Amend	2-1-2015	635-023-0134	5-2-2015	Amend(T)	6-1-2015
635-018-0090	1-1-2015	Amend	2-1-2015	635-023-0134	8-2-2015	Amend(T)	9-1-2015
635-018-0090	4-15-2015	Amend(T)	5-1-2015	635-023-0134	9-1-2015	Amend(T)	9-1-2015
635-018-0090	7-18-2015	Amend(T)	9-1-2015	635-023-0134(T)	8-2-2015	Suspend	9-1-2015
635-018-0090	8-3-2015	Amend(T)	9-1-2015	635-023-0134(T)	9-1-2015	Suspend	9-1-2015
635-018-0090(T)	8-3-2015	Suspend	9-1-2015	635-023-0140	1-1-2015	Amend	2-1-2015
635-019-0080	1-1-2015	Amend	2-1-2015	635-039-0080	1-1-2015	Amend	2-1-2015
635-019-0090	1-1-2015	Amend	2-1-2015	635-039-0080	3-10-2015	Amend	4-1-2015
635-019-0090	5-20-2015	Amend(T)	6-1-2015	635-039-0085	4-28-2015	Amend	6-1-2015
635-019-0090	6-6-2015	Amend(T)	7-1-2015	635-039-0085	6-3-2015	Amend(T)	7-1-2015
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635-019-0090	7-5-2015	Amend(T)	8-1-2015	635-039-0085(T)	6-15-2015	Suspend	7-1-2015
635-019-0090	7-18-2015	Amend(T)	9-1-2015	635-039-0090	1-1-2015	Amend	2-1-2015
635-019-0090	8-3-2015	Amend(T)	9-1-2015	635-039-0090	1-15-2015	Amend	2-1-2015
635-019-0090(T)	6-6-2015	Suspend	7-1-2015	635-039-0090	1-15-2015	Amend(T)	2-1-2015
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635-019-0090(T)	8-3-2015	Suspend	9-1-2015	635-041-0045	8-1-2015	Amend(T)	9-1-2015
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635-023-0090	1-1-2015	Amend	2-1-2015	635-041-0065	5-27-2015	Amend(T)	7-1-2015
635-023-0095	1-1-2015	Amend	2-1-2015	635-041-0065	6-2-2015	Amend(T)	7-1-2015
635-023-0095	1-1-2015	Amend(T)	2-1-2015	635-041-0065	6-9-2015	Amend(T)	7-1-2015
635-023-0095	5-12-2015	Amend(T)	6-1-2015	635-041-0065	6-11-2015	Amend(T)	7-1-2015
635-023-0095	6-3-2015	Amend(T)	7-1-2015	635-041-0065(T)	2-20-2015	Suspend	4-1-2015
635-023-0095	7-18-2015	Amend(T)	9-1-2015	635-041-0065(T)	3-12-2015	Suspend	4-1-2015
635-023-0095(T)	6-3-2015	Suspend	7-1-2015	635-041-0065(T)	5-19-2015	Suspend	7-1-2015
635-023-0095(T)	7-18-2015	Suspend	9-1-2015	635-041-0065(T)	5-27-2015	Suspend	7-1-2015
635-023-0125	1-1-2015	Amend	2-1-2015	635-041-0065(T)	6-2-2015	Suspend	7-1-2015
635-023-0125	3-1-2015	Amend(T)	3-1-2015	635-041-0065(T)	6-9-2015	Suspend	7-1-2015
635-023-0125	3-5-2015	Amend(T)	4-1-2015	635-041-0065(T)	6-11-2015	Suspend	7-1-2015
635-023-0125	4-10-2015	Amend(T)	5-1-2015	635-041-0075	8-1-2015	Amend(T)	9-1-2015
635-023-0125	5-2-2015	Amend(T)	6-1-2015	635-041-0075	8-17-2015	Amend(T)	9-1-2015
635-023-0125	5-6-2015	Amend(T)	6-1-2015	635-041-0075(T)	8-17-2015	Suspend	9-1-2015
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635-041-0076	7-15-2015	Amend(T)	8-1-2015	635-042-0160(T)	6-25-2015	Suspend	8-1-2015
635-041-0076	7-21-2015	Amend(T)	9-1-2015	635-042-0170	2-9-2015	Amend(T)	3-1-2015
635-041-0076	7-28-2015	Amend(T)	9-1-2015	635-042-0170	4-21-2015	Amend(T)	6-1-2015
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635-041-0076(T)	7-8-2015	Suspend	8-1-2015	635-042-0170	8-17-2015	Amend(T)	9-1-2015
635-041-0076(T)	7-15-2015	Suspend	8-1-2015	635-042-0170(T)	4-21-2015	Suspend	6-1-2015
635-041-0076(T)	7-21-2015	Suspend	9-1-2015	635-042-0170(T)	5-4-2015	Suspend	6-1-2015
635-041-0076(T)	7-28-2015	Suspend	9-1-2015	635-042-0180	2-9-2015	Amend(T)	3-1-2015
635-041-0525	1-1-2015	Adopt	1-1-2015	635-042-0180	4-21-2015	Amend(T)	6-1-2015
635-042-0010	8-24-2015	Amend(T)	9-1-2015	635-042-0180	5-4-2015	Amend(T)	6-1-2015
635-042-0022	3-31-2015	Amend(T)	5-1-2015	635-042-0180	8-17-2015	Amend(T)	9-1-2015
635-042-0022	4-7-2015	Amend(T)	5-1-2015	635-042-0180(T)	4-21-2015	Suspend	6-1-2015
635-042-0022	5-4-2015	Amend(T)	6-1-2015	635-042-0180(T)	5-4-2015	Suspend	6-1-2015
635-042-0022	5-6-2015	Amend(T)	6-1-2015	635-043-0151	1-15-2015	Adopt(T)	2-1-2015
635-042-0022	5-12-2015	Amend(T)	6-1-2015	635-043-0151(T)	1-15-2015	Suspend	2-1-2015
635-042-0022	5-27-2015	Amend(T)	7-1-2015	635-045-0000	6-11-2015	Amend	7-1-2015
635-042-0022	6-2-2015	Amend(T)	7-1-2015	635-045-0000	8-12-2015	Amend	9-1-2015
635-042-0022	6-10-2015	Amend(T)	7-1-2015	635-048-0005	12-10-2014	Amend	1-1-2015
635-042-0022(T)	6-10-2015	Suspend	7-1-2015	635-051-0000	8-12-2015	Amend	9-1-2015
635-042-0027	6-17-2015	Amend(T)	7-1-2015	635-052-0000	8-12-2015	Amend	9-1-2015
635-042-0027	7-8-2015	Amend(T)	8-1-2015	635-053-0000	8-12-2015	Amend	9-1-2015
635-042-0027	7-21-2015	Amend(T)	9-1-2015	635-053-0100	2-25-2015	Repeal	4-1-2015
635-042-0027(T)	7-8-2015	Suspend	8-1-2015	635-053-0105	2-25-2015	Repeal	4-1-2015
635-042-0027(T)	7-14-2015	Suspend	8-1-2015	635-053-0111	2-25-2015	Repeal	4-1-2015
635-042-0027(T)	7-21-2015	Suspend	9-1-2015	635-053-0125	2-25-2015	Repeal	4-1-2015
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635-042-0031	8-24-2015	Amend(T)	9-1-2015	635-060-0000	8-12-2015	Amend	9-1-2015
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635-042-0130	2-2-2015	Amend(T)	3-1-2015	635-065-0011	1-6-2015	Amend	2-1-2015
635-042-0145	2-9-2015	Amend(T)	3-1-2015	635-065-0015	1-6-2015	Amend	2-1-2015
635-042-0145	3-9-2015	Amend(T)	4-1-2015	635-065-0015	6-11-2015	Amend	7-1-2015
635-042-0145	3-24-2015	Amend(T)	5-1-2015	635-065-0090	1-6-2015	Amend	2-1-2015
635-042-0145	4-21-2015	Amend(T)	6-1-2015	635-065-0401	1-6-2015	Amend	2-1-2015
635-042-0145	5-4-2015	Amend(T)	6-1-2015	635-065-0625	1-6-2015	Amend	2-1-2015
635-042-0145	5-12-2015	Amend(T)	6-1-2015	635-065-0705	1-6-2015	Amend	2-1-2015
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635-075-0022	6-11-2015	Amend	7-1-2015	690-020-0048	3-17-2015	Adopt	5-1-2015
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635-440-0005	12-8-2014	Adopt	1-1-2015	690-020-0100	3-17-2015	Amend	5-1-2015
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690-240-0005	7-1-2015	Amend	8-1-2015	731-090-0080	7-1-2015	Adopt	6-1-2015
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690-325-0070	11-25-2014	Adopt	1-1-2015	734-060-0000	12-19-2014	Amend	2-1-2015
690-325-0080	11-25-2014	Adopt	1-1-2015	734-060-0007	12-19-2014	Amend	2-1-2015
690-325-0090	11-25-2014	Adopt	1-1-2015	734-060-0175	12-19-2014	Amend	2-1-2015
690-325-0100	11-25-2014	Adopt	1-1-2015	734-060-0190	12-19-2014	Adopt	2-1-2015
690-325-0110	11-25-2014	Adopt	1-1-2015	734-074-0010	4-21-2015	Amend	6-1-2015
690-340-0030	1-1-2015	Amend	1-1-2015	734-074-0060	4-21-2015	Amend	6-1-2015
690-340-0040	1-1-2015	Amend	1-1-2015	734-075-0045	4-21-2015	Amend	6-1-2015
690-382-0400	1-1-2015	Amend	1-1-2015	734-076-0135	4-21-2015	Amend	6-1-2015
690-522-0030	6-26-2015	Amend	8-1-2015	734-078-0030	4-21-2015	Amend	6-1-2015
690-522-0050	6-26-2015	Amend	8-1-2015	734-082-0009	6-23-2015	Amend	8-1-2015
710-005-0005	7-1-2015	Amend	8-1-2015	734-082-0037	4-21-2015	Amend	6-1-2015
710-010-0000	11-30-2014	Adopt	1-1-2015	735-001-0040	12-19-2014	Amend	2-1-2015

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735-022-0065	1-1-2015	Adopt	1-1-2015	735-176-0140	7-1-2015	Adopt	1-1-2015
735-028-0110	4-21-2015	Amend	6-1-2015	735-176-0150	7-1-2015	Adopt	1-1-2015
735-028-0120	4-21-2015	Amend	6-1-2015	735-176-0160	7-1-2015	Adopt	1-1-2015
735-028-0125	4-21-2015	Adopt	6-1-2015	735-176-0170	7-1-2015	Adopt	1-1-2015
735-028-0130	4-21-2015	Repeal	6-1-2015	735-176-0180	7-1-2015	Adopt	1-1-2015
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735-028-0150	4-21-2015	Amend	6-1-2015	735-176-0200	7-1-2015	Adopt	1-1-2015
735-062-0005	12-1-2014	Amend	1-1-2015	735-176-0210	7-1-2015	Adopt	1-1-2015
735-062-0007	12-1-2014	Amend	1-1-2015	738-001-0006	7-1-2015	Amend	8-1-2015
735-062-0010	12-1-2014	Amend	1-1-2015	738-001-0025	7-1-2015	Repeal	8-1-2015
735-062-0015	12-1-2014	Amend	1-1-2015	738-001-0030	7-1-2015	Repeal	8-1-2015
735-062-0016	6-19-2015	Amend	8-1-2015	738-130-0005	7-28-2015	Adopt	9-1-2015
735-062-0030	12-1-2014	Amend	1-1-2015	738-130-0015	7-28-2015	Adopt	9-1-2015
735-062-0040	12-1-2014	Amend	1-1-2015	738-130-0025	7-28-2015	Adopt	9-1-2015
735-062-0096	12-1-2014	Amend	1-1-2015	738-130-0035	7-28-2015	Adopt	9-1-2015
735-062-0110	12-1-2014	Amend	1-1-2015	738-130-0045	7-28-2015	Adopt	9-1-2015
735-062-0125	12-1-2014	Amend	1-1-2015	738-130-0055	7-28-2015	Adopt	9-1-2015
735-062-0200	12-1-2014	Amend	1-1-2015	738-130-0065	7-28-2015	Adopt	9-1-2015
735-063-0130	7-8-2015	Adopt	8-1-2015	738-130-0075	7-28-2015	Adopt	9-1-2015
735-064-0040	7-8-2015	Amend	8-1-2015	738-130-0085	7-28-2015	Adopt	9-1-2015
735-064-0100	7-8-2015	Amend	8-1-2015	738-130-0095	7-28-2015	Adopt	9-1-2015
735-064-0220	7-8-2015	Amend	8-1-2015	738-130-0105	7-28-2015	Adopt	9-1-2015
735-070-0037	7-8-2015	Repeal	8-1-2015	738-130-0115	7-28-2015	Adopt	9-1-2015
735-070-0200	7-8-2015	Am. & Ren.	8-1-2015	738-130-0125	7-28-2015	Adopt	9-1-2015
735-072-0035	7-8-2015	Amend	8-1-2015	740-100-0010	5-26-2015	Amend	7-1-2015
735-150-0040	4-20-2015	Amend	6-1-2015	740-100-0065	5-26-2015	Amend	7-1-2015
735-150-0041	4-20-2015	Adopt	6-1-2015	740-100-0070	5-26-2015	Amend	7-1-2015
735-150-0120	4-20-2015	Amend	6-1-2015	740-100-0080	5-26-2015	Amend	7-1-2015
735-170-0000	7-1-2015	Amend	1-1-2015	740-100-0085	5-26-2015	Amend	7-1-2015
735-170-0010	7-1-2015	Amend	1-1-2015	740-100-0090	5-26-2015	Amend	7-1-2015
735-170-0015	7-1-2015	Adopt	1-1-2015	740-110-0010	5-26-2015	Amend	7-1-2015
735-170-0020	7-1-2015	Amend	1-1-2015	740-200-0010	5-26-2015	Amend	7-1-2015
735-170-0035	7-1-2015	Adopt	1-1-2015	740-200-0020	5-26-2015	Amend	7-1-2015
735-170-0040	7-1-2015	Amend	1-1-2015	740-200-0040	5-26-2015	Amend	7-1-2015
735-170-0045	7-1-2015	Amend	1-1-2015	800-001-0000	2-1-2015	Amend	3-1-2015
735-170-0105	7-1-2015	Amend	1-1-2015	800-010-0015	2-1-2015	Amend	3-1-2015
735-174-0000	7-1-2015	Amend	1-1-2015	800-010-0017	2-1-2015	Amend	3-1-2015
735-174-0020	7-1-2015	Amend	1-1-2015	800-010-0020	2-1-2015	Amend	3-1-2015
735-174-0030	7-1-2015	Amend	1-1-2015	800-010-0025	2-1-2015	Amend	3-1-2015
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735-174-0045	7-1-2015	Amend	1-1-2015	800-010-0040	2-1-2015	Amend	3-1-2015
735-176-0000	7-1-2015	Repeal	1-1-2015	800-010-0050	2-1-2015	Amend	3-1-2015
735-176-0010	7-1-2015	Repeal	1-1-2015	800-015-0005	2-1-2015	Amend	3-1-2015
735-176-0017	7-1-2015	Repeal	1-1-2015	800-015-0010	2-1-2015	Amend	3-1-2015
735-176-0019	7-1-2015	Repeal	1-1-2015	800-015-0015	2-1-2015	Amend	3-1-2015
735-176-0020	7-1-2015	Repeal	1-1-2015	800-015-0020	2-1-2015	Amend	3-1-2015
735-176-0021	7-1-2015	Repeal	1-1-2015	800-020-0015	2-1-2015	Amend	3-1-2015
735-176-0022	7-1-2015	Repeal	1-1-2015	800-020-0022	2-1-2015	Amend	3-1-2015
735-176-0023	7-1-2015	Repeal	1-1-2015	800-020-0030	2-1-2015	Amend	3-1-2015
735-176-0030	7-1-2015	Repeal	1-1-2015	800-020-0031	2-1-2015	Amend	3-1-2015
735-176-0040	7-1-2015	Repeal	1-1-2015	800-025-0010	2-1-2015	Amend	3-1-2015
735-176-0045	7-1-2015	Repeal	1-1-2015	800-025-0023	2-1-2015	Amend	3-1-2015
735-176-0100	7-1-2015	Adopt	1-1-2015	800-025-0025	2-1-2015	Amend	3-1-2015
735-176-0110	7-1-2015	Adopt	1-1-2015	800-025-0030	2-1-2015	Amend	3-1-2015
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800-030-0030	2-1-2015	Amend	3-1-2015	808-003-0065(T)	6-11-2015	Repeal	7-1-2015
800-030-0050	2-1-2015	Amend	3-1-2015	808-003-0100	8-1-2015	Amend	9-1-2015
801-001-0000	1-8-2015	Amend	1-1-2015	808-003-0220	8-1-2015	Amend	9-1-2015
801-001-0005	1-8-2015	Amend	1-1-2015	808-003-0231	12-1-2014	Adopt	1-1-2015
801-001-0015	1-8-2015	Repeal	1-1-2015	808-008-0425	12-1-2014	Amend	1-1-2015
801-001-0020	1-8-2015	Repeal	1-1-2015	809-001-0015	12-5-2014	Amend	1-1-2015
801-001-0035	1-8-2015	Amend	1-1-2015	809-010-0025	7-1-2015	Amend	7-1-2015
801-005-0010	1-8-2015	Amend	1-1-2015	809-040-0001	12-5-2014	Amend	1-1-2015
801-010-0010	1-8-2015	Amend	1-1-2015	809-050-0020	12-5-2014	Repeal	1-1-2015
801-010-0045	1-8-2015	Amend	1-1-2015	809-050-0050	12-5-2014	Amend	1-1-2015
801-010-0050	1-8-2015	Amend	1-1-2015	809-050-0050(T)	12-5-2014	Repeal	1-1-2015
801-010-0060	1-8-2015	Amend	1-1-2015	811-010-0066	7-1-2015	Amend	7-1-2015
801-010-0065	1-8-2015	Amend	1-1-2015	811-010-0085	3-20-2015	Amend	5-1-2015
801-010-0073	1-8-2015	Amend	1-1-2015	811-010-0085	7-1-2015	Amend	7-1-2015
801-010-0078	1-8-2015	Repeal	1-1-2015	811-010-0086	7-1-2015	Amend	7-1-2015
801-010-0079	1-8-2015	Amend	1-1-2015	811-015-0005	4-10-2015	Amend	5-1-2015
801-010-0080	1-8-2015	Amend	1-1-2015	812-008-0020	10-1-2015	Amend	8-1-2015
801-010-0100	1-8-2015	Amend	1-1-2015	812-008-0040	10-1-2015	Amend	8-1-2015
801-010-0110	1-8-2015	Amend	1-1-2015	812-008-0050	10-1-2015	Amend	8-1-2015
801-010-0120	1-8-2015	Amend	1-1-2015	812-008-0060	10-1-2015	Amend	8-1-2015
801-010-0125	1-8-2015	Repeal	1-1-2015	812-008-0110	10-1-2015	Amend	8-1-2015
801-010-0130	1-8-2015	Amend	1-1-2015	813-013-0035	2-26-2015	Amend(T)	4-1-2015
801-010-0345	1-8-2015	Amend	1-1-2015	813-013-0035	7-9-2015	Amend	8-1-2015
801-030-0005	1-8-2015	Amend	1-1-2015	813-044-0040	3-11-2015	Amend(T)	4-1-2015
801-030-0010	1-8-2015	Amend	1-1-2015	813-044-0040	7-9-2015	Amend	8-1-2015
801-030-0015	1-8-2015	Amend	1-1-2015	813-044-0045	3-11-2015	Adopt(T)	4-1-2015
801-030-0020	1-8-2015	Amend	1-1-2015	813-044-0045	7-9-2015	Adopt	8-1-2015
804-001-0002	7-1-2015	Amend	7-1-2015	813-055-0001	12-2-2014	Amend	1-1-2015
804-003-0000	11-19-2014	Amend	1-1-2015	813-055-0095	12-2-2014	Repeal	1-1-2015
804-010-0000	11-19-2014	Amend	1-1-2015	813-055-0105	12-2-2014	Repeal	1-1-2015
804-010-0010	11-19-2014	Amend	1-1-2015	813-055-0115	12-2-2014	Repeal	1-1-2015
804-010-0020	11-19-2014	Amend	1-1-2015	813-090-0005	12-2-2014	Amend	1-1-2015
804-020-0001	11-19-2014	Amend	1-1-2015	813-090-0005(T)	12-2-2014	Repeal	1-1-2015
804-020-0003	11-19-2014	Amend	1-1-2015	813-090-0010	12-2-2014	Amend	1-1-2015
804-020-0005	11-19-2014	Amend	1-1-2015	813-090-0010(T)	12-2-2014	Repeal	1-1-2015
804-020-0010	11-19-2014	Amend	1-1-2015	813-090-0015	12-2-2014	Amend	1-1-2015
804-020-0015	11-19-2014	Amend	1-1-2015	813-090-0015(T)	12-2-2014	Repeal	1-1-2015
804-020-0030	11-19-2014	Amend	1-1-2015	813-090-0027	12-2-2014	Repeal	1-1-2015
804-020-0045	11-19-2014	Amend	1-1-2015	813-090-0031	12-2-2014	Amend	1-1-2015
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804-022-0015	11-19-2014	Amend	1-1-2015	813-090-0036	12-2-2014	Amend	1-1-2015
804-040-0000	11-19-2014	Amend	1-1-2015	813-090-0036(T)	12-2-2014	Repeal	1-1-2015
806-001-0003	7-1-2015	Amend	6-1-2015	813-090-0037	12-2-2014	Amend	1-1-2015
806-010-0010	6-26-2015	Amend(T)	8-1-2015	813-090-0037(T)	12-2-2014	Repeal	1-1-2015
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806-010-0035	6-26-2015	Amend(T)	8-1-2015	813-090-0039(T)	12-2-2014	Repeal	1-1-2015
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808-001-0008	6-18-2015	Amend	8-1-2015	813-090-0064	12-2-2014	Adopt	1-1-2015
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808-003-0040	2-1-2015	Amend	3-1-2015	813-090-0095	12-2-2014	Repeal	1-1-2015
808-003-0045	2-1-2015	Amend	3-1-2015	813-090-0110(T)	12-2-2014	Repeal	1-1-2015
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813-110-0015	12-2-2014	Amend	1-1-2015	837-085-0300	1-1-2015	Amend	2-1-2015
813-110-0020	12-2-2014	Amend	1-1-2015	837-085-0305	1-1-2015	Amend	2-1-2015
813-110-0021	12-2-2014	Amend	1-1-2015	837-085-0310	1-1-2015	Amend	2-1-2015
813-110-0026	12-2-2014	Amend	1-1-2015	837-090-1030	7-1-2015	Amend	8-1-2015
813-110-0027	12-2-2014	Amend	1-1-2015	837-095-0010	1-1-2015	Adopt	2-1-2015
813-110-0030	12-2-2014	Amend	1-1-2015	837-095-0020	1-1-2015	Adopt	2-1-2015
813-110-0031	12-2-2014	Adopt	1-1-2015	837-095-0030	1-1-2015	Adopt	2-1-2015
813-110-0032	12-2-2014	Renumber	1-1-2015	837-095-0040	1-1-2015	Adopt	2-1-2015
813-110-0034	12-2-2014	Repeal	1-1-2015	837-095-0050	1-1-2015	Adopt	2-1-2015
813-110-0040	12-2-2014	Repeal	1-1-2015	839-002-0065	1-6-2015	Amend(T)	2-1-2015
813-110-0045	12-2-2014	Repeal	1-1-2015	839-002-0065	5-15-2015	Amend	6-1-2015
817-040-0003	7-8-2015	Amend	8-1-2015	839-003-0000	6-29-2015	Amend	8-1-2015
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818-035-0025	4-17-2015	Amend(T)	6-1-2015	839-003-0010	6-29-2015	Amend	8-1-2015
818-035-0030	4-17-2015	Amend(T)	6-1-2015	839-003-0015	6-29-2015	Amend	8-1-2015
820-010-0225	5-27-2015	Amend(T)	7-1-2015	839-003-0020	6-29-2015	Amend	8-1-2015
820-010-0226	5-27-2015	Amend(T)	7-1-2015	839-003-0025	6-29-2015	Amend	8-1-2015
820-010-0227	5-27-2015	Amend(T)	7-1-2015	839-003-0031	6-29-2015	Amend	8-1-2015
820-010-0228	5-27-2015	Amend(T)	7-1-2015	839-003-0040	6-29-2015	Amend	8-1-2015
820-010-0325	7-1-2015	Amend(T)	8-1-2015	839-003-0045	6-29-2015	Amend	8-1-2015
820-010-0417	2-3-2015	Amend	3-1-2015	839-003-0050	6-29-2015	Amend	8-1-2015
820-010-0417	5-21-2015	Amend	7-1-2015	839-003-0055	6-29-2015	Amend	8-1-2015
820-010-0440	5-21-2015	Amend	7-1-2015	839-003-0060	6-29-2015	Amend	8-1-2015
820-010-0463	2-3-2015	Amend	3-1-2015	839-003-0065	6-29-2015	Amend	8-1-2015
820-010-0465	5-21-2015	Amend	7-1-2015	839-003-0070	6-29-2015	Amend	8-1-2015
820-010-0505	2-3-2015	Amend	3-1-2015	839-003-0080	6-29-2015	Amend	8-1-2015
820-010-0505	5-21-2015	Amend	7-1-2015	839-003-0085	6-29-2015	Amend	8-1-2015
820-010-0520	2-3-2015	Amend	3-1-2015	839-003-0090	6-29-2015	Amend	8-1-2015
820-010-0621	5-21-2015	Amend	7-1-2015	839-003-0095	6-29-2015	Amend	8-1-2015
820-010-0730	2-3-2015	Amend	3-1-2015	839-003-0100	6-29-2015	Amend	8-1-2015
820-015-0026	2-3-2015	Amend	3-1-2015	839-003-0200	6-29-2015	Amend	8-1-2015
820-050-0010	2-3-2015	Amend	3-1-2015	839-003-0205	6-29-2015	Amend	8-1-2015
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834-040-0000	6-29-2015	Amend	8-1-2015	839-003-0215	6-29-2015	Amend	8-1-2015
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836-011-0000	3-10-2015	Amend	4-1-2015	839-003-0225	6-29-2015	Amend	8-1-2015
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836-051-0220	1-1-2015	Amend	2-1-2015	839-003-0235	6-29-2015	Amend	8-1-2015
836-051-0230	1-1-2015	Amend	2-1-2015	839-003-0240	6-29-2015	Amend	8-1-2015
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836-053-1205	5-27-2015	Adopt	7-1-2015	839-005-0005	8-4-2015	Amend	9-1-2015
836-053-1404	5-12-2015	Amend	6-1-2015	839-005-0010	8-4-2015	Amend	9-1-2015
836-053-1407	5-12-2015	Adopt	6-1-2015	839-005-0011	8-4-2015	Amend	9-1-2015
836-053-1408	5-12-2015	Adopt	6-1-2015	839-005-0013	8-4-2015	Amend	9-1-2015
837-085-0260	1-1-2015	Amend	2-1-2015	839-005-0014	8-4-2015	Amend	9-1-2015
837-085-0270	1-1-2015	Amend	2-1-2015	839-005-0021	8-4-2015	Amend	9-1-2015

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839-005-0030	8-4-2015	Amend	9-1-2015	839-009-0360	5-18-2015	Amend	7-1-2015
839-005-0031	8-4-2015	Amend	9-1-2015	839-009-0360	6-24-2015	Amend	8-1-2015
839-005-0036	8-4-2015	Adopt	9-1-2015	839-009-0362	5-18-2015	Amend	7-1-2015
839-005-0060	8-4-2015	Amend	9-1-2015	839-009-0362	6-24-2015	Amend	8-1-2015
839-005-0065	8-4-2015	Amend	9-1-2015	839-009-0363	5-18-2015	Amend	7-1-2015
839-005-0070	8-4-2015	Amend	9-1-2015	839-009-0363	6-24-2015	Amend	8-1-2015
839-005-0075	8-4-2015	Amend	9-1-2015	839-009-0365	5-18-2015	Amend	7-1-2015
839-005-0080	8-4-2015	Amend	9-1-2015	839-009-0365	6-24-2015	Amend	8-1-2015
839-005-0085	8-4-2015	Amend	9-1-2015	839-009-0380	5-18-2015	Amend	7-1-2015
839-005-0130	8-4-2015	Amend	9-1-2015	839-009-0380	6-24-2015	Amend	8-1-2015
839-005-0135	8-4-2015	Amend	9-1-2015	839-009-0410	5-18-2015	Amend	7-1-2015
839-005-0138	8-4-2015	Amend	9-1-2015	839-009-0410	6-24-2015	Amend	8-1-2015
839-005-0140	8-4-2015	Amend	9-1-2015	839-009-0420	5-18-2015	Amend	7-1-2015
839-005-0160	8-4-2015	Amend	9-1-2015	839-009-0420	6-24-2015	Amend	8-1-2015
839-005-0170	8-4-2015	Amend	9-1-2015	839-009-0430	5-18-2015	Amend	7-1-2015
839-005-0195	8-4-2015	Amend	9-1-2015	839-009-0460	5-18-2015	Amend	7-1-2015
839-005-0200	8-4-2015	Amend	9-1-2015	839-009-0460	6-24-2015	Amend	8-1-2015
839-005-0205	8-4-2015	Amend	9-1-2015	839-010-0000	1-28-2015	Amend	3-1-2015
839-005-0206	8-4-2015	Amend	9-1-2015	839-010-0010	1-28-2015	Amend	3-1-2015
839-005-0210	8-4-2015	Amend	9-1-2015	839-010-0020	1-28-2015	Amend	3-1-2015
839-005-0215	8-4-2015	Amend	9-1-2015	839-010-0100	1-28-2015	Amend	3-1-2015
839-005-0220	8-4-2015	Amend	9-1-2015	839-010-0200	1-28-2015	Amend	3-1-2015
839-005-0300	8-4-2015	Amend	9-1-2015	839-010-0205	1-28-2015	Amend	3-1-2015
839-005-0305	8-4-2015	Amend	9-1-2015	839-010-0210	1-28-2015	Amend	3-1-2015
839-005-0310	8-4-2015	Amend	9-1-2015	839-010-0300	1-28-2015	Amend	3-1-2015
839-005-0315	8-4-2015	Amend	9-1-2015	839-010-0305	1-28-2015	Amend	3-1-2015
839-005-0320	8-4-2015	Amend	9-1-2015	839-010-0310	1-28-2015	Amend	3-1-2015
839-005-0325	8-4-2015	Amend	9-1-2015	839-011-0140	6-1-2015	Amend(T)	7-1-2015
839-005-0400	8-4-2015	Amend	9-1-2015	839-011-0143	6-1-2015	Amend(T)	7-1-2015
839-009-0210	11-20-2014	Amend(T)	1-1-2015	839-011-0145	6-1-2015	Amend(T)	7-1-2015
839-009-0210	5-18-2015	Amend	7-1-2015	839-011-0170	6-1-2015	Amend(T)	7-1-2015
839-009-0210	6-24-2015	Amend	8-1-2015	839-011-0270	6-1-2015	Amend(T)	7-1-2015
839-009-0220	5-18-2015	Amend	7-1-2015	839-011-0310	6-1-2015	Amend(T)	7-1-2015
839-009-0220	6-24-2015	Amend	8-1-2015	839-025-0700	1-1-2015	Amend	1-1-2015
839-009-0230	5-18-2015	Amend	7-1-2015	839-025-0700	4-1-2015	Amend	4-1-2015
839-009-0230	6-24-2015	Amend	8-1-2015	839-025-0700	7-1-2015	Amend	7-1-2015
839-009-0240	5-18-2015	Amend	7-1-2015	845-004-0101	8-5-2015	Amend(T)	9-1-2015
839-009-0240	6-24-2015	Amend	8-1-2015	845-004-0105(T)	8-5-2015	Suspend	9-1-2015
839-009-0250	5-18-2015	Amend	7-1-2015	845-005-0410	9-1-2015	Amend	9-1-2015
839-009-0250	6-24-2015	Amend	8-1-2015	845-005-0413	8-5-2015	Amend(T)	9-1-2015
839-009-0260	5-18-2015	Amend	7-1-2015	845-005-0414	9-1-2015	Amend	9-1-2015
839-009-0260	6-24-2015	Amend	8-1-2015	845-005-0415	9-1-2015	Amend	9-1-2015
839-009-0320	5-18-2015	Amend	7-1-2015	845-005-0431	8-5-2015	Amend(T)	9-1-2015
839-009-0325	5-18-2015	Amend	7-1-2015	845-005-0440	9-1-2015	Amend	9-1-2015
839-009-0325	6-24-2015	Amend	8-1-2015	845-006-0452	8-5-2015	Amend(T)	9-1-2015
839-009-0330	5-18-2015	Amend	7-1-2015	847-001-0020	4-3-2015	Repeal	5-1-2015
839-009-0330	6-24-2015	Amend	8-1-2015	847-008-0058	7-14-2015	Amend(T)	8-1-2015
839-009-0335	5-18-2015	Repeal	7-1-2015	847-010-0073	4-3-2015	Amend	5-1-2015
839-009-0335	6-24-2015	Repeal	8-1-2015	847-023-0005	1-13-2015	Amend	2-1-2015
839-009-0340	11-20-2014	Amend(T)	1-1-2015	847-023-0010	1-13-2015	Amend	2-1-2015
839-009-0340	5-18-2015	Amend	7-1-2015	847-023-0015	1-13-2015	Amend	2-1-2015
839-009-0340	6-24-2015	Amend	8-1-2015	847-026-0000	1-13-2015	Amend	2-1-2015
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839-009-0350	6-24-2015	Amend	8-1-2015	847-070-0005	1-13-2015	Amend	2-1-2015
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847-070-0016	1-13-2015	Amend	2-1-2015	852-010-0020	1-1-2015	Amend	2-1-2015
847-070-0019	1-13-2015	Amend	2-1-2015	852-010-0023	1-1-2015	Amend	1-1-2015
847-070-0022	1-13-2015	Amend	2-1-2015	852-010-0023	1-1-2015	Amend	2-1-2015
847-070-0045	1-13-2015	Amend	2-1-2015	852-010-0024	1-1-2015	Adopt	1-1-2015
848-005-0010	7-1-2015	Amend	5-1-2015	852-010-0024	1-1-2015	Adopt	2-1-2015
850-030-0020	7-17-2015	Amend	9-1-2015	852-010-0051	1-1-2015	Amend	1-1-2015
850-030-0195	4-17-2015	Amend	6-1-2015	852-010-0051	1-1-2015	Amend	2-1-2015
850-035-0230	4-17-2015	Amend	6-1-2015	852-010-0080	1-1-2015	Amend	1-1-2015
850-040-0210	4-17-2015	Amend	6-1-2015	852-010-0080	1-1-2015	Amend	2-1-2015
851-002-0010	6-1-2015	Amend	6-1-2015	852-020-0029	1-1-2015	Amend	1-1-2015
851-002-0020	6-1-2015	Amend	6-1-2015	852-020-0029	1-1-2015	Amend	2-1-2015
851-002-0030	6-1-2015	Amend	6-1-2015	852-020-0031	1-1-2015	Amend	1-1-2015
851-002-0035	6-1-2015	Amend	6-1-2015	852-020-0031	1-1-2015	Amend	2-1-2015
851-050-0000	1-1-2015	Amend	1-1-2015	852-020-0035	1-1-2015	Amend	1-1-2015
851-050-0142	1-1-2015	Amend	1-1-2015	852-020-0035	1-1-2015	Amend	2-1-2015
851-056-0000	1-1-2015	Amend	1-1-2015	852-020-0060	1-1-2015	Amend	1-1-2015
851-056-0004	1-1-2015	Amend	1-1-2015	852-020-0060	1-1-2015	Amend	2-1-2015
851-056-0006	1-1-2015	Amend	1-1-2015	852-050-0001	1-1-2015	Amend	1-1-2015
851-056-0008	1-1-2015	Amend	1-1-2015	852-050-0001	1-1-2015	Amend	2-1-2015
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851-056-0012	1-1-2015	Amend	1-1-2015	852-050-0005	1-1-2015	Amend	2-1-2015
851-056-0014	1-1-2015	Amend	1-1-2015	852-050-0006	1-1-2015	Amend	1-1-2015
851-056-0016	1-1-2015	Amend	1-1-2015	852-050-0006	1-1-2015	Amend	2-1-2015
851-056-0018	1-1-2015	Amend	1-1-2015	852-050-0012	1-1-2015	Amend	1-1-2015
851-056-0020	1-1-2015	Amend	1-1-2015	852-050-0012	1-1-2015	Amend	2-1-2015
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851-056-0026	1-1-2015	Amend	1-1-2015	852-050-0013	1-1-2015	Amend	2-1-2015
851-056-0026	8-1-2015	Amend	8-1-2015	852-050-0014	1-1-2015	Amend	1-1-2015
851-061-0020	1-1-2015	Amend	1-1-2015	852-050-0014	1-1-2015	Amend	2-1-2015
851-061-0030	1-1-2015	Amend	1-1-2015	852-050-0016	1-1-2015	Amend	1-1-2015
851-061-0040	1-1-2015	Amend	1-1-2015	852-050-0016	1-1-2015	Amend	2-1-2015
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851-062-0016	1-1-2015	Repeal	1-1-2015	852-050-0025	1-1-2015	Amend	2-1-2015
851-062-0050	1-1-2015	Amend	1-1-2015	852-060-0025	1-1-2015	Amend	1-1-2015
851-062-0070	1-1-2015	Amend	1-1-2015	852-060-0025	1-1-2015	Amend	2-1-2015
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851-063-0030	1-1-2015	Amend	1-1-2015	852-070-0010	1-1-2015	Amend	1-1-2015
851-063-0035	1-1-2015	Amend	1-1-2015	852-070-0010	1-1-2015	Amend	2-1-2015
851-063-0070	1-1-2015	Amend	1-1-2015	852-070-0016	1-1-2015	Amend	1-1-2015
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851-063-0090	1-1-2015	Amend	1-1-2015	852-070-0020	1-1-2015	Amend	1-1-2015
851-063-0100	1-1-2015	Amend	1-1-2015	852-070-0020	1-1-2015	Amend	2-1-2015
851-063-0110	1-1-2015	Amend	1-1-2015	852-070-0025	1-1-2015	Amend	1-1-2015
852-005-0005	1-1-2015	Amend	1-1-2015	852-070-0025	1-1-2015	Amend	2-1-2015
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852-080-0040	1-1-2015	Amend	2-1-2015	856-010-0010	11-26-2014	Amend	1-1-2015
855-001-0005	1-1-2015	Amend	2-1-2015	856-010-0011	11-26-2014	Amend	1-1-2015
855-019-0100	1-1-2015	Amend	2-1-2015	856-010-0012	11-26-2014	Amend	1-1-2015
855-019-0120	1-1-2015	Amend	2-1-2015	856-010-0012	6-1-2015	Amend	7-1-2015
855-019-0122	1-1-2015	Adopt	2-1-2015	856-010-0016	7-22-2015	Amend	9-1-2015
855-019-0170	1-1-2015	Amend	2-1-2015	856-010-0029	4-7-2015	Adopt	5-1-2015
855-019-0171	1-1-2015	Adopt	2-1-2015	858-010-0010	11-17-2014	Amend	1-1-2015
855-019-0205	1-1-2015	Amend	2-1-2015	858-010-0015	11-17-2014	Amend	1-1-2015
855-019-0320	1-1-2015	Repeal	2-1-2015	858-010-0036	11-17-2014	Amend	1-1-2015
855-021-0005	7-1-2015	Amend	2-1-2015	858-010-0062	1-21-2015	Adopt	3-1-2015
855-021-0010	7-1-2015	Amend	2-1-2015	858-030-0005	11-17-2014	Amend	1-1-2015
855-021-0016	7-1-2015	Amend	2-1-2015	858-040-0015	1-21-2015	Amend	3-1-2015
855-021-0025	7-1-2015	Amend	2-1-2015	859-001-0005	12-18-2014	Amend	2-1-2015
855-021-0045	7-1-2015	Amend	2-1-2015	859-001-0010	12-18-2014	Amend	2-1-2015
855-021-0050	7-1-2015	Amend	2-1-2015	859-010-0005	12-18-2014	Amend	2-1-2015
855-021-0055	7-1-2015	Amend	2-1-2015	859-050-0100	12-18-2014	Adopt	2-1-2015
855-025-0001	1-1-2015	Amend	2-1-2015	859-050-0105	12-18-2014	Adopt	2-1-2015
855-025-0005	1-1-2015	Amend	2-1-2015	860-001-0020	3-3-2015	Amend	4-1-2015
855-025-0010	1-1-2015	Amend	2-1-2015	860-001-0070	3-3-2015	Amend	4-1-2015
855-025-0010	7-1-2015	Amend	8-1-2015	860-001-0140	3-3-2015	Amend	4-1-2015
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855-025-0015	1-1-2015	Amend	2-1-2015	860-001-0160	3-3-2015	Amend	4-1-2015
855-025-0020	1-1-2015	Amend	2-1-2015	860-001-0170	3-3-2015	Amend	4-1-2015
855-025-0025	1-1-2015	Amend	2-1-2015	860-001-0180	3-3-2015	Amend	4-1-2015
855-025-0030	1-1-2015	Amend	2-1-2015	860-001-0300	3-3-2015	Amend	4-1-2015
855-025-0035	1-1-2015	Amend	2-1-2015	860-001-0310	3-3-2015	Amend	4-1-2015
855-025-0040	1-1-2015	Amend	2-1-2015	860-001-0340	3-3-2015	Amend	4-1-2015
855-025-0050	1-1-2015	Amend	2-1-2015	860-001-0350	3-3-2015	Amend	4-1-2015
855-025-0060	1-1-2015	Amend	2-1-2015	860-001-0390	3-3-2015	Adopt	4-1-2015
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855-031-0045	7-1-2015	Amend	8-1-2015	860-001-0420	3-3-2015	Amend	4-1-2015
855-031-0055	4-10-2015	Amend(T)	5-1-2015	860-001-0480	3-3-2015	Amend	4-1-2015
855-031-0055	7-1-2015	Amend	8-1-2015	860-001-0540	3-3-2015	Amend	4-1-2015
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855-041-1060	7-1-2015	Amend	8-1-2015	860-016-0020	3-3-2015	Amend	4-1-2015
855-041-1120	1-1-2016	Amend	2-1-2015	860-016-0021	3-3-2015	Amend	4-1-2015
855-043-0130	7-1-2015	Amend(T)	8-1-2015	860-016-0025	3-3-2015	Amend	4-1-2015
855-044-0070	12-4-2014	Amend	1-1-2015	860-016-0030	3-3-2015	Amend	4-1-2015
855-060-0002	7-1-2015	Adopt	8-1-2015	860-016-0050	3-3-2015	Amend	4-1-2015
855-060-0004	7-1-2015	Amend	8-1-2015	860-021-0015	3-3-2015	Amend	4-1-2015
855-060-0015	7-1-2015	Amend	8-1-2015	860-022-0005	3-3-2015	Amend	4-1-2015
855-060-0027	7-1-2015	Amend	8-1-2015	860-022-0047	3-3-2015	Amend	4-1-2015
855-060-0029	7-1-2015	Amend	8-1-2015	860-023-0081	6-9-2015	Amend	7-1-2015
855-062-0003	7-1-2015	Amend	8-1-2015	860-023-0151	3-3-2015	Amend	4-1-2015
855-062-0005	7-1-2015	Amend	8-1-2015	860-024-0017	12-16-2014	Amend	2-1-2015
855-062-0040	7-1-2015	Amend(T)	8-1-2015	860-025-0060	3-3-2015	Amend	4-1-2015
855-062-0050	7-1-2015	Amend	8-1-2015	860-027-0300	3-3-2015	Amend	4-1-2015
855-065-0001	7-1-2015	Amend	8-1-2015	860-027-0350	8-11-2015	Adopt	9-1-2015
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855-065-0010	7-1-2015	Amend	8-1-2015	860-029-0100	3-3-2015	Amend	4-1-2015
855-065-0013	7-1-2015	Amend	8-1-2015	860-031-0035	8-11-2015	Amend	9-1-2015
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855-110-0003	4-1-2015	Amend	2-1-2015	860-032-0005	3-3-2015	Amend	4-1-2015
855-110-0005	4-1-2015	Amend	2-1-2015	860-033-0006	3-3-2015	Amend	4-1-2015
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<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>	<b>OAR Number</b>	<b>Effective</b>	<b>Action</b>	<b>Bulletin</b>
860-034-0300	3-3-2015	Amend	4-1-2015	918-305-0105	4-1-2015	Amend	5-1-2015
860-036-0025	3-3-2015	Amend	4-1-2015	918-460-0015	4-1-2015	Amend	5-1-2015
860-036-0245	8-11-2015	Amend	9-1-2015	918-480-0010	4-1-2015	Amend	5-1-2015
860-036-0605	3-3-2015	Amend	4-1-2015	918-750-0115	4-1-2015	Amend	5-1-2015
860-037-0025	3-3-2015	Amend	4-1-2015	918-800-0010	4-1-2015	Repeal	5-1-2015
860-037-0410	3-3-2015	Amend	4-1-2015	918-800-0020	4-1-2015	Repeal	5-1-2015
860-038-0400	3-3-2015	Amend	4-1-2015	918-800-0030	4-1-2015	Repeal	5-1-2015
860-038-0420	3-3-2015	Amend	4-1-2015	918-800-0040	4-1-2015	Repeal	5-1-2015
860-082-0085	3-3-2015	Amend	4-1-2015	943-090-0000	1-1-2015	Adopt	2-1-2015
860-085-0500	12-3-2014	Adopt	1-1-2015	943-090-0010	1-1-2015	Adopt	2-1-2015
860-085-0550	12-3-2014	Adopt	1-1-2015	943-090-0020	1-1-2015	Adopt	2-1-2015
860-085-0600	12-3-2014	Adopt	1-1-2015	945-001-0011	3-11-2015	Amend(T)	4-1-2015
860-085-0650	12-3-2014	Adopt	1-1-2015	945-010-0001	3-11-2015	Suspend	4-1-2015
860-085-0700	12-3-2014	Adopt	1-1-2015	945-010-0006	3-11-2015	Suspend	4-1-2015
860-085-0750	12-3-2014	Adopt	1-1-2015	945-010-0011	3-11-2015	Suspend	4-1-2015
877-001-0006	1-1-2015	Amend	2-1-2015	945-010-0021	3-11-2015	Suspend	4-1-2015
877-015-0106	1-1-2015	Adopt	2-1-2015	945-010-0031	3-11-2015	Suspend	4-1-2015
877-020-0000	1-1-2015	Amend	2-1-2015	945-010-0041	3-11-2015	Suspend	4-1-2015
877-020-0005	6-19-2015	Amend(T)	8-1-2015	945-010-0051	3-11-2015	Suspend	4-1-2015
877-020-0010	1-1-2015	Amend	2-1-2015	945-010-0061	3-11-2015	Suspend	4-1-2015
877-020-0012	1-1-2015	Amend	2-1-2015	945-010-0071	3-11-2015	Suspend	4-1-2015
877-020-0021	6-19-2015	Adopt(T)	8-1-2015	945-010-0081	3-11-2015	Suspend	4-1-2015
877-020-0057	1-1-2015	Amend	2-1-2015	945-010-0091	3-11-2015	Suspend	4-1-2015
877-020-0060	1-1-2015	Amend	2-1-2015	945-010-0101	3-11-2015	Suspend	4-1-2015
918-001-0034	7-1-2015	Adopt(T)	8-1-2015	945-020-0010	3-11-2015	Amend(T)	4-1-2015
918-020-0090	5-12-2015	Amend(T)	6-1-2015	945-020-0020	3-11-2015	Amend(T)	4-1-2015
918-020-0090(T)	5-12-2015	Suspend	6-1-2015	945-030-0020	3-11-2015	Amend(T)	4-1-2015
918-098-1505	1-1-2015	Adopt	2-1-2015	945-030-0030	3-11-2015	Amend(T)	4-1-2015
918-098-1505(T)	1-1-2015	Repeal	2-1-2015	945-030-0035	3-31-2015	Adopt	5-1-2015
918-200-0025	1-1-2015	Amend	2-1-2015	945-030-0040	3-11-2015	Amend(T)	4-1-2015
918-200-0070	1-1-2015	Amend	2-1-2015	945-030-0045	3-11-2015	Amend(T)	4-1-2015
918-200-0100	1-1-2015	Amend	2-1-2015	945-040-0005	3-11-2015	Adopt(T)	4-1-2015
918-225-0220	4-1-2015	Repeal	5-1-2015	945-050-0005	3-11-2015	Adopt(T)	4-1-2015
918-225-0345	4-1-2015	Repeal	5-1-2015	966-100-0700	4-1-2015	Adopt	5-1-2015
918-225-0390	4-1-2015	Repeal	5-1-2015	966-100-0800	4-1-2015	Adopt	5-1-2015
918-225-0400	4-1-2015	Repeal	5-1-2015	976-001-0010	12-17-2014	Adopt	2-1-2015
918-225-0430	4-1-2015	Amend	5-1-2015	976-001-0020	12-17-2014	Adopt	2-1-2015
918-225-0435	4-1-2015	Amend	5-1-2015	976-002-0010	3-1-2015	Adopt	4-1-2015
918-225-0570	4-1-2015	Amend	5-1-2015	976-002-0020	3-1-2015	Adopt	4-1-2015
918-225-0600	4-1-2015	Amend	5-1-2015	976-002-0030	3-1-2015	Adopt	4-1-2015
918-225-0606	4-1-2015	Amend	5-1-2015	976-002-0040	3-1-2015	Adopt	4-1-2015

